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HOUSE BILL 2415

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State of Washington

61st Legislature

2010 Regular Session

By Representatives Ross, Chandler, Pearson, Klippert, Johnson, Taylor, McCune, Bailey, Schmick, and Hurst

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1 AN ACT Relating to criminal street gangs; amending RCW 9A.46.120,  
2 9A.48.105, and 9.94A.533; reenacting and amending RCW 9.94A.515,  
3 9.94A.411, and 13.40.0357; adding a new section to chapter 9A.46 RCW;  
4 adding a new section to chapter 9.94A RCW; and prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 9A.46 RCW  
7 to read as follows:

8 (1) A person commits the offense of criminal gang intimidation if  
9 the person threatens another person with bodily injury because the  
10 other person refuses to join or has attempted to withdraw from a  
11 criminal street gang, as defined in RCW 9.94A.030.

12 (2) Criminal gang intimidation is a class B felony.

13 **Sec. 2.** RCW 9A.46.120 and 1997 c 266 s 3 are each amended to read  
14 as follows:

15 (1) A person commits the offense of school criminal gang  
16 intimidation if the person threatens another person with bodily injury  
17 because the other person refuses to join or has attempted to withdraw

1 from a gang, as defined in RCW 28A.600.455, if the person who threatens  
2 the victim or the victim attends or is registered in a public or  
3 alternative school.

4 (2) School criminal gang intimidation is a class C felony.

5 NEW SECTION. **Sec. 3.** A new section is added to chapter 9.94A RCW  
6 to read as follows:

7 In a criminal case where there has been a special allegation and  
8 evidence establishing that the accused or an accomplice was a criminal  
9 street gang associate or member and that the crime was a criminal  
10 street gang-related offense, the court shall make a finding of fact of  
11 whether or not the accused or an accomplice was a criminal street gang  
12 associate or member and whether or not the crime was a criminal street  
13 gang-related offense, or if a jury trial is had, the jury shall, if it  
14 finds the defendant guilty, also find a special verdict as to whether  
15 or not the defendant or an accomplice was a criminal street gang  
16 associate or member and whether or not the crime was a criminal street  
17 gang-related offense.

18 **Sec. 4.** RCW 9A.48.105 and 2008 c 276 s 306 are each amended to  
19 read as follows:

20 (1) A person is guilty of criminal street gang tagging and graffiti  
21 if he or she commits malicious mischief in the third degree under RCW  
22 9A.48.090(1)(b) and he or she:

23 (a) Has multiple current convictions for malicious mischief in the  
24 third degree offenses under RCW 9A.48.090(1)(b); or

25 (b) Has previously been convicted for a malicious mischief in the  
26 third degree offense under RCW 9A.48.090(1)(b) or a comparable offense  
27 under a municipal code provision of any city or town; and

28 (c) The current offense or one of the current offenses is a  
29 "criminal street gang-related offense" as defined in RCW 9.94A.030.

30 (2) Criminal street gang tagging and graffiti is a (~~gross~~  
31 ~~misdemeanor offense~~) class C felony.

32 **Sec. 5.** RCW 9.94A.515 and 2008 c 108 s 23 and 2008 c 38 s 1 are  
33 each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN  
EACH SERIOUSNESS LEVEL

- XVI Aggravated Murder 1 (RCW 10.95.020)
- XV Homicide by abuse (RCW 9A.32.055)  
Malicious explosion 1 (RCW 70.74.280(1))  
Murder 1 (RCW 9A.32.030)
- XIV Murder 2 (RCW 9A.32.050)  
Trafficking 1 (RCW 9A.40.100(1))
- XIII Malicious explosion 2 (RCW 70.74.280(2))  
Malicious placement of an explosive 1 (RCW 70.74.270(1))
- XII Assault 1 (RCW 9A.36.011)  
Assault of a Child 1 (RCW 9A.36.120)  
Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))  
Rape 1 (RCW 9A.44.040)  
Rape of a Child 1 (RCW 9A.44.073)  
Trafficking 2 (RCW 9A.40.100(2))
- XI Manslaughter 1 (RCW 9A.32.060)  
Rape 2 (RCW 9A.44.050)  
Rape of a Child 2 (RCW 9A.44.076)
- X Child Molestation 1 (RCW 9A.44.083)  
Criminal Mistreatment 1 (RCW 9A.42.020)  
Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))  
Kidnapping 1 (RCW 9A.40.020)  
Leading Organized Crime (RCW 9A.82.060(1)(a))  
Malicious explosion 3 (RCW 70.74.280(3))

1 Sexually Violent Predator Escape  
2 (RCW 9A.76.115)  
3 IX Abandonment of Dependent Person 1  
4 (RCW 9A.42.060)  
5 Assault of a Child 2 (RCW 9A.36.130)  
6 Explosive devices prohibited (RCW  
7 70.74.180)  
8 Hit and Run--Death (RCW  
9 46.52.020(4)(a))  
10 Homicide by Watercraft, by being  
11 under the influence of intoxicating  
12 liquor or any drug (RCW  
13 79A.60.050)  
14 Inciting Criminal Profiteering (RCW  
15 9A.82.060(1)(b))  
16 Malicious placement of an explosive 2  
17 (RCW 70.74.270(2))  
18 Robbery 1 (RCW 9A.56.200)  
19 Sexual Exploitation (RCW 9.68A.040)  
20 Vehicular Homicide, by being under  
21 the influence of intoxicating liquor  
22 or any drug (RCW 46.61.520)  
23 VIII Arson 1 (RCW 9A.48.020)  
24 Homicide by Watercraft, by the  
25 operation of any vessel in a  
26 reckless manner (RCW  
27 79A.60.050)  
28 Manslaughter 2 (RCW 9A.32.070)  
29 Promoting Commercial Sexual Abuse  
30 of a Minor (RCW 9.68A.101)  
31 Promoting Prostitution 1 (RCW  
32 9A.88.070)  
33 Theft of Ammonia (RCW 69.55.010)  
34 Vehicular Homicide, by the operation  
35 of any vehicle in a reckless manner  
36 (RCW 46.61.520)  
37 VII Burglary 1 (RCW 9A.52.020)

1 Child Molestation 2 (RCW 9A.44.086)  
2 Civil Disorder Training (RCW  
3 9A.48.120)  
4 Dealing in depictions of minor engaged  
5 in sexually explicit conduct (RCW  
6 9.68A.050)  
7 Drive-by Shooting (RCW 9A.36.045)  
8 Homicide by Watercraft, by disregard  
9 for the safety of others (RCW  
10 79A.60.050)  
11 Indecent Liberties (without forcible  
12 compulsion) (RCW 9A.44.100(1)  
13 (b) and (c))  
14 Introducing Contraband 1 (RCW  
15 9A.76.140)  
16 Malicious placement of an explosive 3  
17 (RCW 70.74.270(3))  
18 Negligently Causing Death By Use of a  
19 Signal Preemption Device (RCW  
20 46.37.675)  
21 Sending, bringing into state depictions  
22 of minor engaged in sexually  
23 explicit conduct (RCW 9.68A.060)  
24 Unlawful Possession of a Firearm in  
25 the first degree (RCW 9.41.040(1))  
26 Use of a Machine Gun in Commission  
27 of a Felony (RCW 9.41.225)  
28 Vehicular Homicide, by disregard for  
29 the safety of others (RCW  
30 46.61.520)  
31 VI Bail Jumping with Murder 1 (RCW  
32 9A.76.170(3)(a))  
33 Bribery (RCW 9A.68.010)  
34 Criminal Gang Intimidation (section 1  
35 of this act)  
36 Incest 1 (RCW 9A.64.020(1))  
37 Intimidating a Judge (RCW 9A.72.160)

