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**SUBSTITUTE SENATE BILL 5864**

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**State of Washington**

**55th Legislature**

**1997 Regular Session**

**By** Senate Committee on Law & Justice (originally sponsored by Senators Roach and Schow)

Read first time 03/05/97.

1 AN ACT Relating to drive-by shooting; amending RCW 9A.36.045,  
2 9A.36.050, 9.41.010, 9.41.040, 9.94A.103, 9.94A.105, 9.94A.310,  
3 10.99.020, 10.99.040, 10.99.050, and 13.40.0357; reenacting and  
4 amending RCW 9.94A.030, 9.94A.320, and 9A.46.060; and prescribing  
5 penalties.

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

7 **Sec. 1.** RCW 9A.36.045 and 1995 c 129 s 8 are each amended to read  
8 as follows:

9 (1) A person is guilty of (~~reckless endangerment in the first~~  
10 ~~degree~~) drive-by shooting when he or she recklessly discharges a  
11 firearm as defined in RCW 9.41.010 in a manner which creates a  
12 substantial risk of death or serious physical injury to another person  
13 and the discharge is either from a motor vehicle or from the immediate  
14 area of a motor vehicle that was used to transport the shooter or the  
15 firearm, or both, to the scene of the discharge.

16 (2) A person who unlawfully discharges a firearm from a moving  
17 motor vehicle may be inferred to have engaged in reckless conduct,  
18 unless the discharge is shown by evidence satisfactory to the trier of  
19 fact to have been made without such recklessness.

1           (3) (~~Reckless endangerment in the first degree~~) Drive-by shooting  
2 is a class B felony.

3           **Sec. 2.** RCW 9A.36.050 and 1989 c 271 s 110 are each amended to  
4 read as follows:

5           (1) A person is guilty of reckless endangerment (~~in the second~~  
6 ~~degree~~) when he recklessly engages in conduct not amounting to  
7 (~~reckless endangerment in the first degree but which~~) drive-by  
8 shooting but that creates a substantial risk of death or serious  
9 physical injury to another person.

10          (2) Reckless endangerment (~~in the second degree~~) is a gross  
11 misdemeanor.

12          **Sec. 3.** RCW 9.41.010 and 1996 c 295 s 1 are each amended to read  
13 as follows:

14          Unless the context clearly requires otherwise, the definitions in  
15 this section apply throughout this chapter.

16          (1) "Firearm" means a weapon or device from which a projectile or  
17 projectiles may be fired by an explosive such as gunpowder.

18          (2) "Pistol" means any firearm with a barrel less than sixteen  
19 inches in length, or is designed to be held and fired by the use of a  
20 single hand.

21          (3) "Rifle" means a weapon designed or redesigned, made or remade,  
22 and intended to be fired from the shoulder and designed or redesigned,  
23 made or remade, and intended to use the energy of the explosive in a  
24 fixed metallic cartridge to fire only a single projectile through a  
25 rifled bore for each single pull of the trigger.

26          (4) "Short-barreled rifle" means a rifle having one or more barrels  
27 less than sixteen inches in length and any weapon made from a rifle by  
28 any means of modification if such modified weapon has an overall length  
29 of less than twenty-six inches.

30          (5) "Shotgun" means a weapon with one or more barrels, designed or  
31 redesigned, made or remade, and intended to be fired from the shoulder  
32 and designed or redesigned, made or remade, and intended to use the  
33 energy of the explosive in a fixed shotgun shell to fire through a  
34 smooth bore either a number of ball shot or a single projectile for  
35 each single pull of the trigger.

36          (6) "Short-barreled shotgun" means a shotgun having one or more  
37 barrels less than eighteen inches in length and any weapon made from a

1 shotgun by any means of modification if such modified weapon has an  
2 overall length of less than twenty-six inches.

3 (7) "Machine gun" means any firearm known as a machine gun,  
4 mechanical rifle, submachine gun, or any other mechanism or instrument  
5 not requiring that the trigger be pressed for each shot and having a  
6 reservoir clip, disc, drum, belt, or other separable mechanical device  
7 for storing, carrying, or supplying ammunition which can be loaded into  
8 the firearm, mechanism, or instrument, and fired therefrom at the rate  
9 of five or more shots per second.

10 (8) "Antique firearm" means a firearm or replica of a firearm not  
11 designed or redesigned for using rim fire or conventional center fire  
12 ignition with fixed ammunition and manufactured in or before 1898,  
13 including any matchlock, flintlock, percussion cap, or similar type of  
14 ignition system and also any firearm using fixed ammunition  
15 manufactured in or before 1898, for which ammunition is no longer  
16 manufactured in the United States and is not readily available in the  
17 ordinary channels of commercial trade.

18 (9) "Loaded" means:

19 (a) There is a cartridge in the chamber of the firearm;

20 (b) Cartridges are in a clip that is locked in place in the  
21 firearm;

22 (c) There is a cartridge in the cylinder of the firearm, if the  
23 firearm is a revolver;

24 (d) There is a cartridge in the tube or magazine that is inserted  
25 in the action; or

26 (e) There is a ball in the barrel and the firearm is capped or  
27 primed if the firearm is a muzzle loader.

28 (10) "Dealer" means a person engaged in the business of selling  
29 firearms at wholesale or retail who has, or is required to have, a  
30 federal firearms license under 18 U.S.C. Sec. 923(a). A person who  
31 does not have, and is not required to have, a federal firearms license  
32 under 18 U.S.C. Sec. 923(a), is not a dealer if that person makes only  
33 occasional sales, exchanges, or purchases of firearms for the  
34 enhancement of a personal collection or for a hobby, or sells all or  
35 part of his or her personal collection of firearms.

36 (11) "Crime of violence" means:

37 (a) Any of the following felonies, as now existing or hereafter  
38 amended: Any felony defined under any law as a class A felony or an  
39 attempt to commit a class A felony, criminal solicitation of or

1 criminal conspiracy to commit a class A felony, manslaughter in the  
2 first degree, manslaughter in the second degree, indecent liberties if  
3 committed by forcible compulsion, kidnapping in the second degree,  
4 arson in the second degree, assault in the second degree, assault of a  
5 child in the second degree, extortion in the first degree, burglary in  
6 the second degree, residential burglary, and robbery in the second  
7 degree;

8 (b) Any conviction for a felony offense in effect at any time prior  
9 to June 6, 1996, which is comparable to a felony classified as a crime  
10 of violence in (a) of this subsection; and

11 (c) Any federal or out-of-state conviction for an offense  
12 comparable to a felony classified as a crime of violence under (a) or  
13 (b) of this subsection.

14 (12) "Serious offense" means any of the following felonies or a  
15 felony attempt to commit any of the following felonies, as now existing  
16 or hereafter amended:

17 (a) Any crime of violence;

18 (b) Any felony violation of the uniform controlled substances act,  
19 chapter 69.50 RCW, that is classified as a class B felony or that has  
20 a maximum term of imprisonment of at least ten years;

21 (c) Child molestation in the second degree;

22 (d) Incest when committed against a child under age fourteen;

23 (e) Indecent liberties;

24 (f) Leading organized crime;

25 (g) Promoting prostitution in the first degree;

26 (h) Rape in the third degree;

27 (i) (~~Reckless endangerment in the first degree~~) Drive-by  
28 shooting;

29 (j) Sexual exploitation;

30 (k) Vehicular assault;

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

35 (m) Any other class B felony offense with a finding of sexual  
36 motivation, as "sexual motivation" is defined under RCW 9.94A.030;

37 (n) Any other felony with a deadly weapon verdict under RCW  
38 9.94A.125; or

1 (o) Any felony offense in effect at any time prior to June 6, 1996,  
2 that is comparable to a serious offense, or any federal or out-of-state  
3 conviction for an offense that under the laws of this state would be a  
4 felony classified as a serious offense.

5 (13) "Law enforcement officer" includes a general authority  
6 Washington peace officer as defined in RCW 10.93.020, or a specially  
7 commissioned Washington peace officer as defined in RCW 10.93.020.  
8 "Law enforcement officer" also includes a limited authority Washington  
9 peace officer as defined in RCW 10.93.020 if such officer is duly  
10 authorized by his or her employer to carry a concealed pistol.

11 (14) "Felony" means any felony offense under the laws of this state  
12 or any federal or out-of-state offense comparable to a felony offense  
13 under the laws of this state.

14 (15) "Sell" refers to the actual approval of the delivery of a  
15 firearm in consideration of payment or promise of payment of a certain  
16 price in money.

17 (16) "Barrel length" means the distance from the bolt face of a  
18 closed action down the length of the axis of the bore to the crown of  
19 the muzzle, or in the case of a barrel with attachments to the end of  
20 any legal device permanently attached to the end of the muzzle.

21 (17) "Family or household member" means "family" or "household  
22 member" as used in RCW 10.99.020.

23 **Sec. 4.** RCW 9.41.040 and 1996 c 295 s 2 are each amended to read  
24 as follows:

25 (1)(a) A person, whether an adult or juvenile, is guilty of the  
26 crime of unlawful possession of a firearm in the first degree, if the  
27 person owns, has in his or her possession, or has in his or her control  
28 any firearm after having previously been convicted in this state or  
29 elsewhere of any serious offense as defined in this chapter.

