

ESSB 6476 - H COMM AMD

By Committee on Human Services

NOT ADOPTED 03/03/2010

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 13.40 RCW
4 to read as follows:

5 Within available funding, when a youth who has been diverted under
6 RCW 13.40.070 for an alleged offense of prostitution or prostitution
7 loitering is referred to the department, the department shall connect
8 that youth with the services and treatment specified in RCW 74.14B.060
9 and 74.14B.070.

10 **Sec. 2.** RCW 7.68.070 and 2009 c 38 s 1 are each amended to read as
11 follows:

12 The right to benefits under this chapter and the amount thereof
13 will be governed insofar as is applicable by the provisions contained
14 in chapter 51.32 RCW except as provided in this section:

15 (1) The provisions contained in RCW 51.32.015, 51.32.030,
16 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 are not
17 applicable to this chapter.

18 (2) Each victim injured as a result of a criminal act, including
19 criminal acts committed between July 1, 1981, and January 1, 1983, or
20 the victim's family or dependents in case of death of the victim, are
21 entitled to benefits in accordance with this chapter, subject to the
22 limitations under RCW 7.68.015. The rights, duties, responsibilities,
23 limitations, and procedures applicable to a worker as contained in RCW
24 51.32.010 are applicable to this chapter.

25 (3)(a) The limitations contained in RCW 51.32.020 are applicable to
26 claims under this chapter. In addition (~~thereto~~), no person or
27 spouse, child, or dependent of such person is entitled to benefits
28 under this chapter when the injury for which benefits are sought, was:

1 ~~((a))~~ (i) The result of consent, provocation, or incitement by
2 the victim, unless an injury resulting from a criminal act caused the
3 death of the victim;

4 ~~((b))~~ (ii) Sustained while the crime victim was engaged in the
5 attempt to commit, or the commission of, a felony; or

6 ~~((c))~~ (iii) Sustained while the victim was confined in any county
7 or city jail, federal jail or prison or in any other federal
8 institution, or any state correctional institution maintained and
9 operated by the department of social and health services or the
10 department of corrections, prior to release from lawful custody; or
11 confined or living in any other institution maintained and operated by
12 the department of social and health services or the department of
13 corrections.

14 (b) A person identified as the "minor" in the charge of commercial
15 sexual abuse of a minor under RCW 9.68A.100, promoting commercial
16 sexual abuse of a minor under RCW 9.68A.101, or promoting travel for
17 commercial sexual abuse of a minor under RCW 9.68A.102 is considered a
18 victim of a criminal act for the purpose of the right to benefits under
19 this chapter even if the person is also charged with prostitution under
20 RCW 9A.88.030.

21 (4) The benefits established upon the death of a worker and
22 contained in RCW 51.32.050 shall be the benefits obtainable under this
23 chapter and provisions relating to payment contained in that section
24 shall equally apply under this chapter(~~(:—PROVIDED, That)~~). Benefits
25 for burial expenses shall not exceed the amount paid by the department
26 in case of the death of a worker as provided in chapter 51.32 RCW in
27 any claim(~~(:—PROVIDED FURTHER, That)~~). If the criminal act results in
28 the death of a victim who was not gainfully employed at the time of the
29 criminal act, and who was not so employed for at least three
30 consecutive months of the twelve months immediately preceding the
31 criminal act;

32 (a) Benefits payable to an eligible surviving spouse, where there
33 are no children of the victim at the time of the criminal act who have
34 survived the victim or where such spouse has legal custody of all of
35 his or her children, shall be limited to burial expenses and a lump sum
36 payment of seven thousand five hundred dollars without reference to
37 number of children, if any;

1 (b) Where any such spouse has legal custody of one or more but not
2 all of such children, then such burial expenses shall be paid, and such
3 spouse shall receive a lump sum payment of three thousand seven hundred
4 fifty dollars and any such child or children not in the legal custody
5 of such spouse shall receive a lump sum of three thousand seven hundred
6 fifty dollars to be divided equally among such child or children;

7 (c) If any such spouse does not have legal custody of any of the
8 children, the burial expenses shall be paid and the spouse shall
9 receive a lump sum payment of up to three thousand seven hundred fifty
10 dollars and any such child or children not in the legal custody of the
11 spouse shall receive a lump sum payment of up to three thousand seven
12 hundred fifty dollars to be divided equally among the child or
13 children;

14 (d) If no such spouse survives, then such burial expenses shall be
15 paid, and each surviving child of the victim at the time of the
16 criminal act shall receive a lump sum payment of three thousand seven
17 hundred fifty dollars up to a total of two such children and where
18 there are more than two such children the sum of seven thousand five
19 hundred dollars shall be divided equally among such children.

20 No other benefits may be paid or payable under these circumstances.

21 (5) The benefits established in RCW 51.32.060 for permanent total
22 disability proximately caused by the criminal act shall be the benefits
23 obtainable under this chapter, and provisions relating to payment
24 contained in that section apply under this chapter: PROVIDED, That if
25 a victim becomes permanently and totally disabled as a proximate result
26 of the criminal act and was not gainfully employed at the time of the
27 criminal act, the victim shall receive monthly during the period of the
28 disability the following percentages, where applicable, of the average
29 monthly wage determined as of the date of the criminal act pursuant to
30 RCW 51.08.018:

31 (a) If married at the time of the criminal act, twenty-nine percent
32 of the average monthly wage.

33 (b) If married with one child at the time of the criminal act,
34 thirty-four percent of the average monthly wage.

35 (c) If married with two children at the time of the criminal act,
36 thirty-eight percent of the average monthly wage.

37 (d) If married with three children at the time of the criminal act,
38 forty-one percent of the average monthly wage.