1 Intimidating a Juror/Witness (RCW  
2 9A.72.110, 9A.72.130)  
3 Malicious placement of an imitation  
4 device 2 (RCW 70.74.272(1)(b))  
5 Possession of Depictions of a Minor  
6 Engaged in Sexually Explicit  
7 Conduct (RCW 9.68A.070)  
8 Rape of a Child 3 (RCW 9A.44.079)  
9 Theft of a Firearm (RCW 9A.56.300)  
10 Unlawful Storage of Ammonia (RCW  
11 69.55.020)  
12 V Abandonment of Dependent Person 2  
13 (RCW 9A.42.070)  
14 Advancing money or property for  
15 extortionate extension of credit  
16 (RCW 9A.82.030)  
17 Bail Jumping with class A Felony  
18 (RCW 9A.76.170(3)(b))  
19 Child Molestation 3 (RCW 9A.44.089)  
20 Criminal Mistreatment 2 (RCW  
21 9A.42.030)  
22 Custodial Sexual Misconduct 1 (RCW  
23 9A.44.160)  
24 Domestic Violence Court Order  
25 Violation (RCW 10.99.040,  
26 10.99.050, 26.09.300, 26.10.220,  
27 26.26.138, 26.50.110, 26.52.070,  
28 or 74.34.145)  
29 Driving While Under the Influence  
30 (RCW 46.61.502(6))  
31 Extortion 1 (RCW 9A.56.120)  
32 Extortionate Extension of Credit (RCW  
33 9A.82.020)  
34 Extortionate Means to Collect  
35 Extensions of Credit (RCW  
36 9A.82.040)  
37 Incest 2 (RCW 9A.64.020(2))

1 Kidnapping 2 (RCW 9A.40.030)  
2 Perjury 1 (RCW 9A.72.020)  
3 Persistent prison misbehavior (RCW  
4 9.94.070)  
5 Physical Control of a Vehicle While  
6 Under the Influence (RCW  
7 46.61.504(6))  
8 Possession of a Stolen Firearm (RCW  
9 9A.56.310)  
10 Rape 3 (RCW 9A.44.060)  
11 Rendering Criminal Assistance 1  
12 (RCW 9A.76.070)  
13 Sexual Misconduct with a Minor 1  
14 (RCW 9A.44.093)  
15 Sexually Violating Human Remains  
16 (RCW 9A.44.105)  
17 Stalking (RCW 9A.46.110)  
18 Taking Motor Vehicle Without  
19 Permission 1 (RCW 9A.56.070)  
20 IV Arson 2 (RCW 9A.48.030)  
21 Assault 2 (RCW 9A.36.021)  
22 Assault 3 (of a Peace Officer with a  
23 Projectile Stun Gun) (RCW  
24 9A.36.031(1)(h))  
25 Assault by Watercraft (RCW  
26 79A.60.060)  
27 Bribing a Witness/Bribe Received by  
28 Witness (RCW 9A.72.090,  
29 9A.72.100)  
30 Cheating 1 (RCW 9.46.1961)  
31 Commercial Bribery (RCW 9A.68.060)  
32 Counterfeiting (RCW 9.16.035(4))  
33 Endangerment with a Controlled  
34 Substance (RCW 9A.42.100)  
35 Escape 1 (RCW 9A.76.110)  
36 Hit and Run--Injury (RCW  
37 46.52.020(4)(b))

1 Hit and Run with Vessel--Injury  
2 Accident (RCW 79A.60.200(3))  
3 Identity Theft 1 (RCW 9.35.020(2))  
4 Indecent Exposure to Person Under  
5 Age Fourteen (subsequent sex  
6 offense) (RCW 9A.88.010)  
7 Influencing Outcome of Sporting Event  
8 (RCW 9A.82.070)  
9 Malicious Harassment (RCW  
10 9A.36.080)  
11 Residential Burglary (RCW  
12 9A.52.025)  
13 Robbery 2 (RCW 9A.56.210)  
14 School Criminal Gang Intimidation  
15 (RCW 9A.46.120)  
16 Theft of Livestock 1 (RCW 9A.56.080)  
17 Threats to Bomb (RCW 9.61.160)  
18 Trafficking in Stolen Property 1 (RCW  
19 9A.82.050)  
20 Unlawful factoring of a credit card or  
21 payment card transaction (RCW  
22 9A.56.290(4)(b))  
23 Unlawful transaction of health  
24 coverage as a health care service  
25 contractor (RCW 48.44.016(3))  
26 Unlawful transaction of health  
27 coverage as a health maintenance  
28 organization (RCW 48.46.033(3))  
29 Unlawful transaction of insurance  
30 business (RCW 48.15.023(3))  
31 Unlicensed practice as an insurance  
32 professional (RCW  
33 48.17.063(~~(3)~~)(2))  
34 Use of Proceeds of Criminal  
35 Profiteering (RCW 9A.82.080 (1)  
36 and (2))



1 Vehicular Assault, by being under the  
2 influence of intoxicating liquor or  
3 any drug, or by the operation or  
4 driving of a vehicle in a reckless  
5 manner (RCW 46.61.522)  
6 Willful Failure to Return from  
7 Furlough (RCW 72.66.060)  
8 III Animal Cruelty 1 (Sexual Conduct or  
9 Contact) (RCW 16.52.205(3))  
10 Assault 3 (Except Assault 3 of a Peace  
11 Officer With a Projectile Stun  
12 Gun) (RCW 9A.36.031 except  
13 subsection (1)(h))  
14 Assault of a Child 3 (RCW 9A.36.140)  
15 Bail Jumping with class B or C Felony  
16 (RCW 9A.76.170(3)(c))  
17 Burglary 2 (RCW 9A.52.030)  
18 Commercial Sexual Abuse of a Minor  
19 (RCW 9.68A.100)  
20 Communication with a Minor for  
21 Immoral Purposes (RCW  
22 9.68A.090)  
23 ~~((Criminal Gang Intimidation (RCW  
24 9A.46.120)))~~  
25 Custodial Assault (RCW 9A.36.100)  
26 Cyberstalking (subsequent conviction  
27 or threat of death) (RCW  
28 9.61.260(3))  
29 Escape 2 (RCW 9A.76.120)  
30 Extortion 2 (RCW 9A.56.130)  
31 Harassment (RCW 9A.46.020)  
32 Intimidating a Public Servant (RCW  
33 9A.76.180)  
34 Introducing Contraband 2 (RCW  
35 9A.76.150)  
36 Malicious Injury to Railroad Property  
37 (RCW 81.60.070)

