
HOUSE BILL 1428

State of Washington 60th Legislature 2007 Regular Session

By Representatives Kelley, Hurst, O'Brien, Ericks, Takko, Lovick, Green, Strow, Williams, Moeller, Ormsby, Haigh, VanDeWege, Pearson, Morrell and Conway

Read first time 01/19/2007. Referred to Committee on Public Safety & Emergency Preparedness.

1 AN ACT Relating to protecting children under the age of seven by
2 creating the crime of homicide by abuse in the second degree; amending
3 RCW 9A.32.055, 9A.32.060, 13.40.0357, 13.34.180, 43.43.830, and
4 9A.04.080; reenacting and amending RCW 9.94A.515, 9.94A.030, 9.94A.411,
5 and 9.94A.712; adding a new section to chapter 9A.36 RCW; and
6 prescribing penalties.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 9A.36 RCW
9 to read as follows:

10 (1) A person is guilty of homicide by abuse in the second degree
11 when he or she, under circumstances not amounting to homicide by abuse
12 in the first degree, recklessly causes the death of a child under seven
13 years of age.

14 (2) Homicide by abuse in the second degree is a class A felony.

15 **Sec. 2.** RCW 9A.32.055 and 1987 c 187 s 1 are each amended to read
16 as follows:

17 (1) A person is guilty of homicide by abuse in the first degree if,
18 under circumstances manifesting an extreme indifference to human life,

1 the person causes the death of a child or person under sixteen years of
2 age, a ((developmentally disabled)) person with a developmental
3 disability, or a dependent adult, and the person has previously engaged
4 in a pattern or practice of assault or torture of said child, person
5 under sixteen years of age, ((developmentally disabled)) person with a
6 developmental disability, or dependent person.

7 (2) As used in this section, "dependent adult" means a person who,
8 because of physical or mental disability, or because of extreme
9 advanced age, is dependent upon another person to provide the basic
10 necessities of life.

11 (3) Homicide by abuse in the first degree is a class A felony.

12 **Sec. 3.** RCW 9A.32.060 and 1997 c 365 s 5 are each amended to read
13 as follows:

14 (1) A person is guilty of manslaughter in the first degree when:

15 (a) He or she recklessly, under circumstances not amounting to a
16 violation of section 1 of this act, causes the death of another person;
17 or

18 (b) He or she intentionally and unlawfully kills an unborn quick
19 child by inflicting any injury upon the mother of such child.

20 (2) Manslaughter in the first degree is a class A felony.

21 **Sec. 4.** RCW 9.94A.515 and 2006 c 277 s 6, 2006 c 228 s 9, 2006 c
22 191 s 2, 2006 c 139 s 2, 2006 c 128 s 3, and 2006 c 73 s 12 are each
23 reenacted and amended to read as follows:

24 TABLE 2
25 CRIMES INCLUDED WITHIN
26 EACH SERIOUSNESS LEVEL

27	XVI	Aggravated Murder 1 (RCW
28		10.95.020)
29	XV	Homicide by abuse <u>1</u> (RCW
30		9A.32.055)
31		Malicious explosion 1 (RCW
32		70.74.280(1))
33		Murder 1 (RCW 9A.32.030)
34	XIV	Murder 2 (RCW 9A.32.050)

1 Trafficking 1 (RCW 9A.40.100(1))
2 XIII Malicious explosion 2 (RCW
3 70.74.280(2))
4 Malicious placement of an explosive 1
5 (RCW 70.74.270(1))
6 XII Assault 1 (RCW 9A.36.011)
7 Assault of a Child 1 (RCW 9A.36.120)
8 Homicide by abuse 2 (section 1 of this
9 act)
10 Malicious placement of an imitation
11 device 1 (RCW 70.74.272(1)(a))
12 Rape 1 (RCW 9A.44.040)
13 Rape of a Child 1 (RCW 9A.44.073)
14 Trafficking 2 (RCW 9A.40.100(2))
15 XI Manslaughter 1 (RCW 9A.32.060)
16 Rape 2 (RCW 9A.44.050)
17 Rape of a Child 2 (RCW 9A.44.076)
18 X Child Molestation 1 (RCW 9A.44.083)
19 Indecent Liberties (with forcible
20 compulsion) (RCW
21 9A.44.100(1)(a))
22 Kidnapping 1 (RCW 9A.40.020)
23 Leading Organized Crime (RCW
24 9A.82.060(1)(a))
25 Malicious explosion 3 (RCW
26 70.74.280(3))
27 Sexually Violent Predator Escape
28 (RCW 9A.76.115)
29 IX Abandonment of Dependent Person 1
30 (RCW 9A.42.060)
31 Assault of a Child 2 (RCW 9A.36.130)
32 Criminal Mistreatment 1 (RCW
33 9A.42.020)
34 Explosive devices prohibited (RCW
35 70.74.180)
36 Hit and Run--Death (RCW
37 46.52.020(4)(a))

1 Homicide by Watercraft, by being
2 under the influence of intoxicating
3 liquor or any drug (RCW
4 79A.60.050)
5 Inciting Criminal Profiteering (RCW
6 9A.82.060(1)(b))
7 Malicious placement of an explosive 2
8 (RCW 70.74.270(2))
9 Robbery 1 (RCW 9A.56.200)
10 Sexual Exploitation (RCW 9.68A.040)
11 Vehicular Homicide, by being under
12 the influence of intoxicating liquor
13 or any drug (RCW 46.61.520)
14 VIII Arson 1 (RCW 9A.48.020)
15 Homicide by Watercraft, by the
16 operation of any vessel in a
17 reckless manner (RCW
18 79A.60.050)
19 Manslaughter 2 (RCW 9A.32.070)
20 Promoting Prostitution 1 (RCW
21 9A.88.070)
22 Theft of Ammonia (RCW 69.55.010)
23 Vehicular Homicide, by the operation
24 of any vehicle in a reckless manner
25 (RCW 46.61.520)
26 VII Burglary 1 (RCW 9A.52.020)
27 Child Molestation 2 (RCW 9A.44.086)
28 Civil Disorder Training (RCW
29 9A.48.120)
30 Dealing in depictions of minor engaged
31 in sexually explicit conduct (RCW
32 9.68A.050)
33 Drive-by Shooting (RCW 9A.36.045)
34 Homicide by Watercraft, by disregard
35 for the safety of others (RCW
36 79A.60.050)

1 Indecent Liberties (without forcible
2 compulsion) (RCW 9A.44.100(1)
3 (b) and (c))
4 Introducing Contraband 1 (RCW
5 9A.76.140)
6 Malicious placement of an explosive 3
7 (RCW 70.74.270(3))
8 Negligently Causing Death By Use of a
9 Signal Preemption Device (RCW
10 46.37.675)
11 Sending, bringing into state depictions
12 of minor engaged in sexually
13 explicit conduct (RCW 9.68A.060)
14 Unlawful Possession of a Firearm in
15 the first degree (RCW 9.41.040(1))
16 Use of a Machine Gun in Commission
17 of a Felony (RCW 9.41.225)
18 Vehicular Homicide, by disregard for
19 the safety of others (RCW
20 46.61.520)
21 VI Bail Jumping with Murder 1 (RCW
22 9A.76.170(3)(a))
23 Bribery (RCW 9A.68.010)
24 Incest 1 (RCW 9A.64.020(1))
25 Intimidating a Judge (RCW 9A.72.160)
26 Intimidating a Juror/Witness (RCW
27 9A.72.110, 9A.72.130)
28 Malicious placement of an imitation
29 device 2 (RCW 70.74.272(1)(b))
30 Possession of Depictions of a Minor
31 Engaged in Sexually Explicit
32 Conduct (RCW 9.68A.070)
33 Rape of a Child 3 (RCW 9A.44.079)
34 Theft of a Firearm (RCW 9A.56.300)
35 Unlawful Storage of Ammonia (RCW
36 69.55.020)

1 V Abandonment of Dependent Person 2
2 (RCW 9A.42.070)
3 Advancing money or property for
4 extortionate extension of credit
5 (RCW 9A.82.030)
6 Bail Jumping with class A Felony
7 (RCW 9A.76.170(3)(b))
8 Child Molestation 3 (RCW 9A.44.089)
9 Criminal Mistreatment 2 (RCW
10 9A.42.030)
11 Custodial Sexual Misconduct 1 (RCW
12 9A.44.160)
13 Domestic Violence Court Order
14 Violation (RCW 10.99.040,
15 10.99.050, 26.09.300, 26.10.220,
16 26.26.138, 26.50.110, 26.52.070,
17 or 74.34.145)
18 Driving While Under the Influence
19 (RCW 46.61.502(6))
20 Extortion 1 (RCW 9A.56.120)
21 Extortionate Extension of Credit (RCW
22 9A.82.020)
23 Extortionate Means to Collect
24 Extensions of Credit (RCW
25 9A.82.040)
26 Incest 2 (RCW 9A.64.020(2))
27 Kidnapping 2 (RCW 9A.40.030)
28 Perjury 1 (RCW 9A.72.020)
29 Persistent prison misbehavior (RCW
30 9.94.070)
31 Physical Control of a Vehicle While
32 Under the Influence (RCW
33 46.61.504(6))
34 Possession of a Stolen Firearm (RCW
35 9A.56.310)
36 Rape 3 (RCW 9A.44.060)

1 Rendering Criminal Assistance 1
2 (RCW 9A.76.070)
3 Sexual Misconduct with a Minor 1
4 (RCW 9A.44.093)
5 Sexually Violating Human Remains
6 (RCW 9A.44.105)
7 Stalking (RCW 9A.46.110)
8 Taking Motor Vehicle Without
9 Permission 1 (RCW 9A.56.070)
10 IV Arson 2 (RCW 9A.48.030)
11 Assault 2 (RCW 9A.36.021)
12 Assault 3 (of a Peace Officer with a
13 Projectile Stun Gun) (RCW
14 9A.36.031(1)(h))
15 Assault by Watercraft (RCW
16 79A.60.060)
17 Bribing a Witness/Bribe Received by
18 Witness (RCW 9A.72.090,
19 9A.72.100)
20 Cheating 1 (RCW 9.46.1961)
21 Commercial Bribery (RCW 9A.68.060)
22 Counterfeiting (RCW 9.16.035(4))
23 Endangerment with a Controlled
24 Substance (RCW 9A.42.100)
25 Escape 1 (RCW 9A.76.110)
26 Hit and Run--Injury (RCW
27 46.52.020(4)(b))
28 Hit and Run with Vessel--Injury
29 Accident (RCW 79A.60.200(3))
30 Identity Theft 1 (RCW 9.35.020(2))
31 Indecent Exposure to Person Under
32 Age Fourteen (subsequent sex
33 offense) (RCW 9A.88.010)
34 Influencing Outcome of Sporting Event
35 (RCW 9A.82.070)
36 Malicious Harassment (RCW
37 9A.36.080)