1 (e) If married with four children at the time of the criminal act,
2 forty-four percent of the average monthly wage.

3 (f) If married with five or more children at the time of the
4 criminal act, forty-seven percent of the average monthly wage.

5 (g) If unmarried at the time of the criminal act, twenty-five
6 percent of the average monthly wage.

7 (h) If unmarried with one child at the time of the criminal act,
8 thirty percent of the average monthly wage.

9 (i) If unmarried with two children at the time of the criminal act,
10 thirty-four percent of the average monthly wage.

11 (j) If unmarried with three children at the time of the criminal
12 act, thirty-seven percent of the average monthly wage.

13 (k) If unmarried with four children at the time of the criminal
14 act, forty percent of the average monthly wage.

15 (l) If unmarried with five or more children at the time of the
16 criminal act, forty-three percent of the average monthly wage.

17 (6) The benefits established in RCW 51.32.080 for permanent partial
18 disability shall be the benefits obtainable under this chapter, and
19 provisions relating to payment contained in that section equally apply
20 under this chapter.

21 (7) The benefits established in RCW 51.32.090 for temporary total
22 disability shall be the benefits obtainable under this chapter, and
23 provisions relating to payment contained in that section apply under
24 this chapter(~~(÷PROVIDED, That)~~). No person is eligible for temporary
25 total disability benefits under this chapter if such person was not
26 gainfully employed at the time of the criminal act, and was not so
27 employed for at least three consecutive months of the twelve months
28 immediately preceding the criminal act.

29 (8) The benefits established in RCW 51.32.095 for continuation of
30 benefits during vocational rehabilitation shall be benefits obtainable
31 under this chapter, and provisions relating to payment contained in
32 that section apply under this chapter(~~(÷PROVIDED, That)~~). Benefits
33 shall not exceed five thousand dollars for any single injury.

34 (9) The provisions for lump sum payment of benefits upon death or
35 permanent total disability as contained in RCW 51.32.130 apply under
36 this chapter.

37 (10) The provisions relating to payment of benefits to, for or on
38 behalf of workers contained in RCW 51.32.040, 51.32.055, 51.32.100,

1 51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and
2 51.32.210 are applicable to payment of benefits to, for or on behalf of
3 victims under this chapter.

4 (11) No person or spouse, child, or dependent of such person is
5 entitled to benefits under this chapter where the person making a claim
6 for such benefits has refused to give reasonable cooperation to state
7 or local law enforcement agencies in their efforts to apprehend and
8 convict the perpetrator(s) of the criminal act which gave rise to the
9 claim.

10 (12) In addition to other benefits provided under this chapter,
11 victims of sexual assault are entitled to receive appropriate
12 counseling. Fees for such counseling shall be determined by the
13 department in accordance with RCW 51.04.030, subject to the limitations
14 of RCW 7.68.080. Counseling services may include, if determined
15 appropriate by the department, counseling of members of the victim's
16 immediate family, other than the perpetrator of the assault.

17 (13) Except for medical benefits authorized under RCW 7.68.080, no
18 more than thirty thousand dollars shall be granted as a result of a
19 single injury or death, except that benefits granted as the result of
20 total permanent disability or death shall not exceed forty thousand
21 dollars.

22 (14) Notwithstanding other provisions of this chapter and Title 51
23 RCW, benefits payable for total temporary disability under subsection
24 (7) of this section, shall be limited to fifteen thousand dollars.

25 (15) Any person who is responsible for the victim's injuries, or
26 who would otherwise be unjustly enriched as a result of the victim's
27 injuries, shall not be a beneficiary under this chapter.

28 (16) Crime victims' compensation is not available to pay for
29 services covered under chapter 74.09 RCW or Title XIX of the federal
30 social security act, except to the extent that the costs for such
31 services exceed service limits established by the department of social
32 and health services or, during the 1993-95 fiscal biennium, to the
33 extent necessary to provide matching funds for federal medicaid
34 reimbursement.

35 (17) In addition to other benefits provided under this chapter,
36 immediate family members of a homicide victim may receive appropriate
37 counseling to assist in dealing with the immediate, near-term
38 consequences of the related effects of the homicide. Fees for

1 counseling shall be determined by the department in accordance with RCW
2 51.04.030, subject to the limitations of RCW 7.68.080. Payment of
3 counseling benefits under this section may not be provided to the
4 perpetrator of the homicide. The benefits under this subsection may be
5 provided only with respect to homicides committed on or after July 1,
6 1992.

7 (18) A dependent mother, father, stepmother, or stepfather, as
8 defined in RCW 51.08.050, who is a survivor of her or his child's
9 homicide, who has been requested by a law enforcement agency or a
10 prosecutor to assist in the judicial proceedings related to the death
11 of the victim, and who is not domiciled in Washington state at the time
12 of the request, may receive a lump-sum payment upon arrival in this
13 state. Total benefits under this subsection may not exceed seven
14 thousand five hundred dollars. If more than one dependent parent is
15 eligible for this benefit, the lump-sum payment of seven thousand five
16 hundred dollars shall be divided equally among the dependent parents.

17 (19) A victim whose crime occurred in another state who qualifies
18 for benefits under RCW 7.68.060(4) may receive appropriate mental
19 health counseling to address distress arising from participation in the
20 civil commitment proceedings. Fees for counseling shall be determined
21 by the department in accordance with RCW 51.04.030, subject to the
22 limitations of RCW 7.68.080.

23 **Sec. 3.** RCW 13.40.070 and 2009 c 252 s 3 are each amended to read
24 as follows:

25 (1) Complaints referred to the juvenile court alleging the
26 commission of an offense shall be referred directly to the prosecutor.
27 The prosecutor, upon receipt of a complaint, shall screen the complaint
28 to determine whether:

29 (a) The alleged facts bring the case within the jurisdiction of the
30 court; and

31 (b) On a basis of available evidence there is probable cause to
32 believe that the juvenile did commit the offense.