1 Mortgage Fraud (RCW 19.144.080)  
2 Negligently Causing Substantial Bodily  
3 Harm By Use of a Signal  
4 Preemption Device (RCW  
5 46.37.674)  
6 Organized Retail Theft 1 (RCW  
7 9A.56.350(2))  
8 Perjury 2 (RCW 9A.72.030)  
9 Possession of Incendiary Device (RCW  
10 9.40.120)  
11 Possession of Machine Gun or Short-  
12 Barreled Shotgun or Rifle (RCW  
13 9.41.190)  
14 Promoting Prostitution 2 (RCW  
15 9A.88.080)  
16 Retail Theft with Extenuating  
17 Circumstances 1 (RCW  
18 9A.56.360(2))  
19 Securities Act violation (RCW  
20 21.20.400)  
21 Tampering with a Witness (RCW  
22 9A.72.120)  
23 Telephone Harassment (subsequent  
24 conviction or threat of death)  
25 (RCW 9.61.230(2))  
26 Theft of Livestock 2 (RCW 9A.56.083)  
27 Theft with the Intent to Resell 1 (RCW  
28 9A.56.340(2))  
29 Trafficking in Stolen Property 2 (RCW  
30 9A.82.055)  
31 Unlawful Imprisonment (RCW  
32 9A.40.040)  
33 Unlawful possession of firearm in the  
34 second degree (RCW 9.41.040(2))

1 Vehicular Assault, by the operation or  
2 driving of a vehicle with disregard  
3 for the safety of others (RCW  
4 46.61.522)  
5 Willful Failure to Return from Work  
6 Release (RCW 72.65.070)  
7 II Computer Trespass 1 (RCW  
8 9A.52.110)  
9 Counterfeiting (RCW 9.16.035(3))  
10 Escape from Community Custody  
11 (RCW 72.09.310)  
12 Failure to Register as a Sex Offender  
13 (second or subsequent offense)  
14 (RCW 9A.44.130(11)(a))  
15 Health Care False Claims (RCW  
16 48.80.030)  
17 Identity Theft 2 (RCW 9.35.020(3))  
18 Improperly Obtaining Financial  
19 Information (RCW 9.35.010)  
20 Malicious Mischief 1 (RCW  
21 9A.48.070)  
22 Organized Retail Theft 2 (RCW  
23 9A.56.350(3))  
24 Possession of Stolen Property 1 (RCW  
25 9A.56.150)  
26 Possession of a Stolen Vehicle (RCW  
27 9A.56.068)  
28 Retail Theft with Extenuating  
29 Circumstances 2 (RCW  
30 9A.56.360(3))  
31 Theft 1 (RCW 9A.56.030)  
32 Theft of a Motor Vehicle (RCW  
33 9A.56.065)  
34 Theft of Rental, Leased, or Lease-  
35 purchased Property (valued at one  
36 thousand five hundred dollars or  
37 more) (RCW 9A.56.096(5)(a))

1 Theft with the Intent to Resell 2 (RCW  
2 9A.56.340(3))  
3 Trafficking in Insurance Claims (RCW  
4 48.30A.015)  
5 Unlawful factoring of a credit card or  
6 payment card transaction (RCW  
7 9A.56.290(4)(a))  
8 Unlawful Practice of Law (RCW  
9 2.48.180)  
10 Unlicensed Practice of a Profession or  
11 Business (RCW 18.130.190(7))  
12 Voyeurism (RCW 9A.44.115)  
13 I Attempting to Elude a Pursuing Police  
14 Vehicle (RCW 46.61.024)  
15 False Verification for Welfare (RCW  
16 74.08.055)  
17 Forgery (RCW 9A.60.020)  
18 Fraudulent Creation or Revocation of a  
19 Mental Health Advance Directive  
20 (RCW 9A.60.060)  
21 Malicious Mischief 2 (RCW  
22 9A.48.080)  
23 Mineral Trespass (RCW 78.44.330)  
24 Possession of Stolen Property 2 (RCW  
25 9A.56.160)  
26 Reckless Burning 1 (RCW 9A.48.040)  
27 Taking Motor Vehicle Without  
28 Permission 2 (RCW 9A.56.075)  
29 Theft 2 (RCW 9A.56.040)  
30 Theft of Rental, Leased, or Lease-  
31 purchased Property (valued at  
32 ~~((two))~~ seven hundred fifty dollars  
33 or more but less than ~~((one))~~ five  
34 thousand ~~((five hundred))~~ dollars)  
35 (RCW 9A.56.096(5)(b))

1 Transaction of insurance business  
2 beyond the scope of licensure  
3 (RCW 48.17.063(4))  
4 Unlawful Issuance of Checks or Drafts  
5 (RCW 9A.56.060)  
6 Unlawful Possession of Fictitious  
7 Identification (RCW 9A.56.320)  
8 Unlawful Possession of Instruments of  
9 Financial Fraud (RCW 9A.56.320)  
10 Unlawful Possession of Payment  
11 Instruments (RCW 9A.56.320)  
12 Unlawful Possession of a Personal  
13 Identification Device (RCW  
14 9A.56.320)  
15 Unlawful Production of Payment  
16 Instruments (RCW 9A.56.320)  
17 Unlawful Trafficking in Food Stamps  
18 (RCW 9.91.142)  
19 Unlawful Use of Food Stamps (RCW  
20 9.91.144)  
21 Vehicle Prowl 1 (RCW 9A.52.095)

22 **Sec. 6.** RCW 9.94A.533 and 2009 c 141 s 2 are each amended to read  
23 as follows:

24 (1) The provisions of this section apply to the standard sentence  
25 ranges determined by RCW 9.94A.510 or 9.94A.517.

26 (2) For persons convicted of the anticipatory offenses of criminal  
27 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the  
28 standard sentence range is determined by locating the sentencing grid  
29 sentence range defined by the appropriate offender score and the  
30 seriousness level of the completed crime, and multiplying the range by  
31 seventy-five percent.

32 (3) The following additional times shall be added to the standard  
33 sentence range for felony crimes committed after July 23, 1995, if the  
34 offender or an accomplice was armed with a firearm as defined in RCW  
35 9.41.010 and the offender is being sentenced for one of the crimes  
36 listed in this subsection as eligible for any firearm enhancements  
37 based on the classification of the completed felony crime. If the

1 offender is being sentenced for more than one offense, the firearm  
2 enhancement or enhancements must be added to the total period of  
3 confinement for all offenses, regardless of which underlying offense is  
4 subject to a firearm enhancement. If the offender or an accomplice was  
5 armed with a firearm as defined in RCW 9.41.010 and the offender is  
6 being sentenced for an anticipatory offense under chapter 9A.28 RCW to  
7 commit one of the crimes listed in this subsection as eligible for any  
8 firearm enhancements, the following additional times shall be added to  
9 the standard sentence range determined under subsection (2) of this  
10 section based on the felony crime of conviction as classified under RCW  
11 9A.28.020:

12 (a) Five years for any felony defined under any law as a class A  
13 felony or with a statutory maximum sentence of at least twenty years,  
14 or both, and not covered under (f) of this subsection;