1 Residential Burglary (RCW
2 9A.52.025)
3 Robbery 2 (RCW 9A.56.210)
4 Theft of Livestock 1 (RCW 9A.56.080)
5 Threats to Bomb (RCW 9.61.160)
6 Trafficking in Stolen Property 1 (RCW
7 9A.82.050)
8 Unlawful factoring of a credit card or
9 payment card transaction (RCW
10 9A.56.290(4)(b))
11 Unlawful transaction of health
12 coverage as a health care service
13 contractor (RCW 48.44.016(3))
14 Unlawful transaction of health
15 coverage as a health maintenance
16 organization (RCW 48.46.033(3))
17 Unlawful transaction of insurance
18 business (RCW 48.15.023(3))
19 Unlicensed practice as an insurance
20 professional (RCW 48.17.063(3))
21 Use of Proceeds of Criminal
22 Profiteering (RCW 9A.82.080 (1)
23 and (2))
24 Vehicular Assault, by being under the
25 influence of intoxicating liquor or
26 any drug, or by the operation or
27 driving of a vehicle in a reckless
28 manner (RCW 46.61.522)
29 Willful Failure to Return from
30 Furlough (RCW 72.66.060)
31 III Animal Cruelty 1 (Sexual Conduct or
32 Contact) (RCW 16.52.205(3))
33 Assault 3 (Except Assault 3 of a Peace
34 Officer With a Projectile Stun
35 Gun) (RCW 9A.36.031 except
36 subsection (1)(h))
37 Assault of a Child 3 (RCW 9A.36.140)

1 Bail Jumping with class B or C Felony
2 (RCW 9A.76.170(3)(c))
3 Burglary 2 (RCW 9A.52.030)
4 Communication with a Minor for
5 Immoral Purposes (RCW
6 9.68A.090)
7 Criminal Gang Intimidation (RCW
8 9A.46.120)
9 Custodial Assault (RCW 9A.36.100)
10 Cyberstalking (subsequent conviction
11 or threat of death) (RCW
12 9.61.260(3))
13 Escape 2 (RCW 9A.76.120)
14 Extortion 2 (RCW 9A.56.130)
15 Harassment (RCW 9A.46.020)
16 Intimidating a Public Servant (RCW
17 9A.76.180)
18 Introducing Contraband 2 (RCW
19 9A.76.150)
20 Malicious Injury to Railroad Property
21 (RCW 81.60.070)
22 Negligently Causing Substantial Bodily
23 Harm By Use of a Signal
24 Preemption Device (RCW
25 46.37.674)
26 Organized Retail Theft 1 (RCW
27 9A.56.350(2))
28 Patronizing a Juvenile Prostitute (RCW
29 9.68A.100)
30 Perjury 2 (RCW 9A.72.030)
31 Possession of Incendiary Device (RCW
32 9.40.120)
33 Possession of Machine Gun or Short-
34 Barreled Shotgun or Rifle (RCW
35 9.41.190)
36 Promoting Prostitution 2 (RCW
37 9A.88.080)

1 ((Retail)) Retail Theft with
2 Extenuating Circumstances 1
3 (RCW 9A.56.360(2))
4 Securities Act violation (RCW
5 21.20.400)
6 Tampering with a Witness (RCW
7 9A.72.120)
8 Telephone Harassment (subsequent
9 conviction or threat of death)
10 (RCW 9.61.230(2))
11 Theft of Livestock 2 (RCW 9A.56.083)
12 Theft with the Intent to Resell 1 (RCW
13 9A.56.340(2))
14 Trafficking in Stolen Property 2 (RCW
15 9A.82.055)
16 Unlawful Imprisonment (RCW
17 9A.40.040)
18 Unlawful possession of firearm in the
19 second degree (RCW 9.41.040(2))
20 Vehicular Assault, by the operation or
21 driving of a vehicle with disregard
22 for the safety of others (RCW
23 46.61.522)
24 Willful Failure to Return from Work
25 Release (RCW 72.65.070)
26 II Computer Trespass 1 (RCW
27 9A.52.110)
28 Counterfeiting (RCW 9.16.035(3))
29 Escape from Community Custody
30 (RCW 72.09.310)
31 Failure to Register as a Sex Offender
32 (second or subsequent offense)
33 (RCW 9A.44.130(10)(a))
34 Health Care False Claims (RCW
35 48.80.030)
36 Identity Theft 2 (RCW 9.35.020(3))

1 Improperly Obtaining Financial
2 Information (RCW 9.35.010)
3 Malicious Mischief 1 (RCW
4 9A.48.070)
5 Organized Retail Theft 2 (RCW
6 9A.56.350(3))
7 Possession of Stolen Property 1 (RCW
8 9A.56.150)
9 ((~~Retail~~)) Retail Theft with
10 Extenuating Circumstances 2
11 (RCW 9A.56.360(3))
12 Theft 1 (RCW 9A.56.030)
13 Theft of Rental, Leased, or Lease-
14 purchased Property (valued at one
15 thousand five hundred dollars or
16 more) (RCW 9A.56.096(5)(a))
17 Theft with the Intent to Resell 2 (RCW
18 9A.56.340(3))
19 Trafficking in Insurance Claims (RCW
20 48.30A.015)
21 Unlawful factoring of a credit card or
22 payment card transaction (RCW
23 9A.56.290(4)(a))
24 Unlawful Practice of Law (RCW
25 2.48.180)
26 Unlicensed Practice of a Profession or
27 Business (RCW 18.130.190(7))
28 Voyeurism (RCW 9A.44.115)
29 I Attempting to Elude a Pursuing Police
30 Vehicle (RCW 46.61.024)
31 False Verification for Welfare (RCW
32 74.08.055)
33 Forgery (RCW 9A.60.020)
34 Fraudulent Creation or Revocation of a
35 Mental Health Advance Directive
36 (RCW 9A.60.060)

1 Malicious Mischief 2 (RCW
2 9A.48.080)
3 Mineral Trespass (RCW 78.44.330)
4 Possession of Stolen Property 2 (RCW
5 9A.56.160)
6 Reckless Burning 1 (RCW 9A.48.040)
7 Taking Motor Vehicle Without
8 Permission 2 (RCW 9A.56.075)
9 Theft 2 (RCW 9A.56.040)
10 Theft of Rental, Leased, or Lease-
11 purchased Property (valued at two
12 hundred fifty dollars or more but
13 less than one thousand five
14 hundred dollars) (RCW
15 9A.56.096(5)(b))
16 Transaction of insurance business
17 beyond the scope of licensure
18 (RCW 48.17.063(4))
19 Unlawful Issuance of Checks or Drafts
20 (RCW 9A.56.060)
21 Unlawful Possession of Fictitious
22 Identification (RCW 9A.56.320)
23 Unlawful Possession of Instruments of
24 Financial Fraud (RCW 9A.56.320)
25 Unlawful Possession of Payment
26 Instruments (RCW 9A.56.320)
27 Unlawful Possession of a Personal
28 Identification Device (RCW
29 9A.56.320)
30 Unlawful Production of Payment
31 Instruments (RCW 9A.56.320)
32 Unlawful Trafficking in Food Stamps
33 (RCW 9.91.142)
34 Unlawful Use of Food Stamps (RCW
35 9.91.144)
36 Vehicle Prowl 1 (RCW 9A.52.095)

1		Burglary and Trespass	
2	B+	Burglary 1 (9A.52.020)	C+
3	B	Residential Burglary (9A.52.025)	C
4	B	Burglary 2 (9A.52.030)	C
5	D	Burglary Tools (Possession of) (9A.52.060)	E
6	D	Criminal Trespass 1 (9A.52.070)	E
7	E	Criminal Trespass 2 (9A.52.080)	E
8	C	Mineral Trespass (78.44.330)	C
9	C	Vehicle Prowling 1 (9A.52.095)	D
10	D	Vehicle Prowling 2 (9A.52.100)	E
11		Drugs	
12	E	Possession/Consumption of Alcohol	
13		(66.44.270)	E
14	C	Illegally Obtaining Legend Drug	
15		(69.41.020)	D
16	C+	Sale, Delivery, Possession of Legend Drug	
17		with Intent to Sell (69.41.030(2)(a))	D+
18	E	Possession of Legend Drug	
19		(69.41.030(2)(b))	E
20	B+	Violation of Uniform Controlled Substances	
21		Act - Narcotic, Methamphetamine, or	
22		Flunitrazepam Sale (69.50.401(2) (a) or	
23		(b))	B+
24	C	Violation of Uniform Controlled Substances	
25		Act - Nonnarcotic Sale (69.50.401(2)(c))	C
26	E	Possession of Marihuana <40 grams	
27		(69.50.4014)	E
28	C	Fraudulently Obtaining Controlled	
29		Substance (69.50.403)	C
30	C+	Sale of Controlled Substance for Profit	
31		(69.50.410)	C+
32	E	Unlawful Inhalation (9.47A.020)	E
33	B	Violation of Uniform Controlled Substances	
34		Act - Narcotic, Methamphetamine, or	
35		Flunitrazepam Counterfeit Substances	
36		(69.50.4011(2) (a) or (b))	B