30 (b) A person, whether an adult or juvenile, is guilty of the crime  
31 of unlawful possession of a firearm in the second degree, if the person  
32 does not qualify under (a) of this subsection for the crime of unlawful  
33 possession of a firearm in the first degree and the person owns, has in  
34 his or her possession, or has in his or her control any firearm:

35 (i) After having previously been convicted in this state or  
36 elsewhere of any felony not specifically listed as prohibiting firearm  
37 possession under (a) of this subsection, or any of the following crimes  
38 when committed by one family or household member against another,

1 committed on or after July 1, 1993: Assault in the fourth degree,  
2 coercion, stalking, reckless endangerment (~~in the second degree~~),  
3 criminal trespass in the first degree, or violation of the provisions  
4 of a protection order or no-contact order restraining the person or  
5 excluding the person from a residence (RCW 26.50.060, 26.50.070,  
6 26.50.130, or 10.99.040);

7 (ii) After having previously been involuntarily committed for  
8 mental health treatment under RCW 71.05.320, 71.34.090, chapter 10.77  
9 RCW, or equivalent statutes of another jurisdiction, unless his or her  
10 right to possess a firearm has been restored as provided in RCW  
11 9.41.047;

12 (iii) If the person is under eighteen years of age, except as  
13 provided in RCW 9.41.042; and/or

14 (iv) If the person is free on bond or personal recognizance pending  
15 trial, appeal, or sentencing for a serious offense as defined in RCW  
16 9.41.010.

17 (2)(a) Unlawful possession of a firearm in the first degree is a  
18 class B felony, punishable under chapter 9A.20 RCW.

19 (b) Unlawful possession of a firearm in the second degree is a  
20 class C felony, punishable under chapter 9A.20 RCW.

21 (3) Notwithstanding RCW 9.41.047 or any other provisions of law, as  
22 used in this chapter, a person has been "convicted", whether in an  
23 adult court or adjudicated in a juvenile court, at such time as a plea  
24 of guilty has been accepted, or a verdict of guilty has been filed,  
25 notwithstanding the pendency of any future proceedings including but  
26 not limited to sentencing or disposition, post-trial or post-  
27 factfinding motions, and appeals. Conviction includes a dismissal  
28 entered after a period of probation, suspension or deferral of  
29 sentence, and also includes equivalent dispositions by courts in  
30 jurisdictions other than Washington state. A person shall not be  
31 precluded from possession of a firearm if the conviction has been the  
32 subject of a pardon, annulment, certificate of rehabilitation, or other  
33 equivalent procedure based on a finding of the rehabilitation of the  
34 person convicted or the conviction or disposition has been the subject  
35 of a pardon, annulment, or other equivalent procedure based on a  
36 finding of innocence. Where no record of the court's disposition of  
37 the charges can be found, there shall be a rebuttable presumption that  
38 the person was not convicted of the charge.

1 (4) Notwithstanding subsection (1) of this section, a person  
2 convicted of an offense prohibiting the possession of a firearm under  
3 this section other than murder, manslaughter, robbery, rape, indecent  
4 liberties, arson, assault, kidnapping, extortion, burglary, or  
5 violations with respect to controlled substances under RCW 69.50.401(a)  
6 and 69.50.410, who received a probationary sentence under RCW 9.95.200,  
7 and who received a dismissal of the charge under RCW 9.95.240, shall  
8 not be precluded from possession of a firearm as a result of the  
9 conviction. Notwithstanding any other provisions of this section, if  
10 a person is prohibited from possession of a firearm under subsection  
11 (1) of this section and has not previously been convicted of a sex  
12 offense prohibiting firearm ownership under subsection (1) of this  
13 section and/or any felony defined under any law as a class A felony or  
14 with a maximum sentence of at least twenty years, or both, the  
15 individual may petition a court of record to have his or her right to  
16 possess a firearm restored:

17 (a) Under RCW 9.41.047; and/or

18 (b)(i) If the conviction was for a felony offense, after five or  
19 more consecutive years in the community without being convicted or  
20 currently charged with any felony, gross misdemeanor, or misdemeanor  
21 crimes, if the individual has no prior felony convictions that prohibit  
22 the possession of a firearm counted as part of the offender score under  
23 RCW 9.94A.360; or

24 (ii) If the conviction was for a nonfelony offense, after three or  
25 more consecutive years in the community without being convicted or  
26 currently charged with any felony, gross misdemeanor, or misdemeanor  
27 crimes, if the individual has no prior felony convictions that prohibit  
28 the possession of a firearm counted as part of the offender score under  
29 RCW 9.94A.360 and the individual has completed all conditions of the  
30 sentence.

31 (5) In addition to any other penalty provided for by law, if a  
32 person under the age of eighteen years is found by a court to have  
33 possessed a firearm in a vehicle in violation of subsection (1) of this  
34 section or to have committed an offense while armed with a firearm  
35 during which offense a motor vehicle served an integral function, the  
36 court shall notify the department of licensing within twenty-four hours  
37 and the person's privilege to drive shall be revoked under RCW  
38 46.20.265.

1 (6) Nothing in chapter 129, Laws of 1995 shall ever be construed or  
2 interpreted as preventing an offender from being charged and  
3 subsequently convicted for the separate felony crimes of theft of a  
4 firearm or possession of a stolen firearm, or both, in addition to  
5 being charged and subsequently convicted under this section for  
6 unlawful possession of a firearm in the first or second degree.  
7 Notwithstanding any other law, if the offender is convicted under this  
8 section for unlawful possession of a firearm in the first or second  
9 degree and for the felony crimes of theft of a firearm or possession of  
10 a stolen firearm, or both, then the offender shall serve consecutive  
11 sentences for each of the felony crimes of conviction listed in this  
12 subsection.

13 (7) Each firearm unlawfully possessed under this section shall be  
14 a separate offense.

15 **Sec. 5.** RCW 9.94A.030 and 1996 c 289 s 1 and 1996 c 275 s 5 are  
16 each reenacted and amended to read as follows:

17 Unless the context clearly requires otherwise, the definitions in  
18 this section apply throughout this chapter.

19 (1) "Collect," or any derivative thereof, "collect and remit," or  
20 "collect and deliver," when used with reference to the department of  
21 corrections, means that the department is responsible for monitoring  
22 and enforcing the offender's sentence with regard to the legal  
23 financial obligation, receiving payment thereof from the offender, and,  
24 consistent with current law, delivering daily the entire payment to the  
25 superior court clerk without depositing it in a departmental account.

26 (2) "Commission" means the sentencing guidelines commission.

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

31 (4) "Community custody" means that portion of an inmate's sentence  
32 of confinement in lieu of earned early release time or imposed pursuant  
33 to RCW 9.94A.120 (6), (8), or (10) served in the community subject to  
34 controls placed on the inmate's movement and activities by the  
35 department of corrections.

36 (5) "Community placement" means that period during which the  
37 offender is subject to the conditions of community custody and/or  
38 postrelease supervision, which begins either upon completion of the



1 term of confinement (postrelease supervision) or at such time as the  
2 offender is transferred to community custody in lieu of earned early  
3 release. Community placement may consist of entirely community  
4 custody, entirely postrelease supervision, or a combination of the two.

5 (6) "Community service" means compulsory service, without  
6 compensation, performed for the benefit of the community by the  
7 offender.

8 (7) "Community supervision" means a period of time during which a  
9 convicted offender is subject to crime-related prohibitions and other  
10 sentence conditions imposed by a court pursuant to this chapter or RCW  
11 16.52.200(6) or 46.61.524. For first-time offenders, the supervision  
12 may include crime-related prohibitions and other conditions imposed  
13 pursuant to RCW 9.94A.120(5). For purposes of the interstate compact  
14 for out-of-state supervision of parolees and probationers, RCW  
15 9.95.270, community supervision is the functional equivalent of  
16 probation and should be considered the same as probation by other  
17 states.

18 (8) "Confinement" means total or partial confinement as defined in  
19 this section.

20 (9) "Conviction" means an adjudication of guilt pursuant to Titles  
21 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and  
22 acceptance of a plea of guilty.

23 (10) "Court-ordered legal financial obligation" means a sum of  
24 money that is ordered by a superior court of the state of Washington  
25 for legal financial obligations which may include restitution to the  
26 victim, statutorily imposed crime victims' compensation fees as  
27 assessed pursuant to RCW 7.68.035, court costs, county or interlocal  
28 drug funds, court-appointed attorneys' fees, and costs of defense,  
29 fines, and any other financial obligation that is assessed to the  
30 offender as a result of a felony conviction. Upon conviction for  
31 vehicular assault while under the influence of intoxicating liquor or  
32 any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the  
33 influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a),  
34 legal financial obligations may also include payment to a public agency  
35 of the expense of an emergency response to the incident resulting in  
36 the conviction, subject to the provisions in RCW 38.52.430.

37 (11) "Crime-related prohibition" means an order of a court  
38 prohibiting conduct that directly relates to the circumstances of the  
39 crime for which the offender has been convicted, and shall not be

1 construed to mean orders directing an offender affirmatively to  
2 participate in rehabilitative programs or to otherwise perform  
3 affirmative conduct.

4 (12)(a) "Criminal history" means the list of a defendant's prior  
5 convictions, whether in this state, in federal court, or elsewhere.  
6 The history shall include, where known, for each conviction (i) whether  
7 the defendant has been placed on probation and the length and terms  
8 thereof; and (ii) whether the defendant has been incarcerated and the  
9 length of incarceration.

10 (b) "Criminal history" shall always include juvenile convictions  
11 for sex offenses and serious violent offenses and shall also include a  
12 defendant's other prior convictions in juvenile court if: (i) The  
13 conviction was for an offense which is a felony or a serious traffic  
14 offense and is criminal history as defined in RCW 13.40.020(9); (ii)  
15 the defendant was fifteen years of age or older at the time the offense  
16 was committed; and (iii) with respect to prior juvenile class B and C  
17 felonies or serious traffic offenses, the defendant was less than  
18 twenty-three years of age at the time the offense for which he or she  
19 is being sentenced was committed.

20 (13) "Day fine" means a fine imposed by the sentencing judge that  
21 equals the difference between the offender's net daily income and the  
22 reasonable obligations that the offender has for the support of the  
23 offender and any dependents.

24 (14) "Day reporting" means a program of enhanced supervision  
25 designed to monitor the defendant's daily activities and compliance  
26 with sentence conditions, and in which the defendant is required to  
27 report daily to a specific location designated by the department or the  
28 sentencing judge.