15 (b) Three years for any felony defined under any law as a class B  
16 felony or with a statutory maximum sentence of ten years, or both, and  
17 not covered under (f) of this subsection;

18 (c) Eighteen months for any felony defined under any law as a class  
19 C felony or with a statutory maximum sentence of five years, or both,  
20 and not covered under (f) of this subsection;

21 (d) If the offender is being sentenced for any firearm enhancements  
22 under (a), (b), and/or (c) of this subsection and the offender has  
23 previously been sentenced for any deadly weapon enhancements after July  
24 23, 1995, under (a), (b), and/or (c) of this subsection or subsection  
25 (4)(a), (b), and/or (c) of this section, or both, all firearm  
26 enhancements under this subsection shall be twice the amount of the  
27 enhancement listed;

28 (e) Notwithstanding any other provision of law, all firearm  
29 enhancements under this section are mandatory, shall be served in total  
30 confinement, and shall run consecutively to all other sentencing  
31 provisions, including other firearm or deadly weapon enhancements, for  
32 all offenses sentenced under this chapter. However, whether or not a  
33 mandatory minimum term has expired, an offender serving a sentence  
34 under this subsection may be granted an extraordinary medical placement  
35 when authorized under RCW 9.94A.728(~~(+4)~~) (3);

36 (f) The firearm enhancements in this section shall apply to all  
37 felony crimes except the following: Possession of a machine gun,

1 possessing a stolen firearm, drive-by shooting, theft of a firearm,  
2 unlawful possession of a firearm in the first and second degree, and  
3 use of a machine gun in a felony;

4 (g) If the standard sentence range under this section exceeds the  
5 statutory maximum sentence for the offense, the statutory maximum  
6 sentence shall be the presumptive sentence unless the offender is a  
7 persistent offender. If the addition of a firearm enhancement  
8 increases the sentence so that it would exceed the statutory maximum  
9 for the offense, the portion of the sentence representing the  
10 enhancement may not be reduced.

11 (4) The following additional times shall be added to the standard  
12 sentence range for felony crimes committed after July 23, 1995, if the  
13 offender or an accomplice was armed with a deadly weapon other than a  
14 firearm as defined in RCW 9.41.010 and the offender is being sentenced  
15 for one of the crimes listed in this subsection as eligible for any  
16 deadly weapon enhancements based on the classification of the completed  
17 felony crime. If the offender is being sentenced for more than one  
18 offense, the deadly weapon enhancement or enhancements must be added to  
19 the total period of confinement for all offenses, regardless of which  
20 underlying offense is subject to a deadly weapon enhancement. If the  
21 offender or an accomplice was armed with a deadly weapon other than a  
22 firearm as defined in RCW 9.41.010 and the offender is being sentenced  
23 for an anticipatory offense under chapter 9A.28 RCW to commit one of  
24 the crimes listed in this subsection as eligible for any deadly weapon  
25 enhancements, the following additional times shall be added to the  
26 standard sentence range determined under subsection (2) of this section  
27 based on the felony crime of conviction as classified under RCW  
28 9A.28.020:

29 (a) Two years for any felony defined under any law as a class A  
30 felony or with a statutory maximum sentence of at least twenty years,  
31 or both, and not covered under (f) of this subsection;

32 (b) One year for any felony defined under any law as a class B  
33 felony or with a statutory maximum sentence of ten years, or both, and  
34 not covered under (f) of this subsection;

35 (c) Six months for any felony defined under any law as a class C  
36 felony or with a statutory maximum sentence of five years, or both, and  
37 not covered under (f) of this subsection;

1 (d) If the offender is being sentenced under (a), (b), and/or (c)  
2 of this subsection for any deadly weapon enhancements and the offender  
3 has previously been sentenced for any deadly weapon enhancements after  
4 July 23, 1995, under (a), (b), and/or (c) of this subsection or  
5 subsection (3)(a), (b), and/or (c) of this section, or both, all deadly  
6 weapon enhancements under this subsection shall be twice the amount of  
7 the enhancement listed;

8 (e) Notwithstanding any other provision of law, all deadly weapon  
9 enhancements under this section are mandatory, shall be served in total  
10 confinement, and shall run consecutively to all other sentencing  
11 provisions, including other firearm or deadly weapon enhancements, for  
12 all offenses sentenced under this chapter. However, whether or not a  
13 mandatory minimum term has expired, an offender serving a sentence  
14 under this subsection may be granted an extraordinary medical placement  
15 when authorized under RCW 9.94A.728(~~(+4)~~) (3);

16 (f) The deadly weapon enhancements in this section shall apply to  
17 all felony crimes except the following: Possession of a machine gun,  
18 possessing a stolen firearm, drive-by shooting, theft of a firearm,  
19 unlawful possession of a firearm in the first and second degree, and  
20 use of a machine gun in a felony;

21 (g) If the standard sentence range under this section exceeds the  
22 statutory maximum sentence for the offense, the statutory maximum  
23 sentence shall be the presumptive sentence unless the offender is a  
24 persistent offender. If the addition of a deadly weapon enhancement  
25 increases the sentence so that it would exceed the statutory maximum  
26 for the offense, the portion of the sentence representing the  
27 enhancement may not be reduced.

28 (5) The following additional times shall be added to the standard  
29 sentence range if the offender or an accomplice committed the offense  
30 while in a county jail or state correctional facility and the offender  
31 is being sentenced for one of the crimes listed in this subsection. If  
32 the offender or an accomplice committed one of the crimes listed in  
33 this subsection while in a county jail or state correctional facility,  
34 and the offender is being sentenced for an anticipatory offense under  
35 chapter 9A.28 RCW to commit one of the crimes listed in this  
36 subsection, the following additional times shall be added to the  
37 standard sentence range determined under subsection (2) of this  
38 section:



- 1 (a) Eighteen months for offenses committed under RCW 69.50.401(2)  
2 (a) or (b) or 69.50.410;  
3 (b) Fifteen months for offenses committed under RCW 69.50.401(2)  
4 (c), (d), or (e);  
5 (c) Twelve months for offenses committed under RCW 69.50.4013.

6 For the purposes of this subsection, all of the real property of a  
7 state correctional facility or county jail shall be deemed to be part  
8 of that facility or county jail.

9 (6) An additional twenty-four months shall be added to the standard  
10 sentence range for any ranked offense involving a violation of chapter  
11 69.50 RCW if the offense was also a violation of RCW 69.50.435 or  
12 (~~9.94A.605~~) 9.94A.827. All enhancements under this subsection shall  
13 run consecutively to all other sentencing provisions, for all offenses  
14 sentenced under this chapter.

15 (7) An additional two years shall be added to the standard sentence  
16 range for vehicular homicide committed while under the influence of  
17 intoxicating liquor or any drug as defined by RCW 46.61.502 for each  
18 prior offense as defined in RCW 46.61.5055.