1	C	Violation of Uniform Controlled Substances	
2		Act - Nonnarcotic Counterfeit Substances	
3		(69.50.4011(2) (c), (d), or (e))	C
4	C	Violation of Uniform Controlled Substances	
5		Act - Possession of a Controlled Substance	
6		(69.50.4013)	C
7	C	Violation of Uniform Controlled Substances	
8		Act - Possession of a Controlled Substance	
9		(69.50.4012)	C
10		Firearms and Weapons	
11	B	Theft of Firearm (9A.56.300)	C
12	B	Possession of Stolen Firearm (9A.56.310)	C
13	E	Carrying Loaded Pistol Without Permit	
14		(9.41.050)	E
15	C	Possession of Firearms by Minor (<18)	
16		(9.41.040(2)(a)(iii))	C
17	D+	Possession of Dangerous Weapon	
18		(9.41.250)	E
19	D	Intimidating Another Person by use of	
20		Weapon (9.41.270)	E
21		Homicide	
22	A+	Murder 1 (9A.32.030)	A
23	A+	Murder 2 (9A.32.050)	B+
24	<u>B+</u>	<u>Homicide by Abuse 2 (section 1 of this act)</u>	<u>C+</u>
25	B+	Manslaughter 1 (9A.32.060)	C+
26	C+	Manslaughter 2 (9A.32.070)	D+
27	B+	Veicular Homicide (46.61.520)	C+
28		Kidnapping	
29	A	Kidnap 1 (9A.40.020)	B+
30	B+	Kidnap 2 (9A.40.030)	C+
31	C+	Unlawful Imprisonment (9A.40.040)	D+
32		Obstructing Governmental Operation	
33	D	Obstructing a Law Enforcement Officer	
34		(9A.76.020)	E
35	E	Resisting Arrest (9A.76.040)	E
36	B	Introducing Contraband 1 (9A.76.140)	C

1	C	Introducing Contraband 2 (9A.76.150)	D
2	E	Introducing Contraband 3 (9A.76.160)	E
3	B+	Intimidating a Public Servant (9A.76.180)	C+
4	B+	Intimidating a Witness (9A.72.110)	C+
5		Public Disturbance	
6	C+	Riot with Weapon (9A.84.010(2)(b))	D+
7	D+	Riot Without Weapon (9A.84.010(2)(a))	E
8	E	Failure to Disperse (9A.84.020)	E
9	E	Disorderly Conduct (9A.84.030)	E
10		Sex Crimes	
11	A	Rape 1 (9A.44.040)	B+
12	A-	Rape 2 (9A.44.050)	B+
13	C+	Rape 3 (9A.44.060)	D+
14	A-	Rape of a Child 1 (9A.44.073)	B+
15	B+	Rape of a Child 2 (9A.44.076)	C+
16	B	Incest 1 (9A.64.020(1))	C
17	C	Incest 2 (9A.64.020(2))	D
18	D+	Indecent Exposure (Victim <14)	
19		(9A.88.010)	E
20	E	Indecent Exposure (Victim 14 or over)	
21		(9A.88.010)	E
22	B+	Promoting Prostitution 1 (9A.88.070)	C+
23	C+	Promoting Prostitution 2 (9A.88.080)	D+
24	E	O & A (Prostitution) (9A.88.030)	E
25	B+	Indecent Liberties (9A.44.100)	C+
26	A-	Child Molestation 1 (9A.44.083)	B+
27	B	Child Molestation 2 (9A.44.086)	C+
28		Theft, Robbery, Extortion, and Forgery	
29	B	Theft 1 (9A.56.030)	C
30	C	Theft 2 (9A.56.040)	D
31	D	Theft 3 (9A.56.050)	E
32	B	Theft of Livestock 1 and 2 (9A.56.080 and	
33		9A.56.083)	C
34	C	Forgery (9A.60.020)	D
35	A	Robbery 1 (9A.56.200)	B+
36	B+	Robbery 2 (9A.56.210)	C+

1	B+	Extortion 1 (9A.56.120)	C+
2	C+	Extortion 2 (9A.56.130)	D+
3	C	Identity Theft 1 (9.35.020(2))	D
4	D	Identity Theft 2 (9.35.020(3))	E
5	D	Improperly Obtaining Financial Information	
6		(9.35.010)	E
7	B	Possession of Stolen Property 1	
8		(9A.56.150)	C
9	C	Possession of Stolen Property 2	
10		(9A.56.160)	D
11	D	Possession of Stolen Property 3	
12		(9A.56.170)	E
13	C	Taking Motor Vehicle Without Permission	
14		1 and 2 (9A.56.070 and 9A.56.075)	D
15		Motor Vehicle Related Crimes	
16	E	Driving Without a License (46.20.005)	E
17	B+	Hit and Run - Death (46.52.020(4)(a))	C+
18	C	Hit and Run - Injury (46.52.020(4)(b))	D
19	D	Hit and Run-Attended (46.52.020(5))	E
20	E	Hit and Run-Unattended (46.52.010)	E
21	C	Vehicular Assault (46.61.522)	D
22	C	Attempting to Elude Pursuing Police	
23		Vehicle (46.61.024)	D
24	E	Reckless Driving (46.61.500)	E
25	D	Driving While Under the Influence	
26		(46.61.502 and 46.61.504)	E
27	B+	Felony Driving While Under the Influence	
28		(46.61.502(6))	B
29	B+	Felony Physical Control of a Vehicle While	
30		Under the Influence (46.61.504(6))	B
31		Other	
32	B	Animal Cruelty 1 (16.52.205)	C
33	B	Bomb Threat (9.61.160)	C
34	C	Escape 1 ¹ (9A.76.110)	C
35	C	Escape 2 ¹ (9A.76.120)	C
36	D	Escape 3 (9A.76.130)	E

1	E	Obscene, Harassing, Etc., Phone Calls	
2		(9.61.230)	E
3	A	Other Offense Equivalent to an Adult Class	
4		A Felony	B+
5	B	Other Offense Equivalent to an Adult Class	
6		B Felony	C
7	C	Other Offense Equivalent to an Adult Class	
8		C Felony	D
9	D	Other Offense Equivalent to an Adult Gross	
10		Misdemeanor	E
11	E	Other Offense Equivalent to an Adult	
12		Misdemeanor	E
13	V	Violation of Order of Restitution,	
14		Community Supervision, or Confinement	
15		(13.40.200) ²	V

16 ¹Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses
17 and the standard range is established as follows:

18 1st escape or attempted escape during 12-month period - 4 weeks
19 confinement

20 2nd escape or attempted escape during 12-month period - 8 weeks
21 confinement

22 3rd and subsequent escape or attempted escape during 12-month
23 period - 12 weeks confinement

24 ²If the court finds that a respondent has violated terms of an order,
25 it may impose a penalty of up to 30 days of confinement.

26 **JUVENILE SENTENCING STANDARDS**

27 This schedule must be used for juvenile offenders. The court may
28 select sentencing option A, B, C, D, or RCW 13.40.167.

29	OPTION A	
30	JUVENILE OFFENDER SENTENCING GRID	
31	STANDARD RANGE	
32	A+	180 WEEKS TO AGE 21 YEARS
33		
34	A	103 WEEKS TO 129 WEEKS

1 (4) RCW 13.40.180 applies if the offender is being sentenced for
2 more than one offense.

3 (5) A current offense that is a violation is equivalent to an
4 offense category of E. However, a disposition for a violation shall
5 not include confinement.

6 OR

7 **OPTION B**

8 **SUSPENDED DISPOSITION ALTERNATIVE**

9 (1) If the offender is subject to a standard range disposition
10 involving confinement by the department, the court may impose the
11 standard range and suspend the disposition on condition that the
12 offender comply with one or more local sanctions and any educational or
13 treatment requirement. The treatment programs provided to the offender
14 must be research-based best practice programs as identified by the
15 Washington state institute for public policy or the joint legislative
16 audit and review committee.

17 (2) If the offender fails to comply with the suspended disposition,
18 the court may impose sanctions pursuant to RCW 13.40.200 or may revoke
19 the suspended disposition and order the disposition's execution.

20 (3) An offender is ineligible for the suspended disposition option
21 under this section if the offender is:

22 (a) Adjudicated of an A+ offense;

23 (b) Fourteen years of age or older and is adjudicated of one or
24 more of the following offenses:

25 (i) A class A offense, or an attempt, conspiracy, or solicitation
26 to commit a class A offense;

27 (ii) Manslaughter in the first degree (RCW 9A.32.060); or

28 (iii) Assault in the second degree (RCW 9A.36.021), extortion in
29 the first degree (RCW 9A.56.120), kidnapping in the second degree (RCW
30 9A.40.030), robbery in the second degree (RCW 9A.56.210), residential
31 burglary (RCW 9A.52.025), burglary in the second degree (RCW
32 9A.52.030), drive-by shooting (RCW 9A.36.045), vehicular homicide (RCW
33 46.61.520), hit and run death (RCW 46.52.020(4)(a)), intimidating a
34 witness (RCW 9A.72.110), violation of the uniform controlled substances
35 act (RCW 69.50.401 (2)(a) and (b)), or manslaughter 2 (RCW 9A.32.070),
36 when the offense includes infliction of bodily harm upon another or

1 when during the commission or immediate withdrawal from the offense the
2 respondent was armed with a deadly weapon;

3 (c) Ordered to serve a disposition for a firearm violation under
4 RCW 13.40.193; or

5 (d) Adjudicated of a sex offense as defined in RCW 9.94A.030.

6 OR

7 **OPTION C**

8 **CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE**

9 If the juvenile offender is subject to a standard range disposition
10 of local sanctions or 15 to 36 weeks of confinement and has not
11 committed an A- or B+ offense, the court may impose a disposition under
12 RCW 13.40.160(4) and 13.40.165.

13 OR

14 **OPTION D**

15 **MANIFEST INJUSTICE**

16 If the court determines that a disposition under option A, B, or C
17 would effectuate a manifest injustice, the court shall impose a
18 disposition outside the standard range under RCW 13.40.160(2).

19 **Sec. 6.** RCW 9.94A.030 and 2006 c 139 s 5, 2006 c 124 s 1, 2006 c
20 122 s 7, and 2006 c 73 s 5 are each reenacted and amended to read as
21 follows:

22 Unless the context clearly requires otherwise, the definitions in
23 this section apply throughout this chapter.

24 (1) "Board" means the indeterminate sentence review board created
25 under chapter 9.95 RCW.