29 (15) "Department" means the department of corrections.

30 (16) "Determinate sentence" means a sentence that states with  
31 exactitude the number of actual years, months, or days of total  
32 confinement, of partial confinement, of community supervision, the  
33 number of actual hours or days of community service work, or dollars or  
34 terms of a legal financial obligation. The fact that an offender  
35 through "earned early release" can reduce the actual period of  
36 confinement shall not affect the classification of the sentence as a  
37 determinate sentence.

38 (17) "Disposable earnings" means that part of the earnings of an  
39 individual remaining after the deduction from those earnings of any

1 amount required by law to be withheld. For the purposes of this  
2 definition, "earnings" means compensation paid or payable for personal  
3 services, whether denominated as wages, salary, commission, bonuses, or  
4 otherwise, and, notwithstanding any other provision of law making the  
5 payments exempt from garnishment, attachment, or other process to  
6 satisfy a court-ordered legal financial obligation, specifically  
7 includes periodic payments pursuant to pension or retirement programs,  
8 or insurance policies of any type, but does not include payments made  
9 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,  
10 or Title 74 RCW.

11 (18) "Drug offense" means:

12 (a) Any felony violation of chapter 69.50 RCW except possession of  
13 a controlled substance (RCW 69.50.401(d)) or forged prescription for a  
14 controlled substance (RCW 69.50.403);

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

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

21 (19) "Escape" means:

22 (a) Escape in the first degree (RCW 9A.76.110), escape in the  
23 second degree (RCW 9A.76.120), willful failure to return from furlough  
24 (RCW 72.66.060), willful failure to return from work release (RCW  
25 72.65.070), or willful failure to be available for supervision by the  
26 department while in community custody (RCW 72.09.310); or

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

30 (20) "Felony traffic offense" means:

31 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
32 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-  
33 and-run injury-accident (RCW 46.52.020(4)); or

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

37 (21) "Fines" means the requirement that the offender pay a specific  
38 sum of money over a specific period of time to the court.

1 (22)(a) "First-time offender" means any person who is convicted of  
2 a felony (i) not classified as a violent offense or a sex offense under  
3 this chapter, or (ii) that is not the manufacture, delivery, or  
4 possession with intent to manufacture or deliver a controlled substance  
5 classified in schedule I or II that is a narcotic drug, nor the  
6 manufacture, delivery, or possession with intent to deliver  
7 methamphetamine, its salts, isomers, and salts of its isomers as  
8 defined in RCW 69.50.206(d)(2), nor the selling for profit of any  
9 controlled substance or counterfeit substance classified in schedule I,  
10 RCW 69.50.204, except leaves and flowering tops of marihuana, and  
11 except as provided in (b) of this subsection, who previously has never  
12 been convicted of a felony in this state, federal court, or another  
13 state, and who has never participated in a program of deferred  
14 prosecution for a felony offense.

15 (b) For purposes of (a) of this subsection, a juvenile adjudication  
16 for an offense committed before the age of fifteen years is not a  
17 previous felony conviction except for adjudications of sex offenses and  
18 serious violent offenses.

19 (23) "Most serious offense" means any of the following felonies or  
20 a felony attempt to commit any of the following felonies, as now  
21 existing or hereafter amended:

22 (a) Any felony defined under any law as a class A felony or  
23 criminal solicitation of or criminal conspiracy to commit a class A  
24 felony;

25 (b) Assault in the second degree;

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

27 (d) Child molestation in the second degree;

28 (e) Controlled substance homicide;

29 (f) Drive-by shooting;

30 (g) Extortion in the first degree;

31 (~~(g)~~) (h) Incest when committed against a child under age  
32 fourteen;

33 (~~(h)~~) (i) Indecent liberties;

34 (~~(i)~~) (j) Kidnapping in the second degree;

35 (~~(j)~~) (k) Leading organized crime;

36 (~~(k)~~) (l) Manslaughter in the first degree;

37 (~~(l)~~) (m) Manslaughter in the second degree;

38 (~~(m)~~) (n) Promoting prostitution in the first degree;

39 (~~(n)~~) (o) Rape in the third degree;

1       (~~(o)~~) (p) Robbery in the second degree;  
2       (~~(p)~~) (q) Sexual exploitation;  
3       (~~(q)~~) (r) Vehicular assault;  
4       (~~(r)~~) (s) Vehicular homicide, when proximately caused by the  
5 driving of any vehicle by any person while under the influence of  
6 intoxicating liquor or any drug as defined by RCW 46.61.502, or by the  
7 operation of any vehicle in a reckless manner;  
8       (~~(s)~~) (t) Any other class B felony offense with a finding of  
9 sexual motivation, as "sexual motivation" is defined under this  
10 section;  
11       (~~(t)~~) (u) Any other felony with a deadly weapon verdict under RCW  
12 9.94A.125;  
13       (~~(u)~~) (v) Any felony offense in effect at any time prior to  
14 December 2, 1993, that is comparable to a most serious offense under  
15 this subsection, or any federal or out-of-state conviction for an  
16 offense that under the laws of this state would be a felony classified  
17 as a most serious offense under this subsection.  
18       (24) "Nonviolent offense" means an offense which is not a violent  
19 offense.  
20       (25) "Offender" means a person who has committed a felony  
21 established by state law and is eighteen years of age or older or is  
22 less than eighteen years of age but whose case has been transferred by  
23 the appropriate juvenile court to a criminal court pursuant to RCW  
24 13.40.110. Throughout this chapter, the terms "offender" and  
25 "defendant" are used interchangeably.  
26       (26) "Partial confinement" means confinement for no more than one  
27 year in a facility or institution operated or utilized under contract  
28 by the state or any other unit of government, or, if home detention or  
29 work crew has been ordered by the court, in an approved residence, for  
30 a substantial portion of each day with the balance of the day spent in  
31 the community. Partial confinement includes work release, home  
32 detention, work crew, and a combination of work crew and home detention  
33 as defined in this section.  
34       (27) "Persistent offender" is an offender who:  
35       (a)(i) Has been convicted in this state of any felony considered a  
36 most serious offense; and  
37       (ii) Has, before the commission of the offense under (a) of this  
38 subsection, been convicted as an offender on at least two separate  
39 occasions, whether in this state or elsewhere, of felonies that under

1 the laws of this state would be considered most serious offenses and  
2 would be included in the offender score under RCW 9.94A.360; provided  
3 that of the two or more previous convictions, at least one conviction  
4 must have occurred before the commission of any of the other most  
5 serious offenses for which the offender was previously convicted; or

6 (b)(i) Has been convicted of (A) rape in the first degree, rape in  
7 the second degree, or indecent liberties by forcible compulsion; (B)  
8 murder in the first degree, murder in the second degree, kidnapping in  
9 the first degree, kidnapping in the second degree, assault in the first  
10 degree, assault in the second degree, or burglary in the first degree,  
11 with a finding of sexual motivation; or (C) an attempt to commit any  
12 crime listed in this subsection (27)(b)(i); and

13 (ii) Has, before the commission of the offense under (b)(i) of this  
14 subsection, been convicted as an offender on at least one occasion,  
15 whether in this state or elsewhere, of an offense listed in (b)(i) of  
16 this subsection.

17 (28) "Postrelease supervision" is that portion of an offender's  
18 community placement that is not community custody.

19 (29) "Restitution" means the requirement that the offender pay a  
20 specific sum of money over a specific period of time to the court as  
21 payment of damages. The sum may include both public and private costs.  
22 The imposition of a restitution order does not preclude civil redress.

23 (30) "Serious traffic offense" means:

24 (a) Driving while under the influence of intoxicating liquor or any  
25 drug (RCW 46.61.502), actual physical control while under the influence  
26 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving  
27 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));  
28 or

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

32 (31) "Serious violent offense" is a subcategory of violent offense  
33 and means:

34 (a) Murder in the first degree, homicide by abuse, murder in the  
35 second degree, assault in the first degree, kidnapping in the first  
36 degree, or rape in the first degree, assault of a child in the first  
37 degree, or an attempt, criminal solicitation, or criminal conspiracy to  
38 commit one of these felonies; or

1 (b) Any federal or out-of-state conviction for an offense that  
2 under the laws of this state would be a felony classified as a serious  
3 violent offense under (a) of this subsection.

4 (32) "Sentence range" means the sentencing court's discretionary  
5 range in imposing a nonappealable sentence.

6 (33) "Sex offense" means:

7 (a) A felony that is a violation of chapter 9A.44 RCW or RCW  
8 9A.64.020 or 9.68A.090 or a felony that is, under chapter 9A.28 RCW, a  
9 criminal attempt, criminal solicitation, or criminal conspiracy to  
10 commit such crimes;

11 (b) A felony with a finding of sexual motivation under RCW  
12 9.94A.127 or 13.40.135; or

13 (c) Any federal or out-of-state conviction for an offense that  
14 under the laws of this state would be a felony classified as a sex  
15 offense under (a) of this subsection.

16 (34) "Sexual motivation" means that one of the purposes for which  
17 the defendant committed the crime was for the purpose of his or her  
18 sexual gratification.

19 (35) "Total confinement" means confinement inside the physical  
20 boundaries of a facility or institution operated or utilized under  
21 contract by the state or any other unit of government for twenty-four  
22 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

23 (36) "Transition training" means written and verbal instructions  
24 and assistance provided by the department to the offender during the  
25 two weeks prior to the offender's successful completion of the work  
26 ethic camp program. The transition training shall include instructions  
27 in the offender's requirements and obligations during the offender's  
28 period of community custody.

29 (37) "Victim" means any person who has sustained emotional,  
30 psychological, physical, or financial injury to person or property as  
31 a direct result of the crime charged.