33 (2) If the identical alleged acts constitute an offense under both
34 the law of this state and an ordinance of any city or county of this
35 state, state law shall govern the prosecutor's screening and charging
36 decision for both filed and diverted cases.

1 (3) If the requirements of subsections (1)(a) and (b) of this
2 section are met, the prosecutor shall either file an information in
3 juvenile court or divert the case, as set forth in subsections (5),
4 (6), and ~~((+7))~~ (8) of this section. If the prosecutor finds that the
5 requirements of subsection (1)(a) and (b) of this section are not met,
6 the prosecutor shall maintain a record, for one year, of such decision
7 and the reasons therefor. In lieu of filing an information or
8 diverting an offense a prosecutor may file a motion to modify community
9 supervision where such offense constitutes a violation of community
10 supervision.

11 (4) An information shall be a plain, concise, and definite written
12 statement of the essential facts constituting the offense charged. It
13 shall be signed by the prosecuting attorney and conform to chapter
14 10.37 RCW.

15 (5) Except as provided in RCW 13.40.213 and subsection (7) of this
16 section, where a case is legally sufficient, the prosecutor shall file
17 an information with the juvenile court if:

18 (a) An alleged offender is accused of a class A felony, a class B
19 felony, an attempt to commit a class B felony, a class C felony listed
20 in RCW 9.94A.411(2) as a crime against persons or listed in RCW
21 9A.46.060 as a crime of harassment, or a class C felony that is a
22 violation of RCW 9.41.080 or 9.41.040(2)(a)(iii); or

23 (b) An alleged offender is accused of a felony and has a criminal
24 history of any felony, or at least two gross misdemeanors, or at least
25 two misdemeanors; or

26 (c) An alleged offender has previously been committed to the
27 department; or

28 (d) An alleged offender has been referred by a diversion unit for
29 prosecution or desires prosecution instead of diversion; or

30 (e) An alleged offender has two or more diversion agreements on the
31 alleged offender's criminal history; or

32 (f) A special allegation has been filed that the offender or an
33 accomplice was armed with a firearm when the offense was committed.

34 (6) Where a case is legally sufficient the prosecutor shall divert
35 the case if the alleged offense is a misdemeanor or gross misdemeanor
36 or violation and the alleged offense is the offender's first offense or
37 violation. If the alleged offender is charged with a related offense

1 that must or may be filed under subsections (5) and (~~(7)~~) (8) of this
2 section, a case under this subsection may also be filed.

3 (7) Where a case is legally sufficient to charge an alleged
4 offender with either prostitution or prostitution loitering and the
5 alleged offense is the offender's first prostitution or prostitution
6 loitering offense, the prosecutor shall divert the case.

7 (8) Where a case is legally sufficient and falls into neither
8 subsection (5) nor (6) of this section, it may be filed or diverted.
9 In deciding whether to file or divert an offense under this section the
10 prosecutor shall be guided only by the length, seriousness, and recency
11 of the alleged offender's criminal history and the circumstances
12 surrounding the commission of the alleged offense.

13 (~~(8)~~) (9) Whenever a juvenile is placed in custody or, where not
14 placed in custody, referred to a diversion interview, the parent or
15 legal guardian of the juvenile shall be notified as soon as possible
16 concerning the allegation made against the juvenile and the current
17 status of the juvenile. Where a case involves victims of crimes
18 against persons or victims whose property has not been recovered at the
19 time a juvenile is referred to a diversion unit, the victim shall be
20 notified of the referral and informed how to contact the unit.

21 (~~(9)~~) (10) The responsibilities of the prosecutor under
22 subsections (1) through (~~(8)~~) (9) of this section may be performed by
23 a juvenile court probation counselor for any complaint referred to the
24 court alleging the commission of an offense which would not be a felony
25 if committed by an adult, if the prosecutor has given sufficient
26 written notice to the juvenile court that the prosecutor will not
27 review such complaints.

28 (~~(10)~~) (11) The prosecutor, juvenile court probation counselor,
29 or diversion unit may, in exercising their authority under this section
30 or RCW 13.40.080, refer juveniles to mediation or victim offender
31 reconciliation programs. Such mediation or victim offender
32 reconciliation programs shall be voluntary for victims.

33 **Sec. 4.** RCW 13.40.213 and 2009 c 252 s 2 are each amended to read
34 as follows:

35 (1) When a juvenile is alleged to have committed the offenses of
36 prostitution or prostitution loitering, and the allegation, if proved,

1 would not be the juvenile's first offense, a prosecutor may divert the
2 offense if the county in which the offense is alleged to have been
3 committed has a comprehensive program that provides:

4 (a) Safe and stable housing;

5 (b) Comprehensive on-site case management;

6 (c) Integrated mental health and chemical dependency services,
7 including specialized trauma recovery services;

8 (d) Education and employment training delivered on-site; and

9 (e) Referrals to off-site specialized services, as appropriate.

10 (2) A prosecutor may divert a case for prostitution or prostitution
11 loitering into the comprehensive program described in this section,
12 notwithstanding the filing criteria set forth in RCW 13.40.070(5).

13 (3) A diversion agreement under this section may extend to twelve
14 months.

15 (4)(a) The administrative office of the courts shall compile data
16 regarding:

17 (i) The number of juveniles whose cases are diverted into the
18 comprehensive program described in this section;

19 (ii) Whether the juveniles complete their diversion agreements
20 under this section; and

21 (iii) Whether juveniles whose cases have been diverted under this
22 section have been subsequently arrested or committed subsequent
23 offenses.