26 (2) "Collect," or any derivative thereof, "collect and remit," or
27 "collect and deliver," when used with reference to the department,
28 means that the department, either directly or through a collection
29 agreement authorized by RCW 9.94A.760, is responsible for monitoring
30 and enforcing the offender's sentence with regard to the legal
31 financial obligation, receiving payment thereof from the offender, and,
32 consistent with current law, delivering daily the entire payment to the
33 superior court clerk without depositing it in a departmental account.

34 (3) "Commission" means the sentencing guidelines commission.

1 (4) "Community corrections officer" means an employee of the
2 department who is responsible for carrying out specific duties in
3 supervision of sentenced offenders and monitoring of sentence
4 conditions.

5 (5) "Community custody" means that portion of an offender's
6 sentence of confinement in lieu of earned release time or imposed
7 pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670,
8 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545, served in the
9 community subject to controls placed on the offender's movement and
10 activities by the department. For offenders placed on community
11 custody for crimes committed on or after July 1, 2000, the department
12 shall assess the offender's risk of reoffense and may establish and
13 modify conditions of community custody, in addition to those imposed by
14 the court, based upon the risk to community safety.

15 (6) "Community custody range" means the minimum and maximum period
16 of community custody included as part of a sentence under RCW
17 9.94A.715, as established by the commission or the legislature under
18 RCW 9.94A.850, for crimes committed on or after July 1, 2000.

19 (7) "Community placement" means that period during which the
20 offender is subject to the conditions of community custody and/or
21 postrelease supervision, which begins either upon completion of the
22 term of confinement (postrelease supervision) or at such time as the
23 offender is transferred to community custody in lieu of earned release.
24 Community placement may consist of entirely community custody, entirely
25 postrelease supervision, or a combination of the two.

26 (8) "Community protection zone" means the area within eight hundred
27 eighty feet of the facilities and grounds of a public or private
28 school.

29 (9) "Community restitution" means compulsory service, without
30 compensation, performed for the benefit of the community by the
31 offender.

32 (10) "Community supervision" means a period of time during which a
33 convicted offender is subject to crime-related prohibitions and other
34 sentence conditions imposed by a court pursuant to this chapter or RCW
35 16.52.200(6) or 46.61.524. Where the court finds that any offender has
36 a chemical dependency that has contributed to his or her offense, the
37 conditions of supervision may, subject to available resources, include
38 treatment. For purposes of the interstate compact for out-of-state

1 supervision of parolees and probationers, RCW 9.95.270, community
2 supervision is the functional equivalent of probation and should be
3 considered the same as probation by other states.

4 (11) "Confinement" means total or partial confinement.

5 (12) "Conviction" means an adjudication of guilt pursuant to Titles
6 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
7 acceptance of a plea of guilty.

8 (13) "Crime-related prohibition" means an order of a court
9 prohibiting conduct that directly relates to the circumstances of the
10 crime for which the offender has been convicted, and shall not be
11 construed to mean orders directing an offender affirmatively to
12 participate in rehabilitative programs or to otherwise perform
13 affirmative conduct. However, affirmative acts necessary to monitor
14 compliance with the order of a court may be required by the department.

15 (14) "Criminal history" means the list of a defendant's prior
16 convictions and juvenile adjudications, whether in this state, in
17 federal court, or elsewhere.

18 (a) The history shall include, where known, for each conviction (i)
19 whether the defendant has been placed on probation and the length and
20 terms thereof; and (ii) whether the defendant has been incarcerated and
21 the length of incarceration.

22 (b) A conviction may be removed from a defendant's criminal history
23 only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or
24 a similar out-of-state statute, or if the conviction has been vacated
25 pursuant to a governor's pardon.

26 (c) The determination of a defendant's criminal history is distinct
27 from the determination of an offender score. A prior conviction that
28 was not included in an offender score calculated pursuant to a former
29 version of the sentencing reform act remains part of the defendant's
30 criminal history.

31 (15) "Day fine" means a fine imposed by the sentencing court that
32 equals the difference between the offender's net daily income and the
33 reasonable obligations that the offender has for the support of the
34 offender and any dependents.

35 (16) "Day reporting" means a program of enhanced supervision
36 designed to monitor the offender's daily activities and compliance with
37 sentence conditions, and in which the offender is required to report

1 daily to a specific location designated by the department or the
2 sentencing court.

3 (17) "Department" means the department of corrections.

4 (18) "Determinate sentence" means a sentence that states with
5 exactitude the number of actual years, months, or days of total
6 confinement, of partial confinement, of community supervision, the
7 number of actual hours or days of community restitution work, or
8 dollars or terms of a legal financial obligation. The fact that an
9 offender through earned release can reduce the actual period of
10 confinement shall not affect the classification of the sentence as a
11 determinate sentence.

12 (19) "Disposable earnings" means that part of the earnings of an
13 offender remaining after the deduction from those earnings of any
14 amount required by law to be withheld. For the purposes of this
15 definition, "earnings" means compensation paid or payable for personal
16 services, whether denominated as wages, salary, commission, bonuses, or
17 otherwise, and, notwithstanding any other provision of law making the
18 payments exempt from garnishment, attachment, or other process to
19 satisfy a court-ordered legal financial obligation, specifically
20 includes periodic payments pursuant to pension or retirement programs,
21 or insurance policies of any type, but does not include payments made
22 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
23 or Title 74 RCW.

24 (20) "Drug offender sentencing alternative" is a sentencing option
25 available to persons convicted of a felony offense other than a violent
26 offense or a sex offense and who are eligible for the option under RCW
27 9.94A.660.

28 (21) "Drug offense" means:

29 (a) Any felony violation of chapter 69.50 RCW except possession of
30 a controlled substance (RCW 69.50.4013) or forged prescription for a
31 controlled substance (RCW 69.50.403);

32 (b) Any offense defined as a felony under federal law that relates
33 to the possession, manufacture, distribution, or transportation of a
34 controlled substance; or

35 (c) Any out-of-state conviction for an offense that under the laws
36 of this state would be a felony classified as a drug offense under (a)
37 of this subsection.

1 (22) "Earned release" means earned release from confinement as
2 provided in RCW 9.94A.728.

3 (23) "Escape" means:

4 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the
5 first degree (RCW 9A.76.110), escape in the second degree (RCW
6 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
7 willful failure to return from work release (RCW 72.65.070), or willful
8 failure to be available for supervision by the department while in
9 community custody (RCW 72.09.310); or

10 (b) Any federal or out-of-state conviction for an offense that
11 under the laws of this state would be a felony classified as an escape
12 under (a) of this subsection.

13 (24) "Felony traffic offense" means:

14 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
15 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-
16 run injury-accident (RCW 46.52.020(4)), felony driving while under the
17 influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or
18 felony physical control of a vehicle while under the influence of
19 intoxicating liquor or any drug (RCW 46.61.504(6)); or

20 (b) Any federal or out-of-state conviction for an offense that
21 under the laws of this state would be a felony classified as a felony
22 traffic offense under (a) of this subsection.

23 (25) "Fine" means a specific sum of money ordered by the sentencing
24 court to be paid by the offender to the court over a specific period of
25 time.

26 (26) "First-time offender" means any person who has no prior
27 convictions for a felony and is eligible for the first-time offender
28 waiver under RCW 9.94A.650.

29 (27) "Home detention" means a program of partial confinement
30 available to offenders wherein the offender is confined in a private
31 residence subject to electronic surveillance.

32 (28) "Legal financial obligation" means a sum of money that is
33 ordered by a superior court of the state of Washington for legal
34 financial obligations which may include restitution to the victim,
35 statutorily imposed crime victims' compensation fees as assessed
36 pursuant to RCW 7.68.035, court costs, county or interlocal drug funds,
37 court-appointed attorneys' fees, and costs of defense, fines, and any
38 other financial obligation that is assessed to the offender as a result

1 of a felony conviction. Upon conviction for vehicular assault while
2 under the influence of intoxicating liquor or any drug, RCW
3 46.61.522(1)(b), or vehicular homicide while under the influence of
4 intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial
5 obligations may also include payment to a public agency of the expense
6 of an emergency response to the incident resulting in the conviction,
7 subject to RCW 38.52.430.

8 (29) "Most serious offense" means any of the following felonies or
9 a felony attempt to commit any of the following felonies:

10 (a) Any felony defined under any law as a class A felony or
11 criminal solicitation of or criminal conspiracy to commit a class A
12 felony;

13 (b) Assault in the second degree;

14 (c) Assault of a child in the second degree;

15 (d) Child molestation in the second degree;

16 (e) Controlled substance homicide;

17 (f) Extortion in the first degree;

18 (g) Incest when committed against a child under age fourteen;

19 (h) Indecent liberties;

20 (i) Kidnapping in the second degree;

21 (j) Leading organized crime;

22 (k) Manslaughter in the first degree;

23 (l) Manslaughter in the second degree;

24 (m) Promoting prostitution in the first degree;

25 (n) Rape in the third degree;

26 (o) Robbery in the second degree;

27 (p) Sexual exploitation;

28 (q) Vehicular assault, when caused by the operation or driving of
29 a vehicle by a person while under the influence of intoxicating liquor
30 or any drug or by the operation or driving of a vehicle in a reckless
31 manner;

32 (r) Vehicular homicide, when proximately caused by the driving of
33 any vehicle by any person while under the influence of intoxicating
34 liquor or any drug as defined by RCW 46.61.502, or by the operation of
35 any vehicle in a reckless manner;

36 (s) Any other class B felony offense with a finding of sexual
37 motivation;

1 (t) Any other felony with a deadly weapon verdict under RCW
2 9.94A.602;

3 (u) Any felony offense in effect at any time prior to December 2,
4 1993, that is comparable to a most serious offense under this
5 subsection, or any federal or out-of-state conviction for an offense
6 that under the laws of this state would be a felony classified as a
7 most serious offense under this subsection;

8 (v)(i) A prior conviction for indecent liberties under RCW
9 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
10 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
11 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
12 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

13 (ii) A prior conviction for indecent liberties under RCW
14 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
15 if: (A) The crime was committed against a child under the age of
16 fourteen; or (B) the relationship between the victim and perpetrator is
17 included in the definition of indecent liberties under RCW
18 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
19 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
20 through July 27, 1997.