32 (38) "Violent offense" means:

33 (a) Any of the following felonies, as now existing or hereafter  
34 amended: Any felony defined under any law as a class A felony or an  
35 attempt to commit a class A felony, criminal solicitation of or  
36 criminal conspiracy to commit a class A felony, manslaughter in the  
37 first degree, manslaughter in the second degree, indecent liberties if  
38 committed by forcible compulsion, kidnapping in the second degree,  
39 arson in the second degree, assault in the second degree, assault of a

1 child in the second degree, extortion in the first degree, robbery in  
2 the second degree, drive-by shooting, vehicular assault, and vehicular  
3 homicide, when proximately caused by the driving of any vehicle by any  
4 person while under the influence of intoxicating liquor or any drug as  
5 defined by RCW 46.61.502, or by the operation of any vehicle in a  
6 reckless manner;

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

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

13 (39) "Work crew" means a program of partial confinement consisting  
14 of civic improvement tasks for the benefit of the community of not less  
15 than thirty-five hours per week that complies with RCW 9.94A.135. The  
16 civic improvement tasks shall have minimal negative impact on existing  
17 private industries or the labor force in the county where the service  
18 or labor is performed. The civic improvement tasks shall not affect  
19 employment opportunities for people with developmental disabilities  
20 contracted through sheltered workshops as defined in RCW 82.04.385.  
21 Only those offenders sentenced to a facility operated or utilized under  
22 contract by a county or the state are eligible to participate on a work  
23 crew. Offenders sentenced for a sex offense as defined in subsection  
24 (33) of this section are not eligible for the work crew program.

25 (40) "Work ethic camp" means an alternative incarceration program  
26 designed to reduce recidivism and lower the cost of corrections by  
27 requiring offenders to complete a comprehensive array of real-world job  
28 and vocational experiences, character-building work ethics training,  
29 life management skills development, substance abuse rehabilitation,  
30 counseling, literacy training, and basic adult education.

31 (41) "Work release" means a program of partial confinement  
32 available to offenders who are employed or engaged as a student in a  
33 regular course of study at school. Participation in work release shall  
34 be conditioned upon the offender attending work or school at regularly  
35 defined hours and abiding by the rules of the work release facility.

36 (42) "Home detention" means a program of partial confinement  
37 available to offenders wherein the offender is confined in a private  
38 residence subject to electronic surveillance.



1       **Sec. 6.** RCW 9.94A.103 and 1995 c 129 s 5 are each amended to read  
2 as follows:

3       Any and all recommended sentencing agreements or plea agreements  
4 and the sentences for any and all felony crimes shall be made and  
5 retained as public records if the felony crime involves:

6       (1) Any violent offense as defined in this chapter;

7       (2) Any most serious offense as defined in this chapter;

8       (3) Any felony with a deadly weapon special verdict under RCW  
9 9.94A.125;

10       (4) Any felony with any deadly weapon enhancements under RCW  
11 9.94A.310 (3) or (4), or both; and/or

12       (5) The felony crimes of possession of a machine gun, possessing a  
13 stolen firearm, (~~reckless endangerment in the first degree~~) drive-by  
14 shooting, theft of a firearm, unlawful possession of a firearm in the  
15 first or second degree, and/or use of a machine gun in a felony.

16       **Sec. 7.** RCW 9.94A.105 and 1995 c 129 s 6 are each amended to read  
17 as follows:

18       (1) A current, newly created or reworked judgment and sentence  
19 document for each felony sentencing shall record any and all  
20 recommended sentencing agreements or plea agreements and the sentences  
21 for any and all felony crimes kept as public records under RCW  
22 9.94A.103 shall contain the clearly printed name and legal signature of  
23 the sentencing judge. The judgment and sentence document as defined in  
24 this section shall also provide additional space for the sentencing  
25 judge's reasons for going either above or below the presumptive  
26 sentence range for any and all felony crimes covered as public records  
27 under RCW 9.94A.103. Both the sentencing judge and the prosecuting  
28 attorney's office shall each retain or receive a completed copy of each  
29 sentencing document as defined in this section for their own records.

30       (2) The sentencing guidelines commission shall be sent a completed  
31 copy of the judgment and sentence document upon conviction for each  
32 felony sentencing under subsection (1) of this section and shall  
33 compile a yearly and cumulative judicial record of each sentencing  
34 judge in regards to his or her sentencing practices for any and all  
35 felony crimes involving:

36       (a) Any violent offense as defined in this chapter;

37       (b) Any most serious offense as defined in this chapter;

1 (c) Any felony with any deadly weapon special verdict under RCW  
2 9.94A.125;

3 (d) Any felony with any deadly weapon enhancements under RCW  
4 9.94A.310 (3) or (4), or both; and/or

5 (e) The felony crimes of possession of a machine gun, possessing a  
6 stolen firearm, (~~reckless endangerment in the first degree~~) drive-by  
7 shooting, theft of a firearm, unlawful possession of a firearm in the  
8 first or second degree, and/or use of a machine gun in a felony.

9 (3) The sentencing guidelines commission shall compare each  
10 individual judge's sentencing practices to the standard or presumptive  
11 sentence range for any and all felony crimes listed in subsection (2)  
12 of this section for the appropriate offense level as defined in RCW  
13 9.94A.320, offender score as defined in RCW 9.94A.360, and any  
14 applicable deadly weapon enhancements as defined in RCW 9.94A.310 (3)  
15 or (4), or both. These comparative records shall be retained and made  
16 available to the public for review in a current, newly created or  
17 reworked official published document by the sentencing guidelines  
18 commission.

19 (4) Any and all felony sentences which are either above or below  
20 the standard or presumptive sentence range in subsection (3) of this  
21 section shall also mark whether the prosecuting attorney in the case  
22 also recommended a similar sentence, if any, which was either above or  
23 below the presumptive sentence range and shall also indicate if the  
24 sentence was in conjunction with an approved alternative sentencing  
25 option including a first-time offender waiver, sex offender sentencing  
26 alternative, or other prescribed sentencing option.

27 (5) If any completed judgment and sentence document as defined in  
28 subsection (1) of this section is not sent to the sentencing guidelines  
29 commission as required in subsection (2) of this section, the  
30 sentencing guidelines commission shall have the authority and shall  
31 undertake reasonable and necessary steps to assure that all past,  
32 current, and future sentencing documents as defined in subsection (1)  
33 of this section are received by the sentencing guidelines commission.

34 **Sec. 8.** RCW 9.94A.310 and 1996 c 205 s 5 are each amended to read  
35 as follows:

1 (1)

TABLE 1

2

Sentencing Grid

3 SERIOUSNESS

4 SCORE

OFFENDER SCORE

5

9 or

6

0

1

2

3

4

5

6

7

8

more

7

8 XV Life Sentence without Parole/Death Penalty

9

10	XIV	23y4m	24y4m	25y4m	26y4m	27y4m	28y4m	30y4m	32y10m	36y	40y
11		240-	250-	261-	271-	281-	291-	312-	338-	370-	411-
12		320	333	347	361	374	388	416	450	493	548

13

14	XIII	12y	13y	14y	15y	16y	17y	19y	21y	25y	29y
15		123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
16		164	178	192	205	219	233	260	288	342	397

17

18	XII	9y	9y11m	10y9m	11y8m	12y6m	13y5m	15y9m	17y3m	20y3m	23y3m
19		93-	102-	111-	120-	129-	138-	162-	178-	209-	240-
20		123	136	147	160	171	184	216	236	277	318

21

22	XI	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m
23		78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
24		102	114	125	136	147	158	194	211	245	280

25

26	X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
27		51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
28		68	75	82	89	96	102	130	144	171	198

29

30	IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
31		31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
32		41	48	54	61	68	75	102	116	144	171

33

34	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
35		21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
36		27	34	41	48	54	61	89	102	116	144

37

1	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
2		15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
3		20	27	34	41	48	54	75	89	102	116
4											
5	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
6		12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
7		14	20	27	34	41	48	61	75	89	102
8											
9	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
10		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
11		12	14	17	20	29	43	54	68	82	96
12											
13	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
14		3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
15		9	12	14	17	20	29	43	57	70	84
16											
17	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
18		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
19		3	8	12	12	16	22	29	43	57	68
20											
21	II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
22		0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
23		Days	6	9	12	14	18	22	29	43	57
24											
25	I			3m	4m	5m	8m	13m	16m	20m	2y2m
26		0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
27		Days	Days	5	6	8	12	14	18	22	29
28											

29 NOTE: Numbers in the first horizontal row of each seriousness category  
30 represent sentencing midpoints in years(y) and months(m). Numbers in  
31 the second and third rows represent presumptive sentencing ranges in  
32 months, or in days if so designated. 12+ equals one year and one day.

33 (2) For persons convicted of the anticipatory offenses of criminal  
34 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the  
35 presumptive sentence is determined by locating the sentencing grid  
36 sentence range defined by the appropriate offender score and the  
37 seriousness level of the completed crime, and multiplying the range by  
38 75 percent.

1 (3) The following additional times shall be added to the  
2 presumptive sentence for felony crimes committed after July 23, 1995,  
3 if the offender or an accomplice was armed with a firearm as defined in  
4 RCW 9.41.010 and the offender is being sentenced for one of the crimes  
5 listed in this subsection as eligible for any firearm enhancements  
6 based on the classification of the completed felony crime. If the  
7 offender or an accomplice was armed with a firearm as defined in RCW  
8 9.41.010 and the offender is being sentenced for an anticipatory  
9 offense under chapter 9A.28 RCW to commit one of the crimes listed in  
10 this subsection as eligible for any firearm enhancements, the following  
11 additional times shall be added to the presumptive sentence determined  
12 under subsection (2) of this section based on the felony crime of  
13 conviction as classified under RCW 9A.28.020:

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

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

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

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

30 (e) Notwithstanding any other provision of law, any and all  
31 firearm enhancements under this section are mandatory, shall be served  
32 in total confinement, and shall not run concurrently with any other  
33 sentencing provisions.