19 (8)(a) The following additional times shall be added to the  
20 standard sentence range for felony crimes committed on or after July 1,  
21 2006, if the offense was committed with sexual motivation, as that term  
22 is defined in RCW 9.94A.030. If the offender is being sentenced for  
23 more than one offense, the sexual motivation enhancement must be added  
24 to the total period of total confinement for all offenses, regardless  
25 of which underlying offense is subject to a sexual motivation  
26 enhancement. If the offender committed the offense with sexual  
27 motivation and the offender is being sentenced for an anticipatory  
28 offense under chapter 9A.28 RCW, the following additional times shall  
29 be added to the standard sentence range determined under subsection (2)  
30 of this section based on the felony crime of conviction as classified  
31 under RCW 9A.28.020:

32 (i) Two years for any felony defined under the law as a class A  
33 felony or with a statutory maximum sentence of at least twenty years,  
34 or both;

35 (ii) Eighteen months for any felony defined under any law as a  
36 class B felony or with a statutory maximum sentence of ten years, or  
37 both;

1 (iii) One year for any felony defined under any law as a class C  
2 felony or with a statutory maximum sentence of five years, or both;

3 (iv) If the offender is being sentenced for any sexual motivation  
4 enhancements under (i), (ii), and/or (iii) of this subsection and the  
5 offender has previously been sentenced for any sexual motivation  
6 enhancements on or after July 1, 2006, under (i), (ii), and/or (iii) of  
7 this subsection, all sexual motivation enhancements under this  
8 subsection shall be twice the amount of the enhancement listed;

9 (b) Notwithstanding any other provision of law, all sexual  
10 motivation enhancements under this subsection are mandatory, shall be  
11 served in total confinement, and shall run consecutively to all other  
12 sentencing provisions, including other sexual motivation enhancements,  
13 for all offenses sentenced under this chapter. However, whether or not  
14 a mandatory minimum term has expired, an offender serving a sentence  
15 under this subsection may be granted an extraordinary medical placement  
16 when authorized under RCW 9.94A.728(~~(+4)~~) (3);

17 (c) The sexual motivation enhancements in this subsection apply to  
18 all felony crimes;

19 (d) If the standard sentence range under this subsection exceeds  
20 the statutory maximum sentence for the offense, the statutory maximum  
21 sentence shall be the presumptive sentence unless the offender is a  
22 persistent offender. If the addition of a sexual motivation  
23 enhancement increases the sentence so that it would exceed the  
24 statutory maximum for the offense, the portion of the sentence  
25 representing the enhancement may not be reduced;

26 (e) The portion of the total confinement sentence which the  
27 offender must serve under this subsection shall be calculated before  
28 any earned early release time is credited to the offender;

29 (f) Nothing in this subsection prevents a sentencing court from  
30 imposing a sentence outside the standard sentence range pursuant to RCW  
31 9.94A.535.

32 (9) An additional one-year enhancement shall be added to the  
33 standard sentence range for the felony crimes of RCW 9A.44.073,  
34 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on  
35 or after July 22, 2007, if the offender engaged, agreed, or offered to  
36 engage the victim in the sexual conduct in return for a fee. If the  
37 offender is being sentenced for more than one offense, the one-year  
38 enhancement must be added to the total period of total confinement for

1 all offenses, regardless of which underlying offense is subject to the  
2 enhancement. If the offender is being sentenced for an anticipatory  
3 offense for the felony crimes of RCW 9A.44.073, 9A.44.076, 9A.44.079,  
4 9A.44.083, 9A.44.086, or 9A.44.089, and the offender attempted,  
5 solicited another, or conspired to engage, agree, or offer to engage  
6 the victim in the sexual conduct in return for a fee, an additional  
7 one-year enhancement shall be added to the standard sentence range  
8 determined under subsection (2) of this section. For purposes of this  
9 subsection, "sexual conduct" means sexual intercourse or sexual  
10 contact, both as defined in chapter 9A.44 RCW.

11 (10)(a) For a person age eighteen or older convicted of any  
12 criminal street gang-related felony offense for which the person  
13 compensated, threatened, or solicited a minor in order to involve the  
14 minor in the commission of the felony offense, the standard sentence  
15 range is determined by locating the sentencing grid sentence range  
16 defined by the appropriate offender score and the seriousness level of  
17 the completed crime, and multiplying the range by one hundred twenty-  
18 five percent. If the standard sentence range under this subsection  
19 exceeds the statutory maximum sentence for the offense, the statutory  
20 maximum sentence is the presumptive sentence unless the offender is a  
21 persistent offender.

22 (b) This subsection does not apply to any criminal street gang-  
23 related felony offense for which involving a minor in the commission of  
24 the felony offense is an element of the offense.

25 (c) The increased penalty specified in (a) of this subsection is  
26 unavailable in the event that the prosecution gives notice that it will  
27 seek an exceptional sentence based on an aggravating factor under RCW  
28 9.94A.535.

29 (11) An additional twelve months and one day shall be added to the  
30 standard sentence range for a conviction of attempting to elude a  
31 police vehicle as defined by RCW 46.61.024, if the conviction included  
32 a finding by special allegation of endangering one or more persons  
33 under RCW 9.94A.834.

34 (12) An additional twelve months shall be added to the standard  
35 sentence range for an offense that is also a violation of RCW  
36 9.94A.834.

37 (13) The following additional times shall be added to the standard  
38 sentence range for felony crimes, if the offender or an accomplice was

1 found to be either a criminal street associate or member as defined in  
2 RCW 9.94A.030, and the offense for which the offender is being  
3 sentenced is a criminal street gang-related offense as defined in RCW  
4 9.94A.030. If the offender is being sentenced for more than one  
5 offense, the gang sentencing enhancement or enhancements must be added  
6 to the total period of confinement for all offenses, regardless of  
7 which underlying offense is subject to a gang sentencing enhancement:

8 (a) Thirty months for any felony defined under any law as a class  
9 A felony or with a statutory maximum sentence of at least twenty years,  
10 or both, and not covered under (f) of this subsection;

11 (b) Twenty-four months for any felony defined under any law as a  
12 class B felony or with a statutory maximum sentence of ten years, or  
13 both, and not covered under (f) of this subsection;

14 (c) Eighteen months for any felony defined under any law as a class  
15 C felony or with a statutory maximum sentence of five years, or both,  
16 and not covered under (f) of this subsection;

17 (d) If the offender is being sentenced for any criminal street gang  
18 sentencing enhancements under (a), (b), or (c) of this subsection and  
19 the offender has previously been sentenced for any gang sentencing  
20 enhancement or any deadly weapon enhancement, or both, all enhancements  
21 under this subsection shall be three times the amount of the  
22 enhancement listed;

23 (e) Notwithstanding any other provision of law, all criminal street  
24 gang sentencing enhancements under this section are mandatory, shall be  
25 served in total confinement, and shall run consecutively to all other  
26 sentencing provisions, including other gang sentencing, firearm, or  
27 deadly weapon enhancements, for all offenses sentenced under this  
28 chapter. However, whether or not a mandatory minimum term has expired,  
29 an offender serving a sentence under this subsection may be granted an  
30 extraordinary medical placement when authorized under RCW 9.94A.728;

31 (f) If the standard sentence range under this section exceeds the  
32 statutory maximum sentence for the offense, the statutory maximum  
33 sentence shall be the presumptive sentence unless the offender is a  
34 persistent offender. If the addition of a firearm enhancement  
35 increases the sentence so that it would exceed the statutory maximum  
36 for the offense, the portion of the sentence representing the  
37 enhancement may not be reduced.