24 (b) ((A)) An annual report of the data compiled shall be provided
25 to the governor and the appropriate committee of the legislature. The
26 first report is due by November 1, 2010.

27 NEW SECTION. Sec. 5. A new section is added to chapter 13.40 RCW
28 to read as follows:

29 In any proceeding under this chapter related to an arrest for
30 prostitution or prostitution loitering, there is a presumption that the
31 alleged offender meets the criteria for a certification as a victim of
32 a severe form of trafficking in persons as defined in section 7105 of
33 Title 22 of the United States code, and that the alleged offender is
34 also a victim of commercial sex abuse of a minor.

35 NEW SECTION. Sec. 6. A new section is added to chapter 74.15 RCW
36 to read as follows:

1 The department shall require that to be licensed or continue to be
2 licensed as a secure or semi-secure crisis residential center or HOPE
3 center that the center has on staff, or otherwise has access to, a
4 person who has been trained to work with the needs of sexually
5 exploited children. For purposes of this section, "sexually exploited
6 child" means that person as defined in RCW 13.32A.030(17).

7 **Sec. 7.** RCW 9.94A.515 and 2008 c 108 s 23 and 2008 c 38 s 1 are
8 each reenacted and amended to read as follows:

9
10 TABLE 2

11 CRIMES INCLUDED WITHIN
12 EACH SERIOUSNESS LEVEL

- 13 XVI Aggravated Murder 1 (RCW
14 10.95.020)
- 15 XV Homicide by abuse (RCW 9A.32.055)
16 Malicious explosion 1 (RCW
17 70.74.280(1))
18 Murder 1 (RCW 9A.32.030)
- 19 XIV Murder 2 (RCW 9A.32.050)
20 Trafficking 1 (RCW 9A.40.100(1))
- 21 XIII Malicious explosion 2 (RCW
22 70.74.280(2))
23 Malicious placement of an explosive 1
24 (RCW 70.74.270(1))
- 25 XII Assault 1 (RCW 9A.36.011)
26 Assault of a Child 1 (RCW 9A.36.120)
27 Malicious placement of an imitation
28 device 1 (RCW 70.74.272(1)(a))
29 Promoting Commercial Sexual Abuse
30 of a Minor (RCW 9.68A.101)
31 Rape 1 (RCW 9A.44.040)
32 Rape of a Child 1 (RCW 9A.44.073)
33 Trafficking 2 (RCW 9A.40.100(2))
- 34 XI Manslaughter 1 (RCW 9A.32.060)
35 Rape 2 (RCW 9A.44.050)
36 Rape of a Child 2 (RCW 9A.44.076)

1 X Child Molestation 1 (RCW 9A.44.083)
2 Criminal Mistreatment 1 (RCW
3 9A.42.020)
4 Indecent Liberties (with forcible
5 compulsion) (RCW
6 9A.44.100(1)(a))
7 Kidnapping 1 (RCW 9A.40.020)
8 Leading Organized Crime (RCW
9 9A.82.060(1)(a))
10 Malicious explosion 3 (RCW
11 70.74.280(3))
12 Sexually Violent Predator Escape
13 (RCW 9A.76.115)
14 IX Abandonment of Dependent Person 1
15 (RCW 9A.42.060)
16 Assault of a Child 2 (RCW 9A.36.130)
17 Explosive devices prohibited (RCW
18 70.74.180)
19 Hit and Run--Death (RCW
20 46.52.020(4)(a))
21 Homicide by Watercraft, by being
22 under the influence of intoxicating
23 liquor or any drug (RCW
24 79A.60.050)
25 Inciting Criminal Profiteering (RCW
26 9A.82.060(1)(b))
27 Malicious placement of an explosive 2
28 (RCW 70.74.270(2))
29 Robbery 1 (RCW 9A.56.200)
30 Sexual Exploitation (RCW 9.68A.040)
31 Vehicular Homicide, by being under
32 the influence of intoxicating liquor
33 or any drug (RCW 46.61.520)
34 VIII Arson 1 (RCW 9A.48.020)
35 Commercial Sexual Abuse of a Minor
36 (RCW 9.68A.100)

1 Homicide by Watercraft, by the
2 operation of any vessel in a
3 reckless manner (RCW
4 79A.60.050)
5 Manslaughter 2 (RCW 9A.32.070)
6 (~~Promoting Commercial Sexual Abuse~~
7 ~~of a Minor (RCW 9.68A.101))~~
8 Promoting Prostitution 1 (RCW
9 9A.88.070)
10 Theft of Ammonia (RCW 69.55.010)
11 Vehicular Homicide, by the operation
12 of any vehicle in a reckless manner
13 (RCW 46.61.520)
14 VII Burglary 1 (RCW 9A.52.020)
15 Child Molestation 2 (RCW 9A.44.086)
16 Civil Disorder Training (RCW
17 9A.48.120)
18 Dealing in depictions of minor engaged
19 in sexually explicit conduct (RCW
20 9.68A.050)
21 Drive-by Shooting (RCW 9A.36.045)
22 Homicide by Watercraft, by disregard
23 for the safety of others (RCW
24 79A.60.050)
25 Indecent Liberties (without forcible
26 compulsion) (RCW 9A.44.100(1)
27 (b) and (c))
28 Introducing Contraband 1 (RCW
29 9A.76.140)
30 Malicious placement of an explosive 3
31 (RCW 70.74.270(3))
32 Negligently Causing Death By Use of a
33 Signal Preemption Device (RCW
34 46.37.675)
35 Sending, bringing into state depictions
36 of minor engaged in sexually
37 explicit conduct (RCW 9.68A.060)