34 (f) The firearm enhancements in this section shall apply to all  
35 felony crimes except the following: Possession of a machine gun,  
36 possessing a stolen firearm, (~~reckless endangerment in the first~~  
37 ~~degree~~) drive-by shooting, theft of a firearm, unlawful possession of  
38 a firearm in the first and second degree, and use of a machine gun in  
39 a felony.

1 (g) If the presumptive sentence under this section exceeds the  
2 statutory maximum for the offense, the statutory maximum sentence shall  
3 be the presumptive sentence unless the offender is a persistent  
4 offender as defined in RCW 9.94A.030.

5 (4) The following additional times shall be added to the  
6 presumptive sentence for felony crimes committed after July 23, 1995,  
7 if the offender or an accomplice was armed with a deadly weapon as  
8 defined in this chapter other than a firearm as defined in RCW 9.41.010  
9 and the offender is being sentenced for one of the crimes listed in  
10 this subsection as eligible for any deadly weapon enhancements based on  
11 the classification of the completed felony crime. If the offender or  
12 an accomplice was armed with a deadly weapon other than a firearm as  
13 defined in RCW 9.41.010 and the offender is being sentenced for an  
14 anticipatory offense under chapter 9A.28 RCW to commit one of the  
15 crimes listed in this subsection as eligible for any deadly weapon  
16 enhancements, the following additional times shall be added to the  
17 presumptive sentence determined under subsection (2) of this section  
18 based on the felony crime of conviction as classified under RCW  
19 9A.28.020:

20 (a) Two years for any felony defined under any law as a class A  
21 felony or with a maximum sentence of at least twenty years, or both,  
22 and not covered under (f) of this subsection.

23 (b) One year for any felony defined under any law as a class B  
24 felony or with a maximum sentence of ten years, or both, and not  
25 covered under (f) of this subsection.

26 (c) Six months for any felony defined under any law as a class C  
27 felony or with a maximum sentence of five years, or both, and not  
28 covered under (f) of this subsection.

29 (d) If the offender is being sentenced under (a), (b), and/or (c)  
30 of this subsection for any deadly weapon enhancements and the offender  
31 has previously been sentenced for any deadly weapon enhancements after  
32 July 23, 1995, under (a), (b), and/or (c) of this subsection or  
33 subsection (3)(a), (b), and/or (c) of this section, or both, any and  
34 all deadly weapon enhancements under this subsection shall be twice the  
35 amount of the enhancement listed.

36 (e) Notwithstanding any other provision of law, any and all deadly  
37 weapon enhancements under this section are mandatory, shall be served  
38 in total confinement, and shall not run concurrently with any other  
39 sentencing provisions.

1 (f) The deadly weapon enhancements in this section shall apply to  
2 all felony crimes except the following: Possession of a machine gun,  
3 possessing a stolen firearm, (~~reckless endangerment in the first~~  
4 ~~degree~~) drive-by shooting, theft of a firearm, unlawful possession of  
5 a firearm in the first and second degree, and use of a machine gun in  
6 a felony.

7 (g) If the presumptive sentence under this section exceeds the  
8 statutory maximum for the offense, the statutory maximum sentence shall  
9 be the presumptive sentence unless the offender is a persistent  
10 offender as defined in RCW 9.94A.030.

11 (5) The following additional times shall be added to the  
12 presumptive sentence if the offender or an accomplice committed the  
13 offense while in a county jail or state correctional facility as that  
14 term is defined in this chapter and the offender is being sentenced for  
15 one of the crimes listed in this subsection. If the offender or an  
16 accomplice committed one of the crimes listed in this subsection while  
17 in a county jail or state correctional facility as that term is defined  
18 in this chapter, and the offender is being sentenced for an  
19 anticipatory offense under chapter 9A.28 RCW to commit one of the  
20 crimes listed in this subsection, the following additional times shall  
21 be added to the presumptive sentence determined under subsection (2) of  
22 this section:

23 (a) Eighteen months for offenses committed under RCW  
24 69.50.401(a)(1) (i) or (ii) or 69.50.410;

25 (b) Fifteen months for offenses committed under RCW  
26 69.50.401(a)(1) (iii), (iv), and (v);

27 (c) Twelve months for offenses committed under RCW 69.50.401(d).

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

31 (6) An additional twenty-four months shall be added to the  
32 presumptive sentence for any ranked offense involving a violation of  
33 chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435.

34 **Sec. 9.** RCW 9.94A.320 and 1996 c 302 s 6, 1996 c 205 s 3, and  
35 1996 c 36 s 2 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

1		
2		
3	XV	Aggravated Murder 1 (RCW 10.95.020)
4	XIV	Murder 1 (RCW 9A.32.030)
5		Homicide by abuse (RCW 9A.32.055)
6	XIII	Murder 2 (RCW 9A.32.050)
7	XII	Assault 1 (RCW 9A.36.011)
8		Assault of a Child 1 (RCW 9A.36.120)
9	XI	Rape 1 (RCW 9A.44.040)
10		Rape of a Child 1 (RCW 9A.44.073)
11	X	Kidnapping 1 (RCW 9A.40.020)
12		Rape 2 (RCW 9A.44.050)
13		Rape of a Child 2 (RCW 9A.44.076)
14		Child Molestation 1 (RCW 9A.44.083)
15		Damaging building, etc., by explosion with
16		threat to human being (RCW 70.74.280(1))
17		Over 18 and deliver heroin or narcotic from
18		Schedule I or II to someone under 18
19		(RCW 69.50.406)
20		Leading Organized Crime (RCW 9A.82.060(1)(a))
21	IX	Assault of a Child 2 (RCW 9A.36.130)
22		Robbery 1 (RCW 9A.56.200)
23		Manslaughter 1 (RCW 9A.32.060)
24		Explosive devices prohibited (RCW 70.74.180)
25		Indecent Liberties (with forcible compulsion)
26		(RCW 9A.44.100(1)(a))
27		Endangering life and property by explosives
28		with threat to human being (RCW
29		70.74.270)
30		Over 18 and deliver narcotic from Schedule
31		III, IV, or V or a nonnarcotic from
32		Schedule I-V to someone under 18 and 3
33		years junior (RCW 69.50.406)
34		Controlled Substance Homicide (RCW 69.50.415)



1 Sexual Exploitation (RCW 9.68A.040)  
2 Inciting Criminal Profiteering (RCW  
3 9A.82.060(1)(b))  
4 Vehicular Homicide, by being under the  
5 influence of intoxicating liquor or any  
6 drug (RCW 46.61.520)

7 VIII Arson 1 (RCW 9A.48.020)  
8 Promoting Prostitution 1 (RCW 9A.88.070)  
9 Selling for profit (controlled or  
10 counterfeit) any controlled substance  
11 (RCW 69.50.410)  
12 Manufacture, deliver, or possess with intent  
13 to deliver heroin or cocaine (RCW  
14 69.50.401(a)(1)(i))  
15 Manufacture, deliver, or possess with intent  
16 to deliver methamphetamine (RCW  
17 69.50.401(a)(1)(ii))  
18 Possession of ephedrine or pseudoephedrine  
19 with intent to manufacture  
20 methamphetamine (RCW 69.50.440)  
21 Vehicular Homicide, by the operation of any  
22 vehicle in a reckless manner (RCW  
23 46.61.520)

24 VII Burglary 1 (RCW 9A.52.020)  
25 Vehicular Homicide, by disregard for the  
26 safety of others (RCW 46.61.520)  
27 Introducing Contraband 1 (RCW 9A.76.140)  
28 Indecent Liberties (without forcible  
29 compulsion) (RCW 9A.44.100(1) (b) and  
30 (c))  
31 Child Molestation 2 (RCW 9A.44.086)  
32 Dealing in depictions of minor engaged in  
33 sexually explicit conduct (RCW  
34 9.68A.050)

1 Sending, bringing into state depictions of  
2 minor engaged in sexually explicit  
3 conduct (RCW 9.68A.060)  
4 Involving a minor in drug dealing (RCW  
5 69.50.401(f))  
6 (~~Reckless Endangerment 1~~) Drive-by Shooting  
7 (RCW 9A.36.045)  
8 Unlawful Possession of a Firearm in the first  
9 degree (RCW 9.41.040(1)(a))  
10 VI Bribery (RCW 9A.68.010)  
11 Manslaughter 2 (RCW 9A.32.070)  
12 Rape of a Child 3 (RCW 9A.44.079)  
13 Intimidating a Juror/Witness (RCW 9A.72.110,  
14 9A.72.130)  
15 Damaging building, etc., by explosion with no  
16 threat to human being (RCW 70.74.280(2))  
17 Endangering life and property by explosives  
18 with no threat to human being (RCW  
19 70.74.270)  
20 Incest 1 (RCW 9A.64.020(1))  
21 Manufacture, deliver, or possess with intent  
22 to deliver narcotics from Schedule I or  
23 II (except heroin or cocaine) (RCW  
24 69.50.401(a)(1)(i))  
25 Intimidating a Judge (RCW 9A.72.160)  
26 Bail Jumping with Murder 1 (RCW  
27 9A.76.170(2)(a))  
28 Theft of a Firearm (RCW 9A.56.300)  
29 V Persistent prison misbehavior (RCW 9.94.070)  
30 Criminal Mistreatment 1 (RCW 9A.42.020)  
31 Abandonment of dependent person 1 (RCW  
32 9A.42.060)  
33 Rape 3 (RCW 9A.44.060)  
34 Sexual Misconduct with a Minor 1 (RCW  
35 9A.44.093)  
36 Child Molestation 3 (RCW 9A.44.089)  
37 Kidnapping 2 (RCW 9A.40.030)  
38 Extortion 1 (RCW 9A.56.120)