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

3       (1) Decision not to prosecute.

4       STANDARD: A prosecuting attorney may decline to prosecute, even  
5 though technically sufficient evidence to prosecute exists, in  
6 situations where prosecution would serve no public purpose, would  
7 defeat the underlying purpose of the law in question or would result in  
8 decreased respect for the law.

9       GUIDELINE/COMMENTARY:

10       Examples

11       The following are examples of reasons not to prosecute which could  
12 satisfy the standard.

13       (a) Contrary to Legislative Intent - It may be proper to decline to  
14 charge where the application of criminal sanctions would be clearly  
15 contrary to the intent of the legislature in enacting the particular  
16 statute.

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

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

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

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

24       (iv) The statute has not been recently reconsidered by the  
25 legislature.

26       This reason is not to be construed as the basis for declining cases  
27 because the law in question is unpopular or because it is difficult to  
28 enforce.

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

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

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

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

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

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

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

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

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

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

13 (f) High Disproportionate Cost of Prosecution - It may be proper to  
14 decline to charge where the cost of locating or transporting, or the  
15 burden on, prosecution witnesses is highly disproportionate to the  
16 importance of prosecuting the offense in question. This reason should  
17 be limited to minor cases and should not be relied upon in serious  
18 cases.

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

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

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

32 (i) Assault cases where the victim has suffered little or no  
33 injury;

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

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

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

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

3 Notification

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

6 (2) Decision to prosecute.

7 (a) STANDARD:

8 Crimes against persons will be filed if sufficient admissible  
9 evidence exists, which, when considered with the most plausible,  
10 reasonably foreseeable defense that could be raised under the evidence,  
11 would justify conviction by a reasonable and objective fact finder.  
12 With regard to offenses prohibited by RCW 9A.44.040, 9A.44.050,  
13 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, 9A.44.089, and  
14 9A.64.020 the prosecutor should avoid prefiling agreements or  
15 diversions intended to place the accused in a program of treatment or  
16 counseling, so that treatment, if determined to be beneficial, can be  
17 provided pursuant to RCW 9.94A.670.

18 Crimes against property/other crimes will be filed if the  
19 admissible evidence is of such convincing force as to make it probable  
20 that a reasonable and objective fact finder would convict after hearing  
21 all the admissible evidence and the most plausible defense that could  
22 be raised.

23 See table below for the crimes within these categories.

24 CATEGORIZATION OF CRIMES FOR PROSECUTING STANDARDS

25 CRIMES AGAINST PERSONS

26 Aggravated Murder

27 1st Degree Murder

28 2nd Degree Murder

29 1st Degree Manslaughter

30 2nd Degree Manslaughter

31 1st Degree Kidnapping

32 2nd Degree Kidnapping

33 1st Degree Assault

34 2nd Degree Assault

35 3rd Degree Assault

36 1st Degree Assault of a Child

37 2nd Degree Assault of a Child

38 3rd Degree Assault of a Child

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



1 Felony Physical Control of a Motor Vehicle While Under the  
2 Influence of Intoxicating Liquor or Any Drug (RCW 46.61.504(6))

3 CRIMES AGAINST PROPERTY/OTHER CRIMES

4 2nd Degree Arson

5 1st Degree Escape

6 2nd Degree Escape

7 2nd Degree Burglary

8 1st Degree Theft

9 2nd Degree Theft

10 1st Degree Perjury

11 2nd Degree Perjury

12 1st Degree Introducing Contraband

13 2nd Degree Introducing Contraband

14 1st Degree Possession of Stolen Property

15 2nd Degree Possession of Stolen Property

16 Bribery

17 Bribing a Witness

18 Bribe received by a Witness

19 Bomb Threat (if against property)

20 1st Degree Malicious Mischief

21 2nd Degree Malicious Mischief

22 1st Degree Reckless Burning

23 Taking a Motor Vehicle without Authorization

24 Forgery

25 2nd Degree Promoting Prostitution

26 Tampering with a Witness

27 Trading in Public Office

28 Trading in Special Influence

29 Receiving/Granting Unlawful Compensation

30 Bigamy

31 Eluding a Pursuing Police Vehicle

32 Willful Failure to Return from Furlough

33 Escape from Community Custody

34 Riot (if against property)

35 1st Degree Theft of Livestock

36 2nd Degree Theft of Livestock

37 ALL OTHER UNCLASSIFIED FELONIES

38 Selection of Charges/Degree of Charge

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

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

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

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

9 (A) Charging a higher degree;

10 (B) Charging additional counts.

11 This standard is intended to direct prosecutors to charge those  
12 crimes which demonstrate the nature and seriousness of a defendant's  
13 criminal conduct, but to decline to charge crimes which are not  
14 necessary to such an indication. Crimes which do not merge as a matter  
15 of law, but which arise from the same course of conduct, do not all  
16 have to be charged.

17 (b) GUIDELINES/COMMENTARY:

18 (i) Police Investigation

19 A prosecuting attorney is dependent upon law enforcement agencies  
20 to conduct the necessary factual investigation which must precede the  
21 decision to prosecute. The prosecuting attorney shall ensure that a  
22 thorough factual investigation has been conducted before a decision to  
23 prosecute is made. In ordinary circumstances the investigation should  
24 include the following:

25 (A) The interviewing of all material witnesses, together with the  
26 obtaining of written statements whenever possible;

27 (B) The completion of necessary laboratory tests; and

28 (C) The obtaining, in accordance with constitutional requirements,  
29 of the suspect's version of the events.

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

33 (ii) Exceptions

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

36 (A) Probable cause exists to believe the suspect is guilty; and

37 (B) The suspect presents a danger to the community or is likely to  
38 flee if not apprehended; or

1 (C) The arrest of the suspect is necessary to complete the  
2 investigation of the crime.

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

8 (iii) Investigation Techniques

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

11 (A) Polygraph testing;

12 (B) Hypnosis;

13 (C) Electronic surveillance;

14 (D) Use of informants.

15 (iv) Pre-Filing Discussions with Defendant

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

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

20 Discussions with the victim(s) or victims' representatives  
21 regarding the selection or disposition of charges may occur before the  
22 filing of charges. The discussions may be considered by the prosecutor  
23 in charging and disposition decisions, and should be considered before  
24 reaching any agreement with the defendant regarding these decisions.

25 **Sec. 8.** RCW 13.40.0357 and 2008 c 230 s 3 and 2008 c 158 s 1 are  
26 each reenacted and amended to read as follows:

27  
28 **DESCRIPTION AND OFFENSE CATEGORY**

		JUVENILE DISPOSITION
JUVENILE		CATEGORY FOR
DISPOSITION		ATTEMPT, BAILJUMP,
OFFENSE		CONSPIRACY, OR
CATEGORY	DESCRIPTION (RCW CITATION)	SOLICITATION
.....		