1 Unlawful Possession of a Firearm in
2 the first degree (RCW 9A.41.040(1))
3 Use of a Machine Gun in Commission
4 of a Felony (RCW 9A.41.225)
5 Vehicular Homicide, by disregard for
6 the safety of others (RCW
7 46.61.520)
8 VI Bail Jumping with Murder 1 (RCW
9 9A.76.170(3)(a))
10 Bribery (RCW 9A.68.010)
11 Incest 1 (RCW 9A.64.020(1))
12 Intimidating a Judge (RCW 9A.72.160)
13 Intimidating a Juror/Witness (RCW
14 9A.72.110, 9A.72.130)
15 Malicious placement of an imitation
16 device 2 (RCW 70.74.272(1)(b))
17 Possession of Depictions of a Minor
18 Engaged in Sexually Explicit
19 Conduct (RCW 9.68A.070)
20 Rape of a Child 3 (RCW 9A.44.079)
21 Theft of a Firearm (RCW 9A.56.300)
22 Unlawful Storage of Ammonia (RCW
23 69.55.020)
24 V Abandonment of Dependent Person 2
25 (RCW 9A.42.070)
26 Advancing money or property for
27 extortionate extension of credit
28 (RCW 9A.82.030)
29 Bail Jumping with class A Felony
30 (RCW 9A.76.170(3)(b))
31 Child Molestation 3 (RCW 9A.44.089)
32 Criminal Mistreatment 2 (RCW
33 9A.42.030)
34 Custodial Sexual Misconduct 1 (RCW
35 9A.44.160)

1 Domestic Violence Court Order
2 Violation (RCW 10.99.040,
3 10.99.050, 26.09.300, 26.10.220,
4 26.26.138, 26.50.110, 26.52.070,
5 or 74.34.145)
6 Driving While Under the Influence
7 (RCW 46.61.502(6))
8 Extortion 1 (RCW 9A.56.120)
9 Extortionate Extension of Credit (RCW
10 9A.82.020)
11 Extortionate Means to Collect
12 Extensions of Credit (RCW
13 9A.82.040)
14 Incest 2 (RCW 9A.64.020(2))
15 Kidnapping 2 (RCW 9A.40.030)
16 Perjury 1 (RCW 9A.72.020)
17 Persistent prison misbehavior (RCW
18 9.94.070)
19 Physical Control of a Vehicle While
20 Under the Influence (RCW
21 46.61.504(6))
22 Possession of a Stolen Firearm (RCW
23 9A.56.310)
24 Rape 3 (RCW 9A.44.060)
25 Rendering Criminal Assistance 1
26 (RCW 9A.76.070)
27 Sexual Misconduct with a Minor 1
28 (RCW 9A.44.093)
29 Sexually Violating Human Remains
30 (RCW 9A.44.105)
31 Stalking (RCW 9A.46.110)
32 Taking Motor Vehicle Without
33 Permission 1 (RCW 9A.56.070)
34 IV Arson 2 (RCW 9A.48.030)
35 Assault 2 (RCW 9A.36.021)

1 Assault 3 (of a Peace Officer with a
2 Projectile Stun Gun) (RCW
3 9A.36.031(1)(h))
4 Assault by Watercraft (RCW
5 79A.60.060)
6 Bribing a Witness/Bribe Received by
7 Witness (RCW 9A.72.090,
8 9A.72.100)
9 Cheating 1 (RCW 9.46.1961)
10 Commercial Bribery (RCW 9A.68.060)
11 Counterfeiting (RCW 9.16.035(4))
12 Endangerment with a Controlled
13 Substance (RCW 9A.42.100)
14 Escape 1 (RCW 9A.76.110)
15 Hit and Run--Injury (RCW
16 46.52.020(4)(b))
17 Hit and Run with Vessel--Injury
18 Accident (RCW 79A.60.200(3))
19 Identity Theft 1 (RCW 9.35.020(2))
20 Indecent Exposure to Person Under
21 Age Fourteen (subsequent sex
22 offense) (RCW 9A.88.010)
23 Influencing Outcome of Sporting Event
24 (RCW 9A.82.070)
25 Malicious Harassment (RCW
26 9A.36.080)
27 Residential Burglary (RCW
28 9A.52.025)
29 Robbery 2 (RCW 9A.56.210)
30 Theft of Livestock 1 (RCW 9A.56.080)
31 Threats to Bomb (RCW 9.61.160)
32 Trafficking in Stolen Property 1 (RCW
33 9A.82.050)
34 Unlawful factoring of a credit card or
35 payment card transaction (RCW
36 9A.56.290(4)(b))

1 Unlawful transaction of health
2 coverage as a health care service
3 contractor (RCW 48.44.016(3))
4 Unlawful transaction of health
5 coverage as a health maintenance
6 organization (RCW 48.46.033(3))
7 Unlawful transaction of insurance
8 business (RCW 48.15.023(3))
9 Unlicensed practice as an insurance
10 professional (RCW
11 48.17.063(~~(3)~~)) (2))
12 Use of Proceeds of Criminal
13 Profiteering (RCW 9A.82.080 (1)
14 and (2))
15 Vehicular Assault, by being under the
16 influence of intoxicating liquor or
17 any drug, or by the operation or
18 driving of a vehicle in a reckless
19 manner (RCW 46.61.522)
20 Willful Failure to Return from
21 Furlough (RCW 72.66.060)
22 III Animal Cruelty 1 (Sexual Conduct or
23 Contact) (RCW 16.52.205(3))
24 Assault 3 (Except Assault 3 of a Peace
25 Officer With a Projectile Stun
26 Gun) (RCW 9A.36.031 except
27 subsection (1)(h))
28 Assault of a Child 3 (RCW 9A.36.140)
29 Bail Jumping with class B or C Felony
30 (RCW 9A.76.170(3)(c))
31 Burglary 2 (RCW 9A.52.030)
32 (~~Commercial Sexual Abuse of a Minor~~
33 ~~(RCW 9.68A.100))~~)
34 Communication with a Minor for
35 Immoral Purposes (RCW
36 9.68A.090)