1 Incest 2 (RCW 9A.64.020(2))  
2 Perjury 1 (RCW 9A.72.020)  
3 Extortionate Extension of Credit (RCW  
4 9A.82.020)  
5 Advancing money or property for extortionate  
6 extension of credit (RCW 9A.82.030)  
7 Extortionate Means to Collect Extensions of  
8 Credit (RCW 9A.82.040)  
9 Rendering Criminal Assistance 1 (RCW  
10 9A.76.070)  
11 Bail Jumping with class A Felony (RCW  
12 9A.76.170(2)(b))  
13 Sexually Violating Human Remains (RCW  
14 9A.44.105)  
15 Delivery of imitation controlled substance by  
16 person eighteen or over to person under  
17 eighteen (RCW 69.52.030(2))  
18 Possession of a Stolen Firearm (RCW  
19 9A.56.310)

20 IV Residential Burglary (RCW 9A.52.025)  
21 Theft of Livestock 1 (RCW 9A.56.080)  
22 Robbery 2 (RCW 9A.56.210)  
23 Assault 2 (RCW 9A.36.021)  
24 Escape 1 (RCW 9A.76.110)  
25 Arson 2 (RCW 9A.48.030)  
26 Commercial Bribery (RCW 9A.68.060)  
27 Bribing a Witness/Bribe Received by Witness  
28 (RCW 9A.72.090, 9A.72.100)  
29 Malicious Harassment (RCW 9A.36.080)  
30 Threats to Bomb (RCW 9.61.160)  
31 Willful Failure to Return from Furlough (RCW  
32 72.66.060)  
33 Hit and Run -- Injury Accident (RCW  
34 46.52.020(4))  
35 Hit and Run with Vessel -- Injury Accident  
36 (RCW 88.12.155(3))  
37 Vehicular Assault (RCW 46.61.522)

1 Manufacture, deliver, or possess with intent  
2 to deliver narcotics from Schedule III,  
3 IV, or V or nonnarcotics from Schedule  
4 I-V (except marijuana or  
5 methamphetamines) (RCW 69.50.401(a)(1)  
6 (iii) through (v))  
7 Influencing Outcome of Sporting Event (RCW  
8 9A.82.070)  
9 Use of Proceeds of Criminal Profiteering (RCW  
10 9A.82.080 (1) and (2))  
11 Knowingly Trafficking in Stolen Property (RCW  
12 9A.82.050(2))  
13 III Criminal Mistreatment 2 (RCW 9A.42.030)  
14 Abandonment of dependent person 2 (RCW  
15 9A.42.070)  
16 Extortion 2 (RCW 9A.56.130)  
17 Unlawful Imprisonment (RCW 9A.40.040)  
18 Assault 3 (RCW 9A.36.031)  
19 Assault of a Child 3 (RCW 9A.36.140)  
20 Custodial Assault (RCW 9A.36.100)  
21 Unlawful possession of firearm in the second  
22 degree (RCW 9.41.040(1)(b))  
23 Harassment (RCW 9A.46.020)  
24 Promoting Prostitution 2 (RCW 9A.88.080)  
25 Willful Failure to Return from Work Release  
26 (RCW 72.65.070)  
27 Burglary 2 (RCW 9A.52.030)  
28 Introducing Contraband 2 (RCW 9A.76.150)  
29 Communication with a Minor for Immoral  
30 Purposes (RCW 9.68A.090)  
31 Patronizing a Juvenile Prostitute (RCW  
32 9.68A.100)  
33 Escape 2 (RCW 9A.76.120)  
34 Perjury 2 (RCW 9A.72.030)  
35 Bail Jumping with class B or C Felony (RCW  
36 9A.76.170(2)(c))  
37 Intimidating a Public Servant (RCW 9A.76.180)  
38 Tampering with a Witness (RCW 9A.72.120)

1 Manufacture, deliver, or possess with intent  
2 to deliver marijuana (RCW  
3 69.50.401(a)(1)(iii))  
4 Delivery of a material in lieu of a  
5 controlled substance (RCW 69.50.401(c))  
6 Manufacture, distribute, or possess with  
7 intent to distribute an imitation  
8 controlled substance (RCW 69.52.030(1))  
9 Recklessly Trafficking in Stolen Property  
10 (RCW 9A.82.050(1))  
11 Theft of livestock 2 (RCW 9A.56.080)  
12 Securities Act violation (RCW 21.20.400)

13 II Unlawful Practice of Law (RCW 2.48.180)  
14 Malicious Mischief 1 (RCW 9A.48.070)  
15 Possession of Stolen Property 1 (RCW  
16 9A.56.150)  
17 Theft 1 (RCW 9A.56.030)  
18 Trafficking in Insurance Claims (RCW  
19 48.30A.015)  
20 Unlicensed Practice of a Profession or  
21 Business (RCW 18.130.190(7))  
22 Health Care False Claims (RCW 48.80.030)  
23 Possession of controlled substance that is  
24 either heroin or narcotics from Schedule  
25 I or II (RCW 69.50.401(d))  
26 Possession of phencyclidine (PCP) (RCW  
27 69.50.401(d))  
28 Create, deliver, or possess a counterfeit  
29 controlled substance (RCW 69.50.401(b))  
30 Computer Trespass 1 (RCW 9A.52.110)  
31 Escape from Community Custody (RCW 72.09.310)

32 I Theft 2 (RCW 9A.56.040)  
33 Possession of Stolen Property 2 (RCW  
34 9A.56.160)  
35 Forgery (RCW 9A.60.020)  
36 Taking Motor Vehicle Without Permission (RCW  
37 9A.56.070)  
38 Vehicle Prowl 1 (RCW 9A.52.095)

1 Attempting to Elude a Pursuing Police Vehicle  
2 (RCW 46.61.024)  
3 Malicious Mischief 2 (RCW 9A.48.080)  
4 Reckless Burning 1 (RCW 9A.48.040)  
5 Unlawful Issuance of Checks or Drafts (RCW  
6 9A.56.060)  
7 Unlawful Use of Food Stamps (RCW 9.91.140 (2)  
8 and (3))  
9 False Verification for Welfare (RCW  
10 74.08.055)  
11 Forged Prescription (RCW 69.41.020)  
12 Forged Prescription for a Controlled  
13 Substance (RCW 69.50.403)  
14 Possess Controlled Substance that is a  
15 Narcotic from Schedule III, IV, or V or  
16 Non-narcotic from Schedule I-V (except  
17 phencyclidine) (RCW 69.50.401(d))

18 **Sec. 10.** RCW 9A.46.060 and 1994 c 271 s 802 and 1994 c 121 s 2  
19 are each reenacted and amended to read as follows:

20 As used in this chapter, "harassment" may include but is not  
21 limited to any of the following crimes:

- 22 (1) Harassment (RCW 9A.46.020);
- 23 (2) Malicious harassment (RCW 9A.36.080);
- 24 (3) Telephone harassment (RCW 9.61.230);
- 25 (4) Assault in the first degree (RCW 9A.36.011);
- 26 (5) Assault of a child in the first degree (RCW 9A.36.120);
- 27 (6) Assault in the second degree (RCW 9A.36.021);
- 28 (7) Assault of a child in the second degree (RCW 9A.36.130);
- 29 (8) Assault in the fourth degree (RCW 9A.36.041);
- 30 (9) Reckless endangerment (~~((in the second degree))~~) (RCW  
31 9A.36.050);
- 32 (10) Extortion in the first degree (RCW 9A.56.120);
- 33 (11) Extortion in the second degree (RCW 9A.56.130);
- 34 (12) Coercion (RCW 9A.36.070);
- 35 (13) Burglary in the first degree (RCW 9A.52.020);
- 36 (14) Burglary in the second degree (RCW 9A.52.030);
- 37 (15) Criminal trespass in the first degree (RCW 9A.52.070);
- 38 (16) Criminal trespass in the second degree (RCW 9A.52.080);

1 (17) Malicious mischief in the first degree (RCW 9A.48.070);  
2 (18) Malicious mischief in the second degree (RCW 9A.48.080);  
3 (19) Malicious mischief in the third degree (RCW 9A.48.090);  
4 (20) Kidnapping in the first degree (RCW 9A.40.020);  
5 (21) Kidnapping in the second degree (RCW 9A.40.030);  
6 (22) Unlawful imprisonment (RCW 9A.40.040);  
7 (23) Rape in the first degree (RCW 9A.44.040);  
8 (24) Rape in the second degree (RCW 9A.44.050);  
9 (25) Rape in the third degree (RCW 9A.44.060);  
10 (26) Indecent liberties (RCW 9A.44.100);  
11 (27) Rape of a child in the first degree (RCW 9A.44.073);  
12 (28) Rape of a child in the second degree (RCW 9A.44.076);  
13 (29) Rape of a child in the third degree (RCW 9A.44.079);  
14 (30) Child molestation in the first degree (RCW 9A.44.083);  
15 (31) Child molestation in the second degree (RCW 9A.44.086);  
16 (32) Child molestation in the third degree (RCW 9A.44.089);  
17 (33) Stalking (RCW 9A.46.110);  
18 (34) Residential burglary (RCW 9A.52.025); and  
19 (35) Violation of a temporary or permanent protective order issued  
20 pursuant to chapter 9A.46, 10.14, 10.99, 26.09, or 26.50 RCW.

21 **Sec. 11.** RCW 10.99.020 and 1996 c 248 s 5 are each amended to  
22 read as follows:

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

25 (1) "Family or household members" means spouses, former spouses,  
26 persons who have a child in common regardless of whether they have been  
27 married or have lived together at any time, adult persons related by  
28 blood or marriage, adult persons who are presently residing together or  
29 who have resided together in the past, persons sixteen years of age or  
30 older who are presently residing together or who have resided together  
31 in the past and who have or have had a dating relationship, persons  
32 sixteen years of age or older with whom a person sixteen years of age  
33 or older has or has had a dating relationship, and persons who have a  
34 biological or legal parent-child relationship, including stepparents  
35 and stepchildren and grandparents and grandchildren.