34  
35 **Arson and Malicious Mischief**

1	A	Arson 1 (9A.48.020)	B+
2	B	Arson 2 (9A.48.030)	C
3	<u>B</u>	<u>Criminal Street Gang Tagging and Graffiti</u>	
4		<u>(9A.48.105)</u>	<u>C</u>
5	C	Reckless Burning 1 (9A.48.040)	D
6	D	Reckless Burning 2 (9A.48.050)	E
7	B	Malicious Mischief 1 (9A.48.070)	C
8	C	Malicious Mischief 2 (9A.48.080)	D
9	D	Malicious Mischief 3 (9A.48.090(2) (a) and	
10		(c))	E
11	E	Malicious Mischief 3 (9A.48.090(2)(b))	E
12	E	Tampering with Fire Alarm Apparatus	
13		(9.40.100)	E
14	E	Tampering with Fire Alarm Apparatus with	
15		Intent to Commit Arson (9.40.105)	E
16	A	Possession of Incendiary Device (9.40.120)	B+
17		<b>Assault and Other Crimes Involving</b>	
18		<b>Physical Harm</b>	
19	A	Assault 1 (9A.36.011)	B+
20	B+	Assault 2 (9A.36.021)	C+
21	C+	Assault 3 (9A.36.031)	D+
22	D+	Assault 4 (9A.36.041)	E
23	B+	Drive-By Shooting (9A.36.045)	C+
24	D+	Reckless Endangerment (9A.36.050)	E
25	C+	Promoting Suicide Attempt (9A.36.060)	D+
26	D+	Coercion (9A.36.070)	E
27	C+	Custodial Assault (9A.36.100)	D+
28		<b>Burglary and Trespass</b>	
29	B+	Burglary 1 (9A.52.020)	C+
30	B	Residential Burglary (9A.52.025)	C
31	B	Burglary 2 (9A.52.030)	C
32	D	Burglary Tools (Possession of) (9A.52.060)	E
33	D	Criminal Trespass 1 (9A.52.070)	E
34	E	Criminal Trespass 2 (9A.52.080)	E
35	C	Mineral Trespass (78.44.330)	C
36	C	Vehicle Prowling 1 (9A.52.095)	D
37	D	Vehicle Prowling 2 (9A.52.100)	E

1		<b>Drugs</b>	
2	E	Possession/Consumption of Alcohol	
3		(66.44.270)	E
4	C	Illegally Obtaining Legend Drug	
5		(69.41.020)	D
6	C+	Sale, Delivery, Possession of Legend Drug	
7		with Intent to Sell (69.41.030(2)(a))	D+
8	E	Possession of Legend Drug	
9		(69.41.030(2)(b))	E
10	B+	Violation of Uniform Controlled Substances	
11		Act - Narcotic, Methamphetamine, or	
12		Flunitrazepam Sale (69.50.401(2) (a) or	
13		(b))	B+
14	C	Violation of Uniform Controlled Substances	
15		Act - Nonnarcotic Sale (69.50.401(2)(c))	C
16	E	Possession of Marihuana <40 grams	
17		(69.50.4014)	E
18	C	Fraudulently Obtaining Controlled	
19		Substance (69.50.403)	C
20	C+	Sale of Controlled Substance for Profit	
21		(69.50.410)	C+
22	E	Unlawful Inhalation (9.47A.020)	E
23	B	Violation of Uniform Controlled Substances	
24		Act - Narcotic, Methamphetamine, or	
25		Flunitrazepam Counterfeit Substances	
26		(69.50.4011(2) (a) or (b))	B
27	C	Violation of Uniform Controlled Substances	
28		Act - Nonnarcotic Counterfeit Substances	
29		(69.50.4011(2) (c), (d), or (e))	C
30	C	Violation of Uniform Controlled Substances	
31		Act - Possession of a Controlled Substance	
32		(69.50.4013)	C
33	C	Violation of Uniform Controlled Substances	
34		Act - Possession of a Controlled Substance	
35		(69.50.4012)	C
36		<b>Firearms and Weapons</b>	
37	B	Theft of Firearm (9A.56.300)	C

1	B	Possession of Stolen Firearm (9A.56.310)	C
2	E	Carrying Loaded Pistol Without Permit	
3		(9.41.050)	E
4	C	Possession of Firearms by Minor (<18)	
5		(9.41.040(2)(a)(iii))	C
6	D+	Possession of Dangerous Weapon	
7		(9.41.250)	E
8	D	Intimidating Another Person by use of	
9		Weapon (9.41.270)	E
10		<b>Homicide</b>	
11	A+	Murder 1 (9A.32.030)	A
12	A+	Murder 2 (9A.32.050)	B+
13	B+	Manslaughter 1 (9A.32.060)	C+
14	C+	Manslaughter 2 (9A.32.070)	D+
15	B+	Vehicle Homicide (46.61.520)	C+
16		<b>Kidnapping</b>	
17	A	Kidnap 1 (9A.40.020)	B+
18	B+	Kidnap 2 (9A.40.030)	C+
19	C+	Unlawful Imprisonment (9A.40.040)	D+
20		<b>Obstructing Governmental Operation</b>	
21	D	Obstructing a Law Enforcement Officer	
22		(9A.76.020)	E
23	E	Resisting Arrest (9A.76.040)	E
24	B	Introducing Contraband 1 (9A.76.140)	C
25	C	Introducing Contraband 2 (9A.76.150)	D
26	E	Introducing Contraband 3 (9A.76.160)	E
27	B+	Intimidating a Public Servant (9A.76.180)	C+
28	B+	Intimidating a Witness (9A.72.110)	C+
29		<b>Public Disturbance</b>	
30	C+	Riot with Weapon (9A.84.010(2)(b))	D+
31	D+	Riot Without Weapon (9A.84.010(2)(a))	E
32	E	Failure to Disperse (9A.84.020)	E
33	E	Disorderly Conduct (9A.84.030)	E
34		<b>Sex Crimes</b>	
35	A	Rape 1 (9A.44.040)	B+
36	A-	Rape 2 (9A.44.050)	B+

1	C+	Rape 3 (9A.44.060)	D+
2	A-	Rape of a Child 1 (9A.44.073)	B+
3	B+	Rape of a Child 2 (9A.44.076)	C+
4	B	Incest 1 (9A.64.020(1))	C
5	C	Incest 2 (9A.64.020(2))	D
6	D+	Indecent Exposure (Victim <14)	
7		(9A.88.010)	E
8	E	Indecent Exposure (Victim 14 or over)	
9		(9A.88.010)	E
10	B+	Promoting Prostitution 1 (9A.88.070)	C+
11	C+	Promoting Prostitution 2 (9A.88.080)	D+
12	E	O & A (Prostitution) (9A.88.030)	E
13	B+	Indecent Liberties (9A.44.100)	C+
14	A-	Child Molestation 1 (9A.44.083)	B+
15	B	Child Molestation 2 (9A.44.086)	C+
16	C	Failure to Register as a Sex Offender	
17		(9A.44.130)	D
18		<b>Theft, Robbery, Extortion, and Forgery</b>	
19	B	Theft 1 (9A.56.030)	C
20	C	Theft 2 (9A.56.040)	D
21	D	Theft 3 (9A.56.050)	E
22	B	Theft of Livestock 1 and 2 (9A.56.080 and	
23		9A.56.083)	C
24	C	Forgery (9A.60.020)	D
25	A	Robbery 1 (9A.56.200)	B+
26	B+	Robbery 2 (9A.56.210)	C+
27	B+	Extortion 1 (9A.56.120)	C+
28	C+	Extortion 2 (9A.56.130)	D+
29	C	Identity Theft 1 (9.35.020(2))	D
30	D	Identity Theft 2 (9.35.020(3))	E
31	D	Improperly Obtaining Financial Information	
32		(9.35.010)	E
33	B	Possession of a Stolen Vehicle (9A.56.068)	C
34	B	Possession of Stolen Property 1	
35		(9A.56.150)	C
36	C	Possession of Stolen Property 2	
37		(9A.56.160)	D