1 Criminal Gang Intimidation (RCW
2 9A.46.120)
3 Custodial Assault (RCW 9A.36.100)
4 Cyberstalking (subsequent conviction
5 or threat of death) (RCW
6 9.61.260(3))
7 Escape 2 (RCW 9A.76.120)
8 Extortion 2 (RCW 9A.56.130)
9 Harassment (RCW 9A.46.020)
10 Intimidating a Public Servant (RCW
11 9A.76.180)
12 Introducing Contraband 2 (RCW
13 9A.76.150)
14 Malicious Injury to Railroad Property
15 (RCW 81.60.070)
16 Mortgage Fraud (RCW 19.144.080)
17 Negligently Causing Substantial Bodily
18 Harm By Use of a Signal
19 Preemption Device (RCW
20 46.37.674)
21 Organized Retail Theft 1 (RCW
22 9A.56.350(2))
23 Perjury 2 (RCW 9A.72.030)
24 Possession of Incendiary Device (RCW
25 9.40.120)
26 Possession of Machine Gun or Short-
27 Barreled Shotgun or Rifle (RCW
28 9.41.190)
29 Promoting Prostitution 2 (RCW
30 9A.88.080)
31 Retail Theft with Extenuating
32 Circumstances 1 (RCW
33 9A.56.360(2))
34 Securities Act violation (RCW
35 21.20.400)
36 Tampering with a Witness (RCW
37 9A.72.120)

1 Telephone Harassment (subsequent
2 conviction or threat of death)
3 (RCW 9.61.230(2))
4 Theft of Livestock 2 (RCW 9A.56.083)
5 Theft with the Intent to Resell 1 (RCW
6 9A.56.340(2))
7 Trafficking in Stolen Property 2 (RCW
8 9A.82.055)
9 Unlawful Imprisonment (RCW
10 9A.40.040)
11 Unlawful possession of firearm in the
12 second degree (RCW 9.41.040(2))
13 Vehicular Assault, by the operation or
14 driving of a vehicle with disregard
15 for the safety of others (RCW
16 46.61.522)
17 Willful Failure to Return from Work
18 Release (RCW 72.65.070)
19 II Computer Trespass 1 (RCW
20 9A.52.110)
21 Counterfeiting (RCW 9.16.035(3))
22 Escape from Community Custody
23 (RCW 72.09.310)
24 Failure to Register as a Sex Offender
25 (second or subsequent offense)
26 (RCW 9A.44.130(11)(a))
27 Health Care False Claims (RCW
28 48.80.030)
29 Identity Theft 2 (RCW 9.35.020(3))
30 Improperly Obtaining Financial
31 Information (RCW 9.35.010)
32 Malicious Mischief 1 (RCW
33 9A.48.070)
34 Organized Retail Theft 2 (RCW
35 9A.56.350(3))
36 Possession of Stolen Property 1 (RCW
37 9A.56.150)

1 Possession of a Stolen Vehicle (RCW
2 9A.56.068)
3 Retail Theft with Extenuating
4 Circumstances 2 (RCW
5 9A.56.360(3))
6 Theft 1 (RCW 9A.56.030)
7 Theft of a Motor Vehicle (RCW
8 9A.56.065)
9 Theft of Rental, Leased, or Lease-
10 purchased Property (valued at one
11 thousand five hundred dollars or
12 more) (RCW 9A.56.096(5)(a))
13 Theft with the Intent to Resell 2 (RCW
14 9A.56.340(3))
15 Trafficking in Insurance Claims (RCW
16 48.30A.015)
17 Unlawful factoring of a credit card or
18 payment card transaction (RCW
19 9A.56.290(4)(a))
20 Unlawful Practice of Law (RCW
21 2.48.180)
22 Unlicensed Practice of a Profession or
23 Business (RCW 18.130.190(7))
24 Voyeurism (RCW 9A.44.115)
25 I Attempting to Elude a Pursuing Police
26 Vehicle (RCW 46.61.024)
27 False Verification for Welfare (RCW
28 74.08.055)
29 Forgery (RCW 9A.60.020)
30 Fraudulent Creation or Revocation of a
31 Mental Health Advance Directive
32 (RCW 9A.60.060)
33 Malicious Mischief 2 (RCW
34 9A.48.080)
35 Mineral Trespass (RCW 78.44.330)
36 Possession of Stolen Property 2 (RCW
37 9A.56.160)

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

32 **Sec. 8.** RCW 9A.88.140 and 2009 c 387 s 1 are each amended to read
33 as follows:

34 (1)(a) Upon an arrest for a suspected violation of patronizing a
35 prostitute, promoting prostitution in the first degree, promoting
36 prostitution in the second degree, promoting travel for prostitution(~~or~~
37 ~~commercial sexual abuse of a minor, promoting commercial sexual abuse~~

1 ~~of a minor, or promoting travel for commercial sexual abuse of a~~
2 ~~minor~~)), the arresting law enforcement officer may impound the person's
3 vehicle if (i) the motor vehicle was used in the commission of the
4 crime; (ii) the person arrested is the owner of the vehicle or the
5 vehicle is a rental car as defined in RCW 46.04.465; and (iii) either
6 (A) the person arrested has previously been convicted of one of the
7 offenses listed in this subsection or (B) the offense was committed
8 within an area designated under (b) of this subsection.

9 (b) A local governing authority may designate areas within which
10 vehicles are subject to impoundment under this section regardless of
11 whether the person arrested has previously been convicted of any of the
12 offenses listed in (a) of this subsection.