21 (30) "Nonviolent offense" means an offense which is not a violent
22 offense.

23 (31) "Offender" means a person who has committed a felony
24 established by state law and is eighteen years of age or older or is
25 less than eighteen years of age but whose case is under superior court
26 jurisdiction under RCW 13.04.030 or has been transferred by the
27 appropriate juvenile court to a criminal court pursuant to RCW
28 13.40.110. Throughout this chapter, the terms "offender" and
29 "defendant" are used interchangeably.

30 (32) "Partial confinement" means confinement for no more than one
31 year in a facility or institution operated or utilized under contract
32 by the state or any other unit of government, or, if home detention or
33 work crew has been ordered by the court, in an approved residence, for
34 a substantial portion of each day with the balance of the day spent in
35 the community. Partial confinement includes work release, home
36 detention, work crew, and a combination of work crew and home
37 detention.

38 (33) "Persistent offender" is an offender who:

1 (a)(i) Has been convicted in this state of any felony considered a
2 most serious offense; and

3 (ii) Has, before the commission of the offense under (a) of this
4 subsection, been convicted as an offender on at least two separate
5 occasions, whether in this state or elsewhere, of felonies that under
6 the laws of this state would be considered most serious offenses and
7 would be included in the offender score under RCW 9.94A.525; provided
8 that of the two or more previous convictions, at least one conviction
9 must have occurred before the commission of any of the other most
10 serious offenses for which the offender was previously convicted; or

11 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
12 of a child in the first degree, child molestation in the first degree,
13 rape in the second degree, rape of a child in the second degree, or
14 indecent liberties by forcible compulsion; (B) any of the following
15 offenses with a finding of sexual motivation: Murder in the first
16 degree, murder in the second degree, homicide by abuse in the first
17 degree, kidnapping in the first degree, kidnapping in the second
18 degree, assault in the first degree, assault in the second degree,
19 assault of a child in the first degree, assault of a child in the
20 second degree, or burglary in the first degree; or (C) an attempt to
21 commit any crime listed in this subsection (33)(b)(i); and

22 (ii) Has, before the commission of the offense under (b)(i) of this
23 subsection, been convicted as an offender on at least one occasion,
24 whether in this state or elsewhere, of an offense listed in (b)(i) of
25 this subsection or any federal or out-of-state offense or offense under
26 prior Washington law that is comparable to the offenses listed in
27 (b)(i) of this subsection. A conviction for rape of a child in the
28 first degree constitutes a conviction under (b)(i) of this subsection
29 only when the offender was sixteen years of age or older when the
30 offender committed the offense. A conviction for rape of a child in
31 the second degree constitutes a conviction under (b)(i) of this
32 subsection only when the offender was eighteen years of age or older
33 when the offender committed the offense.

34 (34) "Postrelease supervision" is that portion of an offender's
35 community placement that is not community custody.

36 (35) "Predatory" means: (a) The perpetrator of the crime was a
37 stranger to the victim, as defined in this section; (b) the perpetrator
38 established or promoted a relationship with the victim prior to the

1 offense and the victimization of the victim was a significant reason
2 the perpetrator established or promoted the relationship; or (c) the
3 perpetrator was: (i) A teacher, counselor, volunteer, or other person
4 in authority in any public or private school and the victim was a
5 student of the school under his or her authority or supervision. For
6 purposes of this subsection, "school" does not include home-based
7 instruction as defined in RCW 28A.225.010; (ii) a coach, trainer,
8 volunteer, or other person in authority in any recreational activity
9 and the victim was a participant in the activity under his or her
10 authority or supervision; or (iii) a pastor, elder, volunteer, or other
11 person in authority in any church or religious organization, and the
12 victim was a member or participant of the organization under his or her
13 authority.

14 (36) "Private school" means a school regulated under chapter
15 28A.195 or 28A.205 RCW.

16 (37) "Public school" has the same meaning as in RCW 28A.150.010.

17 (38) "Restitution" means a specific sum of money ordered by the
18 sentencing court to be paid by the offender to the court over a
19 specified period of time as payment of damages. The sum may include
20 both public and private costs.

21 (39) "Risk assessment" means the application of an objective
22 instrument supported by research and adopted by the department for the
23 purpose of assessing an offender's risk of reoffense, taking into
24 consideration the nature of the harm done by the offender, place and
25 circumstances of the offender related to risk, the offender's
26 relationship to any victim, and any information provided to the
27 department by victims. The results of a risk assessment shall not be
28 based on unconfirmed or unconfirmable allegations.

29 (40) "Serious traffic offense" means:

30 (a) Nonfelony driving while under the influence of intoxicating
31 liquor or any drug (RCW 46.61.502), nonfelony actual physical control
32 while under the influence of intoxicating liquor or any drug (RCW
33 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an
34 attended vehicle (RCW 46.52.020(5)); or

35 (b) Any federal, out-of-state, county, or municipal conviction for
36 an offense that under the laws of this state would be classified as a
37 serious traffic offense under (a) of this subsection.

1 (41) "Serious violent offense" is a subcategory of violent offense
2 and means:
3 (a)(i) Murder in the first degree;
4 (ii) Homicide by abuse in the first degree;
5 (iii) Homicide by abuse in the second degree;
6 (iv) Murder in the second degree;
7 ~~((iv))~~ (v) Manslaughter in the first degree;
8 ~~((v))~~ (vi) Assault in the first degree;
9 ~~((vi))~~ (vii) Kidnapping in the first degree;
10 ~~((vii))~~ (viii) Rape in the first degree;
11 ~~((viii))~~ (ix) Assault of a child in the first degree; or
12 ~~((ix))~~ (x) An attempt, criminal solicitation, or criminal
13 conspiracy to commit one of these felonies; or
14 (b) Any federal or out-of-state conviction for an offense that
15 under the laws of this state would be a felony classified as a serious
16 violent offense under (a) of this subsection.
17 (42) "Sex offense" means:
18 (a)(i) A felony that is a violation of chapter 9A.44 RCW other than
19 RCW 9A.44.130~~((11))~~ (12);
20 (ii) A violation of RCW 9A.64.020;
21 (iii) A felony that is a violation of chapter 9.68A RCW other than
22 RCW 9.68A.080; or
23 (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt,
24 criminal solicitation, or criminal conspiracy to commit such crimes;
25 (b) Any conviction for a felony offense in effect at any time prior
26 to July 1, 1976, that is comparable to a felony classified as a sex
27 offense in (a) of this subsection;
28 (c) A felony with a finding of sexual motivation under RCW
29 9.94A.835 or 13.40.135; or
30 (d) Any federal or out-of-state conviction for an offense that
31 under the laws of this state would be a felony classified as a sex
32 offense under (a) of this subsection.
33 (43) "Sexual motivation" means that one of the purposes for which
34 the defendant committed the crime was for the purpose of his or her
35 sexual gratification.
36 (44) "Standard sentence range" means the sentencing court's
37 discretionary range in imposing a nonappealable sentence.

1 (45) "Statutory maximum sentence" means the maximum length of time
2 for which an offender may be confined as punishment for a crime as
3 prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the
4 crime, or other statute defining the maximum penalty for a crime.

5 (46) "Stranger" means that the victim did not know the offender
6 twenty-four hours before the offense.

7 (47) "Total confinement" means confinement inside the physical
8 boundaries of a facility or institution operated or utilized under
9 contract by the state or any other unit of government for twenty-four
10 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

11 (48) "Transition training" means written and verbal instructions
12 and assistance provided by the department to the offender during the
13 two weeks prior to the offender's successful completion of the work
14 ethic camp program. The transition training shall include instructions
15 in the offender's requirements and obligations during the offender's
16 period of community custody.

17 (49) "Victim" means any person who has sustained emotional,
18 psychological, physical, or financial injury to person or property as
19 a direct result of the crime charged.

20 (50) "Violent offense" means:

21 (a) Any of the following felonies:

22 (i) Any felony defined under any law as a class A felony or an
23 attempt to commit a class A felony;

24 (ii) Criminal solicitation of or criminal conspiracy to commit a
25 class A felony;

26 (iii) Manslaughter in the first degree;

27 (iv) Manslaughter in the second degree;

28 (v) Indecent liberties if committed by forcible compulsion;

29 (vi) Kidnapping in the second degree;

30 (vii) Arson in the second degree;

31 (viii) Assault in the second degree;

32 (ix) Assault of a child in the second degree;

33 (x) Extortion in the first degree;

34 (xi) Robbery in the second degree;

35 (xii) Drive-by shooting;

36 (xiii) Vehicular assault, when caused by the operation or driving
37 of a vehicle by a person while under the influence of intoxicating

1 liquor or any drug or by the operation or driving of a vehicle in a
2 reckless manner; and

3 (xiv) Vehicular homicide, when proximately caused by the driving of
4 any vehicle by any person while under the influence of intoxicating
5 liquor or any drug as defined by RCW 46.61.502, or by the operation of
6 any vehicle in a reckless manner;

7 (b) Any conviction for a felony offense in effect at any time prior
8 to July 1, 1976, that is comparable to a felony classified as a violent
9 offense in (a) of this subsection; and

10 (c) Any federal or out-of-state conviction for an offense that
11 under the laws of this state would be a felony classified as a violent
12 offense under (a) or (b) of this subsection.

13 (51) "Work crew" means a program of partial confinement consisting
14 of civic improvement tasks for the benefit of the community that
15 complies with RCW 9.94A.725.

16 (52) "Work ethic camp" means an alternative incarceration program
17 as provided in RCW 9.94A.690 designed to reduce recidivism and lower
18 the cost of corrections by requiring offenders to complete a
19 comprehensive array of real-world job and vocational experiences,
20 character-building work ethics training, life management skills
21 development, substance abuse rehabilitation, counseling, literacy
22 training, and basic adult education.