1	D	Possession of Stolen Property 3	
2		(9A.56.170)	E
3	B	Taking Motor Vehicle Without Permission	
4		1 (9A.56.070)	C
5	C	Taking Motor Vehicle Without Permission	
6		2 (9A.56.075)	D
7	B	Theft of a Motor Vehicle (9A.56.065)	C
8		<b>Motor Vehicle Related Crimes</b>	
9	E	Driving Without a License (46.20.005)	E
10	B+	Hit and Run - Death (46.52.020(4)(a))	C+
11	C	Hit and Run - Injury (46.52.020(4)(b))	D
12	D	Hit and Run-Attended (46.52.020(5))	E
13	E	Hit and Run-Unattended (46.52.010)	E
14	C	Vehicular Assault (46.61.522)	D
15	C	Attempting to Elude Pursuing Police	
16		Vehicle (46.61.024)	D
17	E	Reckless Driving (46.61.500)	E
18	D	Driving While Under the Influence	
19		(46.61.502 and 46.61.504)	E
20	B+	Felony Driving While Under the Influence	
21		(46.61.502(6))	B
22	B+	Felony Physical Control of a Vehicle While	
23		Under the Influence (46.61.504(6))	B
24		<b>Other</b>	
25	B	Animal Cruelty 1 (16.52.205)	C
26	B	Bomb Threat (9.61.160)	C
27	C	Escape 1 <sup>1</sup> (9A.76.110)	C
28	C	Escape 2 <sup>1</sup> (9A.76.120)	C
29	D	Escape 3 (9A.76.130)	E
30	E	Obscene, Harassing, Etc., Phone Calls	
31		(9.61.230)	E
32	A	Other Offense Equivalent to an Adult Class	
33		A Felony	B+
34	B	Other Offense Equivalent to an Adult Class	
35		B Felony	C



- 1 C Other Offense Equivalent to an Adult Class
- 2 C Felony D
- 3 D Other Offense Equivalent to an Adult Gross
- 4 Misdemeanor E
- 5 E Other Offense Equivalent to an Adult
- 6 Misdemeanor E
- 7 V Violation of Order of Restitution,
- 8 Community Supervision, or Confinement
- 9 (13.40.200)<sup>2</sup> V

10 <sup>1</sup>Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses  
 11 and the standard range is established as follows:

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

14 2nd escape or attempted escape during 12-month period - 8 weeks  
 15 confinement

16 3rd and subsequent escape or attempted escape during 12-month  
 17 period - 12 weeks confinement

18 <sup>2</sup>If the court finds that a respondent has violated terms of an order,  
 19 it may impose a penalty of up to 30 days of confinement.

20 **JUVENILE SENTENCING STANDARDS**

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

23 **OPTION A**  
 24 **JUVENILE OFFENDER SENTENCING GRID**  
 25 **STANDARD RANGE**

26	A+	180 WEEKS TO AGE 21 YEARS			
27					
28	A	103 WEEKS TO 129 WEEKS			
29					
30	A-	15-36	52-65	80-100	103-129
31		WEEKS	WEEKS	WEEKS	WEEKS
32		EXCEPT			
33		30-40			
34		WEEKS FOR			

1		15-17			
2		YEAR OLDS			
3					
4	Current	B+	15-36	52-65	80-100
5	Offense		WEEKS	WEEKS	WEEKS
6	Category				103-129
7	B	LOCAL			52-65
8		SANCTIONS (LS)	15-36 WEEKS		WEEKS
9					
10	C+	LS		15-36 WEEKS	
11					
12					
13	C	LS			15-36 WEEKS
14			Local Sanctions:		
15			0 to 30 Days		
16	D+	LS	0 to 12 Months Community Supervision		
17			0 to 150 Hours Community Restitution		
18	D	LS	\$0 to \$500 Fine		
19					
20	E	LS			
21					
22			0	1	2
23					3
24					4
					or more
			PRIOR ADJUDICATIONS		

25 NOTE: References in the grid to days or weeks mean periods of  
 26 confinement.

27 (1) The vertical axis of the grid is the current offense category.  
 28 The current offense category is determined by the offense of  
 29 adjudication.

30 (2) The horizontal axis of the grid is the number of prior  
 31 adjudications included in the juvenile's criminal history. Each prior  
 32 felony adjudication shall count as one point. Each prior violation,  
 33 misdemeanor, and gross misdemeanor adjudication shall count as 1/4  
 34 point. Fractional points shall be rounded down.

35 (3) The standard range disposition for each offense is determined  
 36 by the intersection of the column defined by the prior adjudications  
 37 and the row defined by the current offense category.

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

40 (5) A current offense that is a violation is equivalent to an

1 offense category of E. However, a disposition for a violation shall  
2 not include confinement.

3 OR

4 **OPTION B**

5 **SUSPENDED DISPOSITION ALTERNATIVE**

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

17 (a) "Evidence-based" means a program or practice that has had  
18 multiple site random controlled trials across heterogeneous populations  
19 demonstrating that the program or practice is effective for the  
20 population; and

21 (b) "Research-based" means a program or practice that has some  
22 research demonstrating effectiveness, but that does not yet meet the  
23 standard of evidence-based practices.

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

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

29 (a) Adjudicated of an A+ offense;

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

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

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

35 (iii) Assault in the second degree (RCW 9A.36.021), extortion in  
36 the first degree (RCW 9A.56.120), kidnapping in the second degree (RCW  
37 9A.40.030), robbery in the second degree (RCW 9A.56.210), residential

1 burglary (RCW 9A.52.025), burglary in the second degree (RCW  
2 9A.52.030), drive-by shooting (RCW 9A.36.045), vehicular homicide (RCW  
3 46.61.520), hit and run death (RCW 46.52.020(4)(a)), intimidating a  
4 witness (RCW 9A.72.110), violation of the uniform controlled substances  
5 act (RCW 69.50.401 (2)(a) and (b)), or manslaughter 2 (RCW 9A.32.070),  
6 when the offense includes infliction of bodily harm upon another or  
7 when during the commission or immediate withdrawal from the offense the  
8 respondent was armed with a deadly weapon;

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

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

12 OR

13 **OPTION C**

14 **CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE**

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

19 OR

20 **OPTION D**

21 **MANIFEST INJUSTICE**

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

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