13 (i) The designation must be based on evidence indicating that the
14 area has a disproportionately higher number of arrests for the offenses
15 listed in (a) of this subsection as compared to other areas within the
16 same jurisdiction.

17 (ii) The local governing authority shall post signs at the
18 boundaries of the designated area to indicate that the area has been
19 designated under this subsection.

20 (2) Upon an arrest for a suspected violation of commercial sexual
21 abuse of a minor, promoting commercial sexual abuse of a minor, or
22 promoting travel for commercial sexual abuse of a minor, the arresting
23 law enforcement officer shall impound the person's vehicle if (a) the
24 motor vehicle was used in the commission of the crime; and (b) the
25 person arrested is the owner of the vehicle or the vehicle is a rental
26 car as defined in RCW 46.04.465.

27 (3) Impoundments performed under this section shall be in
28 accordance with chapter 46.55 RCW and the impoundment order must
29 clearly state "prostitution hold."

30 ((+3)) (4)(a) Prior to redeeming the impounded vehicle, and in
31 addition to all applicable impoundment, towing, and storage fees paid
32 to the towing company under chapter 46.55 RCW, the owner of the
33 impounded vehicle must pay a fine ((of five hundred dollars)) to the
34 impounding agency. The fine shall be five hundred dollars for the
35 offenses specified in subsection (1) of this section, or two thousand
36 five hundred dollars for the offenses specified in subsection (2) of
37 this section. The fine shall be deposited in the prostitution
38 prevention and intervention account established under RCW 43.63A.740.

1 (b) Upon receipt of the fine paid under (a) of this subsection, the
2 impounding agency shall issue a written receipt to the owner of the
3 impounded vehicle.

4 ((+4)) (5)(a) In order to redeem a vehicle impounded under this
5 section, the owner must provide the towing company with the written
6 receipt issued under subsection ((+3)) (4)(b) of this section.

7 (b) The written receipt issued under subsection ((+3)) (4)(b) of
8 this section authorizes the towing company to release the impounded
9 vehicle upon payment of all impoundment, towing, and storage fees.

10 (c) A towing company that relies on a forged receipt to release a
11 vehicle impounded under this section is not liable to the impounding
12 authority for any unpaid fine under subsection ((+3)) (4)(a) of this
13 section.

14 ((+5)) (6)(a) In any proceeding under chapter 46.55 RCW to contest
15 the validity of an impoundment under this section where the claimant
16 substantially prevails, the claimant is entitled to a full refund of
17 the impoundment, towing, and storage fees paid under chapter 46.55 RCW
18 and the five hundred dollar fine paid under subsection ((+3)) (4) of
19 this section.

20 (b) If the person is found not guilty at trial for a crime listed
21 under subsection (1) of this section, the person is entitled to a full
22 refund of the impoundment, towing, and storage fees paid under chapter
23 46.55 RCW and the ~~((five hundred dollar))~~ fine paid under subsection
24 ((+3)) (4) of this section.

25 (c) All refunds made under this section shall be paid by the
26 impounding agency.

27 (d) Prior to receiving any refund under this section, the claimant
28 must provide proof of payment.

29 **Sec. 9.** RCW 9.68A.100 and 2007 c 368 s 2 are each amended to read
30 as follows:

31 (1) A person is guilty of commercial sexual abuse of a minor if:

32 (a) He or she pays a fee to a minor or a third person as
33 compensation for a minor having engaged in sexual conduct with him or
34 her;

35 (b) He or she pays or agrees to pay a fee to a minor or a third
36 person pursuant to an understanding that in return therefore such minor
37 will engage in sexual conduct with him or her; or

1 (c) He or she solicits, offers, or requests to engage in sexual
2 conduct with a minor in return for a fee.

3 (2) Commercial sexual abuse of a minor is a class ((C)) B felony
4 punishable under chapter 9A.20 RCW.

5 (3) In addition to any other penalty provided under chapter 9A.20
6 RCW, a person guilty of commercial sexual abuse of a minor is subject
7 to the provisions under RCW 9A.88.130 and 9A.88.140.

8 (4) For purposes of this section, "sexual conduct" means sexual
9 intercourse or sexual contact, both as defined in chapter 9A.44 RCW.

10 **Sec. 10.** RCW 9.68A.101 and 2007 c 368 s 4 are each amended to read
11 as follows:

12 (1) A person is guilty of promoting commercial sexual abuse of a
13 minor if he or she knowingly advances commercial sexual abuse of a
14 minor or profits from a minor engaged in sexual conduct.

15 (2) Promoting commercial sexual abuse of a minor is a class ((B))
16 A felony.

17 (3) For the purposes of this section:

18 (a) A person "advances commercial sexual abuse of a minor" if,
19 acting other than as a minor receiving compensation for personally
20 rendered sexual conduct or as a person engaged in commercial sexual
21 abuse of a minor, he or she causes or aids a person to commit or engage
22 in commercial sexual abuse of a minor, procures or solicits customers
23 for commercial sexual abuse of a minor, provides persons or premises
24 for the purposes of engaging in commercial sexual abuse of a minor,
25 operates or assists in the operation of a house or enterprise for the
26 purposes of engaging in commercial sexual abuse of a minor, or engages
27 in any other conduct designed to institute, aid, cause, assist, or
28 facilitate an act or enterprise of commercial sexual abuse of a minor.

29 (b) A person "profits from commercial sexual abuse of a minor" if,
30 acting other than as a minor receiving compensation for personally
31 rendered sexual conduct, he or she accepts or receives money or other
32 property pursuant to an agreement or understanding with any person
33 whereby he or she participates or will participate in the proceeds of
34 commercial sexual abuse of a minor.