36 (2) "Dating relationship" has the same meaning as in RCW  
37 26.50.010.

1 (3) "Domestic violence" includes but is not limited to any of the  
2 following crimes when committed by one family or household member  
3 against another:

4 (a) Assault in the first degree (RCW 9A.36.011);

5 (b) Assault in the second degree (RCW 9A.36.021);

6 (c) Assault in the third degree (RCW 9A.36.031);

7 (d) Assault in the fourth degree (RCW 9A.36.041);

8 (e) (~~Reckless endangerment in the first degree~~) Drive-by  
9 shooting (RCW 9A.36.045);

10 (f) Reckless endangerment (~~in the second degree~~) (RCW  
11 9A.36.050);

12 (g) Coercion (RCW 9A.36.070);

13 (h) Burglary in the first degree (RCW 9A.52.020);

14 (i) Burglary in the second degree (RCW 9A.52.030);

15 (j) Criminal trespass in the first degree (RCW 9A.52.070);

16 (k) Criminal trespass in the second degree (RCW 9A.52.080);

17 (l) Malicious mischief in the first degree (RCW 9A.48.070);

18 (m) Malicious mischief in the second degree (RCW 9A.48.080);

19 (n) Malicious mischief in the third degree (RCW 9A.48.090);

20 (o) Kidnapping in the first degree (RCW 9A.40.020);

21 (p) Kidnapping in the second degree (RCW 9A.40.030);

22 (q) Unlawful imprisonment (RCW 9A.40.040);

23 (r) Violation of the provisions of a restraining order restraining  
24 the person or restraining the person from going onto the grounds of or  
25 entering a residence, workplace, school, or day care (RCW 26.09.300,  
26 26.10.220, or 26.26.138);

27 (s) Violation of the provisions of a protection order or no-  
28 contact order restraining the person or restraining the person from  
29 going onto the grounds of or entering a residence, workplace, school,  
30 or day care (RCW 26.50.060, 26.50.070, 26.50.130, 10.99.040, or  
31 10.99.050);

32 (t) Rape in the first degree (RCW 9A.44.040);

33 (u) Rape in the second degree (RCW 9A.44.050);

34 (v) Residential burglary (RCW 9A.52.025);

35 (w) Stalking (RCW 9A.46.110); and

36 (x) Interference with the reporting of domestic violence (RCW  
37 9A.36.150).

38 (4) "Victim" means a family or household member who has been  
39 subjected to domestic violence.



1           **Sec. 12.** RCW 10.99.040 and 1996 c 248 s 7 are each amended to  
2 read as follows:

3           (1) Because of the serious nature of domestic violence, the court  
4 in domestic violence actions:

5           (a) Shall not dismiss any charge or delay disposition because of  
6 concurrent dissolution or other civil proceedings;

7           (b) Shall not require proof that either party is seeking a  
8 dissolution of marriage prior to instigation of criminal proceedings;

9           (c) Shall waive any requirement that the victim's location be  
10 disclosed to any person, other than the attorney of a criminal  
11 defendant, upon a showing that there is a possibility of further  
12 violence: PROVIDED, That the court may order a criminal defense  
13 attorney not to disclose to his or her client the victim's location;  
14 and

15           (d) Shall identify by any reasonable means on docket sheets those  
16 criminal actions arising from acts of domestic violence.

17           (2) Because of the likelihood of repeated violence directed at  
18 those who have been victims of domestic violence in the past, when any  
19 person charged with or arrested for a crime involving domestic violence  
20 is released from custody before arraignment or trial on bail or  
21 personal recognizance, the court authorizing the release may prohibit  
22 that person from having any contact with the victim. The jurisdiction  
23 authorizing the release shall determine whether that person should be  
24 prohibited from having any contact with the victim. If there is no  
25 outstanding restraining or protective order prohibiting that person  
26 from having contact with the victim, the court authorizing release may  
27 issue, by telephone, a no-contact order prohibiting the person charged  
28 or arrested from having contact with the victim. In issuing the order,  
29 the court shall consider the provisions of RCW 9.41.800. The no-  
30 contact order shall also be issued in writing as soon as possible.

31           (3) At the time of arraignment the court shall determine whether  
32 a no-contact order shall be issued or extended. If a no-contact order  
33 is issued or extended, the court may also include in the conditions of  
34 release a requirement that the defendant submit to electronic  
35 monitoring. If electronic monitoring is ordered, the court shall  
36 specify who shall provide the monitoring services, and the terms under  
37 which the monitoring shall be performed. Upon conviction, the court  
38 may require as a condition of the sentence that the defendant reimburse  
39 the providing agency for the costs of the electronic monitoring.

1 (4)(a) Willful violation of a court order issued under subsection  
2 (2) or (3) of this section is a gross misdemeanor except as provided in  
3 (b) and (c) of this subsection (4). Upon conviction and in addition to  
4 other penalties provided by law, the court may require that the  
5 defendant submit to electronic monitoring. The court shall specify who  
6 shall provide the electronic monitoring services and the terms under  
7 which the monitoring must be performed. The court also may include a  
8 requirement that the defendant pay the costs of the monitoring. The  
9 court shall consider the ability of the convicted person to pay for  
10 electronic monitoring.

11 (b) Any assault that is a violation of an order issued under this  
12 section and that does not amount to assault in the first or second  
13 degree under RCW 9A.36.011 or 9A.36.021 is a class C felony punishable  
14 under chapter 9A.20 RCW, and any conduct in violation of a protective  
15 order issued under this section that is reckless and creates a  
16 substantial risk of death or serious physical injury to another person  
17 is a class C felony punishable under chapter 9A.20 RCW.

18 (c) A willful violation of a court order issued under this section  
19 is a class C felony if the offender has at least two previous  
20 convictions for violating the provisions of a no-contact order issued  
21 under this chapter, a domestic violence protection order issued under  
22 chapter 26.09, 26.10, 26.26, or 26.50 RCW, or any federal or out-of-  
23 state order that is comparable to a no-contact order or protection  
24 order issued under Washington law. The previous convictions may  
25 involve the same victim or other victims specifically protected by the  
26 no-contact orders or protection orders the offender violated.

27 (d) The written order releasing the person charged or arrested  
28 shall contain the court's directives and shall bear the legend:  
29 "Violation of this order is a criminal offense under chapter 10.99 RCW  
30 and will subject a violator to arrest; any assault, drive-by shooting,  
31 or reckless endangerment that is a violation of this order is a felony.  
32 You can be arrested even if any person protected by the order invites  
33 or allows you to violate the order's prohibitions. You have the sole  
34 responsibility to avoid or refrain from violating the order's  
35 provisions. Only the court can change the order." A certified copy of  
36 the order shall be provided to the victim. If a no-contact order has  
37 been issued prior to charging, that order shall expire at arraignment  
38 or within seventy-two hours if charges are not filed. Such orders need  
39 not be entered into the computer-based criminal intelligence

1 information system in this state which is used by law enforcement  
2 agencies to list outstanding warrants.

3 (5) Whenever an order prohibiting contact is issued, modified, or  
4 terminated under subsection (2) or (3) of this section, the clerk of  
5 the court shall forward a copy of the order on or before the next  
6 judicial day to the appropriate law enforcement agency specified in the  
7 order. Upon receipt of the copy of the order the law enforcement  
8 agency shall forthwith enter the order for one year or until the  
9 expiration date specified on the order into any computer-based criminal  
10 intelligence information system available in this state used by law  
11 enforcement agencies to list outstanding warrants. Entry into the law  
12 enforcement information system constitutes notice to all law  
13 enforcement agencies of the existence of the order. The order is fully  
14 enforceable in any jurisdiction in the state.

15 **Sec. 13.** RCW 10.99.050 and 1996 c 248 s 8 are each amended to  
16 read as follows:

17 (1) When a defendant is found guilty of a crime and a condition of  
18 the sentence restricts the defendant's ability to have contact with the  
19 victim, such condition shall be recorded and a written certified copy  
20 of that order shall be provided to the victim.

21 (2) Willful violation of a court order issued under this section  
22 is a gross misdemeanor. Any assault that is a violation of an order  
23 issued under this section and that does not amount to assault in the  
24 first or second degree under RCW 9A.36.011 or 9A.36.021 is a class C  
25 felony, and any conduct in violation of a protective order issued under  
26 this section that is reckless and creates a substantial risk of death  
27 or serious physical injury to another person is a class C felony. A  
28 willful violation of a court order issued under this section is also a  
29 class C felony if the offender has at least two previous convictions  
30 for violating the provisions of a no-contact order issued under this  
31 chapter, or a domestic violence protection order issued under chapter  
32 26.09, 26.10, 26.26, or 26.50 RCW, or any federal or out-of-state order  
33 that is comparable to a no-contact order or protection order that is  
34 issued under Washington law. The previous convictions may involve the  
35 same victim or other victims specifically protected by the no-contact  
36 orders or protection orders the offender violated.

37 The written order shall contain the court's directives and shall  
38 bear the legend: Violation of this order is a criminal offense under

1 chapter 10.99 RCW and will subject a violator to arrest; any assault,  
 2 drive-by shooting, or reckless endangerment that is a violation of this  
 3 order is a felony.

4 (3) Whenever an order prohibiting contact is issued pursuant to  
 5 this section, the clerk of the court shall forward a copy of the order  
 6 on or before the next judicial day to the appropriate law enforcement  
 7 agency specified in the order. Upon receipt of the copy of the order  
 8 the law enforcement agency shall forthwith enter the order for one year  
 9 into any computer-based criminal intelligence information system  
 10 available in this state used by law enforcement agencies to list  
 11 outstanding warrants. Entry into the law enforcement information  
 12 system constitutes notice to all law enforcement agencies of the  
 13 existence of the order. The order is fully enforceable in any  
 14 jurisdiction in the state.