23 (53) "Work release" means a program of partial confinement
24 available to offenders who are employed or engaged as a student in a
25 regular course of study at school.

26 **Sec. 7.** RCW 9.94A.411 and 2006 c 271 s 1 and 2006 c 73 s 13 are
27 each reenacted and amended to read as follows:

28 (1) Decision not to prosecute.

29 STANDARD: A prosecuting attorney may decline to prosecute, even
30 though technically sufficient evidence to prosecute exists, in
31 situations where prosecution would serve no public purpose, would
32 defeat the underlying purpose of the law in question or would result in
33 decreased respect for the law.

34 GUIDELINE/COMMENTARY:

35 Examples

36 The following are examples of reasons not to prosecute which could
37 satisfy the standard.

1 (a) Contrary to Legislative Intent - It may be proper to decline to
2 charge where the application of criminal sanctions would be clearly
3 contrary to the intent of the legislature in enacting the particular
4 statute.

5 (b) Antiquated Statute - It may be proper to decline to charge
6 where the statute in question is antiquated in that:

7 (i) It has not been enforced for many years; and

8 (ii) Most members of society act as if it were no longer in
9 existence; and

10 (iii) It serves no deterrent or protective purpose in today's
11 society; and

12 (iv) The statute has not been recently reconsidered by the
13 legislature.

14 This reason is not to be construed as the basis for declining cases
15 because the law in question is unpopular or because it is difficult to
16 enforce.

17 (c) De Minimis Violation - It may be proper to decline to charge
18 where the violation of law is only technical or insubstantial and where
19 no public interest or deterrent purpose would be served by prosecution.

20 (d) Confinement on Other Charges - It may be proper to decline to
21 charge because the accused has been sentenced on another charge to a
22 lengthy period of confinement; and

23 (i) Conviction of the new offense would not merit any additional
24 direct or collateral punishment;

25 (ii) The new offense is either a misdemeanor or a felony which is
26 not particularly aggravated; and

27 (iii) Conviction of the new offense would not serve any significant
28 deterrent purpose.

29 (e) Pending Conviction on Another Charge - It may be proper to
30 decline to charge because the accused is facing a pending prosecution
31 in the same or another county; and

32 (i) Conviction of the new offense would not merit any additional
33 direct or collateral punishment;

34 (ii) Conviction in the pending prosecution is imminent;

35 (iii) The new offense is either a misdemeanor or a felony which is
36 not particularly aggravated; and

37 (iv) Conviction of the new offense would not serve any significant
38 deterrent purpose.

1 (f) High Disproportionate Cost of Prosecution - It may be proper to
2 decline to charge where the cost of locating or transporting, or the
3 burden on, prosecution witnesses is highly disproportionate to the
4 importance of prosecuting the offense in question. This reason should
5 be limited to minor cases and should not be relied upon in serious
6 cases.

7 (g) Improper Motives of Complainant - It may be proper to decline
8 charges because the motives of the complainant are improper and
9 prosecution would serve no public purpose, would defeat the underlying
10 purpose of the law in question or would result in decreased respect for
11 the law.

12 (h) Immunity - It may be proper to decline to charge where immunity
13 is to be given to an accused in order to prosecute another where the
14 accused's information or testimony will reasonably lead to the
15 conviction of others who are responsible for more serious criminal
16 conduct or who represent a greater danger to the public interest.

17 (i) Victim Request - It may be proper to decline to charge because
18 the victim requests that no criminal charges be filed and the case
19 involves the following crimes or situations:

20 (i) Assault cases where the victim has suffered little or no
21 injury;

22 (ii) Crimes against property, not involving violence, where no
23 major loss was suffered;

24 (iii) Where doing so would not jeopardize the safety of society.

25 Care should be taken to insure that the victim's request is freely
26 made and is not the product of threats or pressure by the accused.

27 The presence of these factors may also justify the decision to
28 dismiss a prosecution which has been commenced.

29 Notification

30 The prosecutor is encouraged to notify the victim, when practical,
31 and the law enforcement personnel, of the decision not to prosecute.

32 (2) Decision to prosecute.

33 (a) STANDARD:

34 Crimes against persons will be filed if sufficient admissible
35 evidence exists, which, when considered with the most plausible,
36 reasonably foreseeable defense that could be raised under the evidence,
37 would justify conviction by a reasonable and objective fact-finder.
38 With regard to offenses prohibited by RCW 9A.44.040, 9A.44.050,

1 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, 9A.44.089, and
2 9A.64.020 the prosecutor should avoid pre-filing agreements or
3 diversions intended to place the accused in a program of treatment or
4 counseling, so that treatment, if determined to be beneficial, can be
5 provided pursuant to RCW 9.94A.670.

6 Crimes against property/other crimes will be filed if the
7 admissible evidence is of such convincing force as to make it probable
8 that a reasonable and objective fact-finder would convict after hearing
9 all the admissible evidence and the most plausible defense that could
10 be raised.

11 See table below for the crimes within these categories.

12 CATEGORIZATION OF CRIMES FOR PROSECUTING STANDARDS

13 CRIMES AGAINST PERSONS

- 14 Aggravated Murder
- 15 1st Degree Murder
- 16 2nd Degree Murder
- 17 1st Degree Manslaughter
- 18 2nd Degree Manslaughter
- 19 1st Degree Kidnapping
- 20 2nd Degree Kidnapping
- 21 1st Degree Assault
- 22 2nd Degree Assault
- 23 3rd Degree Assault
- 24 1st Degree Assault of a Child
- 25 2nd Degree Assault of a Child
- 26 3rd Degree Assault of a Child
- 27 1st Degree Rape
- 28 2nd Degree Rape
- 29 3rd Degree Rape
- 30 1st Degree Rape of a Child
- 31 2nd Degree Rape of a Child
- 32 3rd Degree Rape of a Child
- 33 1st Degree Robbery
- 34 2nd Degree Robbery
- 35 1st Degree Arson
- 36 1st Degree Burglary
- 37 1st Degree Identity Theft
- 38 2nd Degree Identity Theft

1 1st Degree Extortion
2 2nd Degree Extortion
3 Indecent Liberties
4 Incest
5 Vehicular Homicide
6 Vehicular Assault
7 1st Degree Child Molestation
8 2nd Degree Child Molestation
9 3rd Degree Child Molestation
10 1st Degree Promoting Prostitution
11 Intimidating a Juror
12 Communication with a Minor
13 Intimidating a Witness
14 Intimidating a Public Servant
15 Bomb Threat (if against person)
16 Unlawful Imprisonment
17 Promoting a Suicide Attempt
18 Riot (if against person)
19 Stalking
20 Custodial Assault
21 Domestic Violence Court Order Violation (RCW 10.99.040, 10.99.050,
22 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145)
23 Counterfeiting (if a violation of RCW 9.16.035(4))
24 Felony Driving a Motor Vehicle While Under the Influence of
25 Intoxicating Liquor or Any Drug (RCW 46.61.502(6))
26 Felony Physical Control of a Motor Vehicle While Under the
27 Influence of Intoxicating Liquor or Any Drug (RCW 46.61.504(6))
28 2nd Degree Homicide by Abuse
29 CRIMES AGAINST PROPERTY/OTHER CRIMES
30 2nd Degree Arson
31 1st Degree Escape
32 2nd Degree Escape
33 2nd Degree Burglary
34 1st Degree Theft
35 2nd Degree Theft
36 1st Degree Perjury
37 2nd Degree Perjury
38 1st Degree Introducing Contraband

1 2nd Degree Introducing Contraband
2 1st Degree Possession of Stolen Property
3 2nd Degree Possession of Stolen Property
4 Bribery
5 Bribing a Witness
6 Bribe received by a Witness
7 Bomb Threat (if against property)
8 1st Degree Malicious Mischief
9 2nd Degree Malicious Mischief
10 1st Degree Reckless Burning
11 Taking a Motor Vehicle without Authorization
12 Forgery
13 2nd Degree Promoting Prostitution
14 Tampering with a Witness
15 Trading in Public Office
16 Trading in Special Influence
17 Receiving/Granting Unlawful Compensation
18 Bigamy
19 Eluding a Pursuing Police Vehicle
20 Willful Failure to Return from Furlough
21 Escape from Community Custody
22 Riot (if against property)
23 1st Degree Theft of Livestock
24 2nd Degree Theft of Livestock

25 ALL OTHER UNCLASSIFIED FELONIES

26 Selection of Charges/Degree of Charge

27 (i) The prosecutor should file charges which adequately describe
28 the nature of defendant's conduct. Other offenses may be charged only
29 if they are necessary to ensure that the charges:

30 (A) Will significantly enhance the strength of the state's case at
31 trial; or

32 (B) Will result in restitution to all victims.

33 (ii) The prosecutor should not overcharge to obtain a guilty plea.
34 Overcharging includes:

35 (A) Charging a higher degree;

36 (B) Charging additional counts.

37 This standard is intended to direct prosecutors to charge those
38 crimes which demonstrate the nature and seriousness of a defendant's

1 criminal conduct, but to decline to charge crimes which are not
2 necessary to such an indication. Crimes which do not merge as a matter
3 of law, but which arise from the same course of conduct, do not all
4 have to be charged.

5 (b) GUIDELINES/COMMENTARY:

6 (i) Police Investigation

7 A prosecuting attorney is dependent upon law enforcement agencies
8 to conduct the necessary factual investigation which must precede the
9 decision to prosecute. The prosecuting attorney shall ensure that a
10 thorough factual investigation has been conducted before a decision to
11 prosecute is made. In ordinary circumstances the investigation should
12 include the following:

- 13 (A) The interviewing of all material witnesses, together with the
14 obtaining of written statements whenever possible;
- 15 (B) The completion of necessary laboratory tests; and
- 16 (C) The obtaining, in accordance with constitutional requirements,
17 of the suspect's version of the events.

18 If the initial investigation is incomplete, a prosecuting attorney
19 should insist upon further investigation before a decision to prosecute
20 is made, and specify what the investigation needs to include.