35 (4) For purposes of this section, "sexual conduct" means sexual
36 intercourse or sexual contact, both as defined in chapter 9A.44 RCW.

1 **Sec. 11.** RCW 9.68A.105 and 2007 c 368 s 11 are each amended to
2 read as follows:

3 (1)(a) In addition to penalties set forth in RCW 9.68A.100,
4 9.68A.101, and 9.68A.102, a person who is either convicted or given a
5 deferred sentence or a deferred prosecution or who has entered into a
6 statutory or nonstatutory diversion agreement as a result of an arrest
7 for violating RCW 9.68A.100, 9.68A.101, or 9.68A.102, or a comparable
8 county or municipal ordinance shall be assessed a five (~~hundred~~
9 ~~fifty~~) thousand dollar fee.

10 (b) The court may not suspend payment of all or part of the fee
11 unless it finds that the person does not have the ability to pay.

12 (c) When a minor has been adjudicated a juvenile offender or has
13 entered into a statutory or nonstatutory diversion agreement for an
14 offense which, if committed by an adult, would constitute a violation
15 of RCW 9.68A.100, 9.68A.101, or 9.68A.102, or a comparable county or
16 municipal ordinance, the court shall assess the fee under (a) of this
17 subsection. The court may not suspend payment of all or part of the
18 fee unless it finds that the minor does not have the ability to pay the
19 fee.

20 (2) The fee assessed under subsection (1) of this section shall be
21 collected by the clerk of the court and distributed each month to the
22 state treasurer for deposit in the prostitution prevention and
23 intervention account under RCW 43.63A.740 for the purpose of funding
24 prostitution prevention and intervention activities.

25 (3) For the purposes of this section:

26 (a) "Statutory or nonstatutory diversion agreement" means an
27 agreement under RCW 13.40.080 or any written agreement between a person
28 accused of an offense listed in subsection (1) of this section and a
29 court, county or city prosecutor, or designee thereof, whereby the
30 person agrees to fulfill certain conditions in lieu of prosecution.

31 (b) "Deferred sentence" means a sentence that will not be carried
32 out if the defendant meets certain requirements, such as complying with
33 the conditions of probation.

34 NEW SECTION. **Sec. 12.** If funds are appropriated specifically for
35 this purpose, the criminal justice training commission, in consultation
36 with the Washington association of sheriffs and police chiefs, shall,
37 by December 1, 2010, develop a model policy on law enforcement officer

1 implementation of the procedures provided in this act relating to
2 contact with a minor who is a "sexually exploited child" as defined in
3 this act or who is a victim of offenses related to commercial sexual
4 abuse of a minor as defined in chapter 9.68A RCW. The commission shall
5 develop a curriculum based on the model policy for inclusion in its
6 basic training academy by January 1, 2011.

7 **Sec. 13.** RCW 9.68A.110 and 2007 c 368 s 3 are each amended to read
8 as follows:

9 (1) In a prosecution under RCW 9.68A.040, it is not a defense that
10 the defendant was involved in activities of law enforcement and
11 prosecution agencies in the investigation and prosecution of criminal
12 offenses. Law enforcement and prosecution agencies shall not employ
13 minors to aid in the investigation of a violation of RCW 9.68A.090 or
14 9.68A.100. This chapter does not apply to lawful conduct between
15 spouses.

16 (2) In a prosecution under RCW 9.68A.050, 9.68A.060, 9.68A.070, or
17 9.68A.080, it is not a defense that the defendant did not know the age
18 of the child depicted in the visual or printed matter(~~(+—PROVIDED,~~
19 ~~That)~~). It is a defense, which the defendant must prove by a
20 preponderance of the evidence, that at the time of the offense the
21 defendant was not in possession of any facts on the basis of which he
22 or she should reasonably have known that the person depicted was a
23 minor.

24 (3) In a prosecution under RCW 9.68A.040, 9.68A.090, 9.68A.100,
25 9.68A.101, or 9.68A.102, it is not a defense that the defendant did not
26 know the alleged victim's age(~~(+—PROVIDED, That)~~). It is a defense,
27 which the defendant must prove by a preponderance of the evidence, that
28 at the time of the offense, the defendant made a reasonable bona fide
29 attempt to ascertain the true age of the minor by requiring production
30 of a driver's license, marriage license, birth certificate, or other
31 governmental or educational identification card or paper and did not
32 rely solely on the oral allegations or apparent age of the minor.

33 (4) In a prosecution under RCW 9.68A.050, 9.68A.060, or 9.68A.070,
34 it shall be an affirmative defense that the defendant was a law
35 enforcement officer in the process of conducting an official
36 investigation of a sex-related crime against a minor, or that the

1 defendant was providing individual case treatment as a recognized
2 medical facility or as a psychiatrist or psychologist licensed under
3 Title 18 RCW.

4 (5) In a prosecution under RCW 9.68A.050, 9.68A.060, or 9.68A.070,
5 the state is not required to establish the identity of the alleged
6 victim.

7 NEW SECTION. **Sec. 14.** The following acts or parts of acts are
8 each repealed: 2009 c 252 s 4 (uncodified)."

9 Correct the title.

EFFECT: 1. Removes the provision defining a sexually exploited
minor as a "child in need of services."

2. Revises the provision regarding referral services for
children involved in prostitution who have been referred to the
Department of Social and Health Services and adds that provision
to chapter 13.40 RCW rather than chapter 13.32A RCW.

3. Clarifies provisions regarding when a prosecutor must divert
an offense involving prostitution.

4. Repeals the expiration date for the pilot program for
wraparound services for juveniles involved in prostitution whose
cases are diverted.

5. Removes the section requiring that 50% of the moneys in the
Prostitution Prevention and Intervention Account be spent for
secure and semi-secure residential crisis centers.

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