21 (ii) Exceptions

22 In certain situations, a prosecuting attorney may authorize filing
23 of a criminal complaint before the investigation is complete if:

- 24 (A) Probable cause exists to believe the suspect is guilty; and
- 25 (B) The suspect presents a danger to the community or is likely to
26 flee if not apprehended; or
- 27 (C) The arrest of the suspect is necessary to complete the
28 investigation of the crime.

29 In the event that the exception to the standard is applied, the
30 prosecuting attorney shall obtain a commitment from the law enforcement
31 agency involved to complete the investigation in a timely manner. If
32 the subsequent investigation does not produce sufficient evidence to
33 meet the normal charging standard, the complaint should be dismissed.

34 (iii) Investigation Techniques

35 The prosecutor should be fully advised of the investigatory
36 techniques that were used in the case investigation including:

- 37 (A) Polygraph testing;
- 38 (B) Hypnosis;

1 (C) Electronic surveillance;

2 (D) Use of informants.

3 (iv) Pre-Filing Discussions with Defendant

4 Discussions with the defendant or his/her representative regarding
5 the selection or disposition of charges may occur prior to the filing
6 of charges, and potential agreements can be reached.

7 (v) Pre-Filing Discussions with Victim(s)

8 Discussions with the victim(s) or victims' representatives
9 regarding the selection or disposition of charges may occur before the
10 filing of charges. The discussions may be considered by the prosecutor
11 in charging and disposition decisions, and should be considered before
12 reaching any agreement with the defendant regarding these decisions.

13 **Sec. 8.** RCW 13.34.180 and 2001 c 332 s 4 are each amended to read
14 as follows:

15 (1) A petition seeking termination of a parent and child
16 relationship may be filed in juvenile court by any party to the
17 dependency proceedings concerning that child. Such petition shall
18 conform to the requirements of RCW 13.34.040, shall be served upon the
19 parties as provided in RCW 13.34.070(8), and shall allege all of the
20 following unless subsection (2) or (3) of this section applies:

21 (a) That the child has been found to be a dependent child;

22 (b) That the court has entered a dispositional order pursuant to
23 RCW 13.34.130;

24 (c) That the child has been removed or will, at the time of the
25 hearing, have been removed from the custody of the parent for a period
26 of at least six months pursuant to a finding of dependency;

27 (d) That the services ordered under RCW 13.34.136 have been
28 expressly and understandably offered or provided and all necessary
29 services, reasonably available, capable of correcting the parental
30 deficiencies within the foreseeable future have been expressly and
31 understandably offered or provided;

32 (e) That there is little likelihood that conditions will be
33 remedied so that the child can be returned to the parent in the near
34 future. A parent's failure to substantially improve parental
35 deficiencies within twelve months following entry of the dispositional
36 order shall give rise to a rebuttable presumption that there is little
37 likelihood that conditions will be remedied so that the child can be

1 returned to the parent in the near future. The presumption shall not
2 arise unless the petitioner makes a showing that all necessary services
3 reasonably capable of correcting the parental deficiencies within the
4 foreseeable future have been clearly offered or provided. In
5 determining whether the conditions will be remedied the court may
6 consider, but is not limited to, the following factors:

7 (i) Use of intoxicating or controlled substances so as to render
8 the parent incapable of providing proper care for the child for
9 extended periods of time or for periods of time that present a risk of
10 imminent harm to the child, and documented unwillingness of the parent
11 to receive and complete treatment or documented multiple failed
12 treatment attempts; or

13 (ii) Psychological incapacity or mental deficiency of the parent
14 that is so severe and chronic as to render the parent incapable of
15 providing proper care for the child for extended periods of time or for
16 periods of time that present a risk of imminent harm to the child, and
17 documented unwillingness of the parent to receive and complete
18 treatment or documentation that there is no treatment that can render
19 the parent capable of providing proper care for the child in the near
20 future; and

21 (f) That continuation of the parent and child relationship clearly
22 diminishes the child's prospects for early integration into a stable
23 and permanent home.

24 (2) In lieu of the allegations in subsection (1) of this section,
25 the petition may allege that the child was found under such
26 circumstances that the whereabouts of the child's parent are unknown
27 and no person has acknowledged paternity or maternity and requested
28 custody of the child within two months after the child was found.

29 (3) In lieu of the allegations in subsection (1)(b) through (f) of
30 this section, the petition may allege that the parent has been
31 convicted of:

32 (a) Murder in the first degree, murder in the second degree, (~~(e)~~)
33 homicide by abuse in the first degree, or homicide by abuse in the
34 second degree as defined in chapter 9A.32 RCW against another child of
35 the parent;

36 (b) Manslaughter in the first degree or manslaughter in the second
37 degree, as defined in chapter 9A.32 RCW against another child of the
38 parent;

1 (c) Attempting, conspiring, or soliciting another to commit one or
2 more of the crimes listed in (a) or (b) of this subsection; or

3 (d) Assault in the first or second degree, as defined in chapter
4 9A.36 RCW, against the surviving child or another child of the parent.

5 (4) Notice of rights shall be served upon the parent, guardian, or
6 legal custodian with the petition and shall be in substantially the
7 following form:

8 "NOTICE

9 A petition for termination of parental rights has been filed
10 against you. You have important legal rights and you must take
11 steps to protect your interests. This petition could result in
12 permanent loss of your parental rights.

13 1. You have the right to a fact-finding hearing before
14 a judge.

15 2. You have the right to have a lawyer represent you at
16 the hearing. A lawyer can look at the files in your case, talk
17 to the department of social and health services and other
18 agencies, tell you about the law, help you understand your
19 rights, and help you at hearings. If you cannot afford a
20 lawyer, the court will appoint one to represent you. To get a
21 court-appointed lawyer you must contact: (explain local
22 procedure).

23 3. At the hearing, you have the right to speak on your
24 own behalf, to introduce evidence, to examine witnesses, and to
25 receive a decision based solely on the evidence presented to
26 the judge.

27 You should be present at this hearing.

28 You may call (insert agency) for more information
29 about your child. The agency's name and telephone number are
30 (insert name and telephone number)."

31 **Sec. 9.** RCW 43.43.830 and 2005 c 421 s 1 are each amended to read
32 as follows:

33 Unless the context clearly requires otherwise, the definitions in
34 this section apply throughout RCW 43.43.830 through 43.43.845.

35 (1) "Applicant" means:

1 (a) Any prospective employee who will or may have unsupervised
2 access to children under sixteen years of age or (~~developmentally~~
3 ~~disabled~~) persons with a developmental disability or vulnerable adults
4 during the course of his or her employment or involvement with the
5 business or organization;

6 (b) Any prospective volunteer who will have regularly scheduled
7 unsupervised access to children under sixteen years of age,
8 (~~developmentally disabled~~) persons with a developmental disability,
9 or vulnerable adults during the course of his or her employment or
10 involvement with the business or organization under circumstances where
11 such access will or may involve groups of (i) five or fewer children
12 under twelve years of age, (ii) three or fewer children between twelve
13 and sixteen years of age, (iii) (~~developmentally disabled~~) persons
14 with a developmental disability, or (iv) vulnerable adults;

15 (c) Any prospective adoptive parent, as defined in RCW 26.33.020;
16 or

17 (d) Any prospective custodian in a nonparental custody proceeding
18 under chapter 26.10 RCW.

19 (2) "Business or organization" means a business or organization
20 licensed in this state, any agency of the state, or other governmental
21 entity, that educates, trains, treats, supervises, houses, or provides
22 recreation to (~~developmentally disabled~~) persons with a developmental
23 disability, vulnerable adults, or children under sixteen years of age,
24 including but not limited to public housing authorities, school
25 districts, and educational service districts.

26 (3) "Civil adjudication proceeding" is a judicial or administrative
27 adjudicative proceeding that results in a finding of, or upholds an
28 agency finding of, domestic violence, abuse, sexual abuse, neglect, or
29 exploitation or financial exploitation of a child or vulnerable adult
30 under chapter 13.34, 26.44, or 74.34 RCW, or rules adopted under
31 chapters 18.51 and 74.42 RCW. "Civil adjudication proceeding" also
32 includes judicial or administrative orders that become final due to the
33 failure of the alleged perpetrator to timely exercise a right afforded
34 to him or her to administratively challenge findings made by the
35 department of social and health services or the department of health
36 under chapter 13.34, 26.44, or 74.34 RCW, or rules adopted under
37 chapters 18.51 and 74.42 RCW.

1 (4) "Conviction record" means "conviction record" information as
2 defined in RCW 10.97.030 and 10.97.050 relating to a crime committed by
3 either an adult or a juvenile. It does not include a conviction for an
4 offense that has been the subject of an expungement, pardon, annulment,
5 certificate of rehabilitation, or other equivalent procedure based on
6 a finding of the rehabilitation of the person convicted, or a
7 conviction that has been the subject of a pardon, annulment, or other
8 equivalent procedure based on a finding of innocence. It does include
9 convictions for offenses for which the defendant received a deferred or
10 suspended sentence, unless the record has been expunged according to
11 law.

12 (5) "Crime against children or other persons" means a conviction of
13 any of the following offenses: Aggravated murder; first or second
14 degree murder; second degree homicide by abuse, first or second degree
15 kidnaping; first, second, or third degree assault; first, second, or
16 third degree assault of a child; first, second, or third degree rape;
17 first, second, or third degree rape of a child; first or second degree
18 robbery; first degree arson; first degree burglary; first or second
19 degree manslaughter; first or second degree extortion; indecent
20 liberties; incest; vehicular homicide; first degree promoting
21 prostitution; communication with a minor; unlawful imprisonment; simple
22 assault; sexual exploitation of minors; first or second degree criminal
23 mistreatment; endangerment with a controlled substance; (~~child~~) abuse
24 or neglect as defined in RCW 26.44.020; first or second degree
25 custodial interference; first or second degree custodial sexual
26 misconduct; malicious harassment; first, second, or third degree child
27 molestation; first or second degree sexual misconduct with a minor;
28 patronizing a juvenile prostitute; child abandonment; promoting
29 pornography; selling or distributing erotic material to a minor;
30 custodial assault; violation of child abuse restraining order; child
31 buying or selling; prostitution; felony indecent exposure; criminal
32 abandonment; or any of these crimes as they may be renamed in the
33 future.

34 (6) "Crimes relating to drugs" means a conviction of a crime to
35 manufacture, delivery, or possession with intent to manufacture or
36 deliver a controlled substance.

37 (7) "Crimes relating to financial exploitation" means a conviction

1 for first, second, or third degree extortion; first, second, or third
2 degree theft; first or second degree robbery; forgery; or any of these
3 crimes as they may be renamed in the future.

4 (8) "Unsupervised" means not in the presence of:

5 (a) Another employee or volunteer from the same business or
6 organization as the applicant; or

7 (b) Any relative or guardian of any of the children or
8 (~~developmentally disabled~~) persons with a developmental disability or
9 vulnerable adults to which the applicant has access during the course
10 of his or her employment or involvement with the business or
11 organization.

12 (9) "Vulnerable adult" means "vulnerable adult" as defined in
13 chapter 74.34 RCW, except that for the purposes of requesting and
14 receiving background checks pursuant to RCW 43.43.832, it shall also
15 include adults of any age who lack the functional, mental, or physical
16 ability to care for themselves.

17 (10) "Financial exploitation" means "financial exploitation" as
18 defined in RCW 74.34.020.

19 (11) "Agency" means any person, firm, partnership, association,
20 corporation, or facility which receives, provides services to, houses
21 or otherwise cares for vulnerable adults.

22 **Sec. 10.** RCW 9.94A.712 and 2006 c 124 s 3 and 2006 c 122 s 5 are
23 each reenacted and amended to read as follows:

24 (1) An offender who is not a persistent offender shall be sentenced
25 under this section if the offender:

26 (a) Is convicted of:

27 (i) Rape in the first degree, rape in the second degree, rape of a
28 child in the first degree, child molestation in the first degree, rape
29 of a child in the second degree, or indecent liberties by forcible
30 compulsion;

31 (ii) Any of the following offenses with a finding of sexual
32 motivation: Murder in the first degree, murder in the second degree,
33 homicide by abuse in the first degree, kidnapping in the first degree,
34 kidnapping in the second degree, assault in the first degree, assault
35 in the second degree, assault of a child in the first degree, assault
36 of a child in the second degree, or burglary in the first degree; or

1 (iii) An attempt to commit any crime listed in this subsection
2 (1)(a);
3 committed on or after September 1, 2001; or

4 (b) Has a prior conviction for an offense listed in RCW
5 9.94A.030(33)(b), and is convicted of any sex offense which was
6 committed after September 1, 2001.

7 For purposes of this subsection (1)(b), failure to register is not
8 a sex offense.

9 (2) An offender convicted of rape of a child in the first or second
10 degree or child molestation in the first degree who was seventeen years
11 of age or younger at the time of the offense shall not be sentenced
12 under this section.

13 (3)(a) Upon a finding that the offender is subject to sentencing
14 under this section, the court shall impose a sentence to a maximum term
15 and a minimum term.

16 (b) The maximum term shall consist of the statutory maximum
17 sentence for the offense.

18 (c)(i) Except as provided in (c)(ii) of this subsection, the
19 minimum term shall be either within the standard sentence range for the
20 offense, or outside the standard sentence range pursuant to RCW
21 9.94A.535, if the offender is otherwise eligible for such a sentence.

22 (ii) If the offense that caused the offender to be sentenced under
23 this section was rape of a child in the first degree, rape of a child
24 in the second degree, or child molestation in the first degree, and
25 there has been a finding that the offense was predatory under RCW
26 9.94A.836, the minimum term shall be either the maximum of the standard
27 sentence range for the offense or twenty-five years, whichever is
28 greater. If the offense that caused the offender to be sentenced under
29 this section was rape in the first degree, rape in the second degree,
30 indecent liberties by forcible compulsion, or kidnapping in the first
31 degree with sexual motivation, and there has been a finding that the
32 victim was under the age of fifteen at the time of the offense under
33 RCW 9.94A.837, the minimum term shall be either the maximum of the
34 standard sentence range for the offense or twenty-five years, whichever
35 is greater. If the offense that caused the offender to be sentenced
36 under this section is rape in the first degree, rape in the second
37 degree with forcible compulsion, indecent liberties with forcible
38 compulsion, or kidnapping in the first degree with sexual motivation,

1 and there has been a finding under RCW 9.94A.838 that the victim was,
2 at the time of the offense, developmentally disabled, mentally
3 disordered, or a frail elder or vulnerable adult, the minimum sentence
4 shall be either the maximum of the standard sentence range for the
5 offense or twenty-five years, whichever is greater.

6 (d) The minimum terms in (c)(ii) of this subsection do not apply to
7 a juvenile tried as an adult pursuant to RCW 13.04.030(1)(e) (i) or
8 (v). The minimum term for such a juvenile shall be imposed under
9 (c)(i) of this subsection.

10 (4) A person sentenced under subsection (3) of this section shall
11 serve the sentence in a facility or institution operated, or utilized
12 under contract, by the state.

13 (5) When a court sentences a person to the custody of the
14 department under this section, the court shall, in addition to the
15 other terms of the sentence, sentence the offender to community custody
16 under the supervision of the department and the authority of the board
17 for any period of time the person is released from total confinement
18 before the expiration of the maximum sentence.

19 (6)(a)(i) Unless a condition is waived by the court, the conditions
20 of community custody shall include those provided for in RCW
21 9.94A.700(4). The conditions may also include those provided for in
22 RCW 9.94A.700(5). The court may also order the offender to participate
23 in rehabilitative programs or otherwise perform affirmative conduct
24 reasonably related to the circumstances of the offense, the offender's
25 risk of reoffending, or the safety of the community, and the department
26 and the board shall enforce such conditions pursuant to RCW 9.94A.713,
27 9.95.425, and 9.95.430.

28 (ii) If the offense that caused the offender to be sentenced under
29 this section was an offense listed in subsection (1)(a) of this section
30 and the victim of the offense was under eighteen years of age at the
31 time of the offense, the court shall, as a condition of community
32 custody, prohibit the offender from residing in a community protection
33 zone.

34 (b) As part of any sentence under this section, the court shall
35 also require the offender to comply with any conditions imposed by the
36 board under RCW 9.94A.713 and 9.95.420 through 9.95.435.

1 **Sec. 11.** RCW 9A.04.080 and 2006 c 132 s 1 are each amended to read
2 as follows:

3 (1) Prosecutions for criminal offenses shall not be commenced after
4 the periods prescribed in this section.

5 (a) The following offenses may be prosecuted at any time after
6 their commission:

7 (i) Murder;

8 (ii) Homicide by abuse in the first degree;

9 (iii) Arson if a death results;

10 (iv) Vehicular homicide;

11 (v) Vehicular assault if a death results;

12 (vi) Hit-and-run injury-accident if a death results (RCW
13 46.52.020(4)).

14 (b) The following offenses shall not be prosecuted more than ten
15 years after their commission:

16 (i) Any felony committed by a public officer if the commission is
17 in connection with the duties of his or her office or constitutes a
18 breach of his or her public duty or a violation of the oath of office;

19 (ii) Arson if no death results; or

20 (iii) Violations of RCW 9A.44.040 or 9A.44.050 if the rape is
21 reported to a law enforcement agency within one year of its commission;
22 except that if the victim is under fourteen years of age when the rape
23 is committed and the rape is reported to a law enforcement agency
24 within one year of its commission, the violation may be prosecuted up
25 to three years after the victim's eighteenth birthday or up to ten
26 years after the rape's commission, whichever is later. If a violation
27 of RCW 9A.44.040 or 9A.44.050 is not reported within one year, the rape
28 may not be prosecuted: (A) More than three years after its commission
29 if the violation was committed against a victim fourteen years of age
30 or older; or (B) more than three years after the victim's eighteenth
31 birthday or more than seven years after the rape's commission,
32 whichever is later, if the violation was committed against a victim
33 under fourteen years of age.

34 (c) Violations of the following statutes shall not be prosecuted
35 more than three years after the victim's eighteenth birthday or more
36 than seven years after their commission, whichever is later: RCW
37 9A.44.073, 9A.44.076, 9A.44.083, 9A.44.086, 9A.44.070, 9A.44.080,
38 9A.44.100(1)(b), or 9A.64.020.

1 (d) The following offenses shall not be prosecuted more than six
2 years after their commission: Violations of RCW 9A.82.060 or
3 9A.82.080.

4 (e) The following offenses shall not be prosecuted more than five
5 years after their commission: Any class C felony under chapter 74.09,
6 82.36, or 82.38 RCW.

7 (f) Bigamy shall not be prosecuted more than three years after the
8 time specified in RCW 9A.64.010.

9 (g) A violation of RCW 9A.56.030 must not be prosecuted more than
10 three years after the discovery of the offense when the victim is a tax
11 exempt corporation under 26 U.S.C. Sec. 501(c)(3).

12 (h) No other felony may be prosecuted more than three years after
13 its commission; except that in a prosecution under RCW 9A.44.115, if
14 the person who was viewed, photographed, or filmed did not realize at
15 the time that he or she was being viewed, photographed, or filmed, the
16 prosecution must be commenced within two years of the time the person
17 who was viewed or in the photograph or film first learns that he or she
18 was viewed, photographed, or filmed.

19 (i) No gross misdemeanor may be prosecuted more than two years
20 after its commission.

21 (j) No misdemeanor may be prosecuted more than one year after its
22 commission.

23 (2) The periods of limitation prescribed in subsection (1) of this
24 section do not run during any time when the person charged is not
25 usually and publicly resident within this state.

26 (3) In any prosecution for a sex offense as defined in RCW
27 9.94A.030, the periods of limitation prescribed in subsection (1) of
28 this section run from the date of commission or one year from the date
29 on which the identity of the suspect is conclusively established by
30 deoxyribonucleic acid testing, whichever is later.

31 (4) If, before the end of a period of limitation prescribed in
32 subsection (1) of this section, an indictment has been found or a
33 complaint or an information has been filed, and the indictment,
34 complaint, or information is set aside, then the period of limitation
35 is extended by a period equal to the length of time from the finding or
36 filing to the setting aside.

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