15 **Sec. 14.** RCW 13.40.0357 and 1996 c 205 s 6 are each amended to  
 16 read as follows:

17 **SCHEDULE A**

18 **DESCRIPTION AND OFFENSE CATEGORY**

19	<i>JUVENILE</i>		<i>JUVENILE DISPOSITION</i>
20	<i>DISPOSITION</i>		<i>CATEGORY FOR ATTEMPT,</i>
21	<i>OFFENSE</i>		<i>BAILJUMP, CONSPIRACY,</i>
22	<i>CATEGORY</i>	<i>DESCRIPTION (RCW CITATION)</i>	<i>OR SOLICITATION</i>
23	.....		

24 ***Arson and Malicious Mischief***

25	<i>A</i>	<i>Arson 1 (9A.48.020)</i>	<i>B+</i>
26	<i>B</i>	<i>Arson 2 (9A.48.030)</i>	<i>C</i>
27	<i>C</i>	<i>Reckless Burning 1 (9A.48.040)</i>	<i>D</i>
28	<i>D</i>	<i>Reckless Burning 2 (9A.48.050)</i>	<i>E</i>
29	<i>B</i>	<i>Malicious Mischief 1 (9A.48.070)</i>	<i>C</i>
30	<i>C</i>	<i>Malicious Mischief 2 (9A.48.080)</i>	<i>D</i>
31	<i>D</i>	<i>Malicious Mischief 3 (&lt;\$50 is</i>	
32		<i>E class) (9A.48.090)</i>	<i>E</i>
33	<i>E</i>	<i>Tampering with Fire Alarm</i>	
34		<i>Apparatus (9.40.100)</i>	<i>E</i>
35	<i>A</i>	<i>Possession of Incendiary Device</i>	
36		<i>(9.40.120)</i>	<i>B+</i>

1		<b><i>Assault and Other Crimes</i></b>	
2		<b><i>Involving Physical Harm</i></b>	
3	A	<i>Assault 1 (9A.36.011)</i>	B+
4	B+	<i>Assault 2 (9A.36.021)</i>	C+
5	C+	<i>Assault 3 (9A.36.031)</i>	D+
6	D+	<i>Assault 4 (9A.36.041)</i>	E
7	<u>B+</u>	<u><i>Drive-by Shooting (9A.36.045)</i></u>	<u>C+</u>
8	D+	<i>Reckless Endangerment</i>	
9		<i>(9A.36.050)</i>	E
10	C+	<i>Promoting Suicide Attempt</i>	
11		<i>(9A.36.060)</i>	D+
12	D+	<i>Coercion (9A.36.070)</i>	E
13	C+	<i>Custodial Assault (9A.36.100)</i>	D+
14		<b><i>Burglary and Trespass</i></b>	
15	B+	<i>Burglary 1 (9A.52.020)</i>	C+
16	B	<i>Burglary 2 (9A.52.030)</i>	C
17	D	<i>Burglary Tools (Possession of)</i>	
18		<i>(9A.52.060)</i>	E
19	D	<i>Criminal Trespass 1 (9A.52.070)</i>	E
20	E	<i>Criminal Trespass 2 (9A.52.080)</i>	E
21	D	<i>Vehicle Prowling (9A.52.100)</i>	E
22		<b><i>Drugs</i></b>	
23	E	<i>Possession/Consumption of Alcohol</i>	
24		<i>(66.44.270)</i>	E
25	C	<i>Illegally Obtaining Legend Drug</i>	
26		<i>(69.41.020)</i>	D
27	C+	<i>Sale, Delivery, Possession of Legend</i>	
28		<i>Drug with Intent to Sell</i>	
29		<i>(69.41.030)</i>	D+
30	E	<i>Possession of Legend Drug</i>	
31		<i>(69.41.030)</i>	E
32	B+	<i>Violation of Uniform Controlled</i>	
33		<i>Substances Act - Narcotic or</i>	
34		<i>Methamphetamine Sale</i>	
35		<i>(69.50.401(a)(1)(i) or (ii))</i>	B+
36	C	<i>Violation of Uniform Controlled</i>	
37		<i>Substances Act - Nonnarcotic Sale</i>	
38		<i>(69.50.401(a)(1)(ii))</i>	C

1	<i>E</i>	<i>Possession of Marihuana &lt;40 grams</i>	
2		<i>(69.50.401(e))</i>	<i>E</i>
3	<i>C</i>	<i>Fraudulently Obtaining Controlled</i>	
4		<i>Substance (69.50.403)</i>	<i>C</i>
5	<i>C+</i>	<i>Sale of Controlled Substance</i>	
6		<i>for Profit (69.50.410)</i>	<i>C+</i>
7	<i>E</i>	<i>Unlawful Inhalation (9.47A.020)</i>	<i>E</i>
8	<i>B</i>	<i>Violation of Uniform Controlled</i>	
9		<i>Substances Act - Narcotic or</i>	
10		<i>Methamphetamine</i>	
11		<i>Counterfeit Substances</i>	
12		<i>(69.50.401(b)(1)(i) or (ii))</i>	<i>B</i>
13	<i>C</i>	<i>Violation of Uniform Controlled</i>	
14		<i>Substances Act - Nonnarcotic</i>	
15		<i>Counterfeit Substances</i>	
16		<i>(69.50.401(b)(1) (iii), (iv),</i>	
17		<i>(v))</i>	<i>C</i>
18	<i>C</i>	<i>Violation of Uniform Controlled</i>	
19		<i>Substances Act - Possession of a</i>	
20		<i>Controlled Substance</i>	
21		<i>(69.50.401(d))</i>	<i>C</i>
22	<i>C</i>	<i>Violation of Uniform Controlled</i>	
23		<i>Substances Act - Possession of a</i>	
24		<i>Controlled Substance</i>	
25		<i>(69.50.401(c))</i>	<i>C</i>
26		<b><i>Firearms and Weapons</i></b>	
27	<i>E</i>	<i>Carrying Loaded Pistol Without</i>	
28		<i>Permit (9.41.050)</i>	<i>E</i>
29	<i>C</i>	<i>Possession of Firearms by</i>	
30		<i>Minor (&lt;18) (9.41.040(1)</i>	
31		<i>(b)((iv)) (iii))</i>	<i>C</i>
32	<i>D+</i>	<i>Possession of Dangerous Weapon</i>	
33		<i>(9.41.250)</i>	<i>E</i>
34	<i>D</i>	<i>Intimidating Another Person by use</i>	
35		<i>of Weapon (9.41.270)</i>	<i>E</i>
36		<b><i>Homicide</i></b>	
37	<i>A+</i>	<i>Murder 1 (9A.32.030)</i>	<i>A</i>
38	<i>A+</i>	<i>Murder 2 (9A.32.050)</i>	<i>B+</i>

1	<i>B+</i>	<i>Manslaughter 1 (9A.32.060)</i>	<i>C+</i>
2	<i>C+</i>	<i>Manslaughter 2 (9A.32.070)</i>	<i>D+</i>
3	<i>B+</i>	<i>Vehicular Homicide (46.61.520)</i>	<i>C+</i>
4		<b><i>Kidnapping</i></b>	
5	<i>A</i>	<i>Kidnap 1 (9A.40.020)</i>	<i>B+</i>
6	<i>B+</i>	<i>Kidnap 2 (9A.40.030)</i>	<i>C+</i>
7	<i>C+</i>	<i>Unlawful Imprisonment</i>	
8		<i>(9A.40.040)</i>	<i>D+</i>
9		<b><i>Obstructing Governmental Operation</i></b>	
10	<i>E</i>	<i>Obstructing a</i>	
11		<i>Law Enforcement Officer</i>	
12		<i>(9A.76.020)</i>	<i>E</i>
13	<i>E</i>	<i>Resisting Arrest (9A.76.040)</i>	<i>E</i>
14	<i>B</i>	<i>Introducing Contraband 1</i>	
15		<i>(9A.76.140)</i>	<i>C</i>
16	<i>C</i>	<i>Introducing Contraband 2</i>	
17		<i>(9A.76.150)</i>	<i>D</i>
18	<i>E</i>	<i>Introducing Contraband 3</i>	
19		<i>(9A.76.160)</i>	<i>E</i>
20	<i>B+</i>	<i>Intimidating a Public Servant</i>	
21		<i>(9A.76.180)</i>	<i>C+</i>
22	<i>B+</i>	<i>Intimidating a Witness</i>	
23		<i>(9A.72.110)</i>	<i>C+</i>
24		<b><i>Public Disturbance</i></b>	
25	<i>C+</i>	<i>Riot with Weapon (9A.84.010)</i>	<i>D+</i>
26	<i>D+</i>	<i>Riot Without Weapon</i>	
27		<i>(9A.84.010)</i>	<i>E</i>
28	<i>E</i>	<i>Failure to Disperse (9A.84.020)</i>	<i>E</i>
29	<i>E</i>	<i>Disorderly Conduct (9A.84.030)</i>	<i>E</i>
30		<b><i>Sex Crimes</i></b>	
31	<i>A</i>	<i>Rape 1 (9A.44.040)</i>	<i>B+</i>
32	<i>A-</i>	<i>Rape 2 (9A.44.050)</i>	<i>B+</i>
33	<i>C+</i>	<i>Rape 3 (9A.44.060)</i>	<i>D+</i>
34	<i>A-</i>	<i>Rape of a Child 1 (9A.44.073)</i>	<i>B+</i>
35	<i>B</i>	<i>Rape of a Child 2 (9A.44.076)</i>	<i>C+</i>
36	<i>B</i>	<i>Incest 1 (9A.64.020(1))</i>	<i>C</i>
37	<i>C</i>	<i>Incest 2 (9A.64.020(2))</i>	<i>D</i>

1	<i>D+</i>	<i>Indecent Exposure</i>	
2		<i>(Victim &lt;14) (9A.88.010)</i>	<i>E</i>
3	<i>E</i>	<i>Indecent Exposure</i>	
4		<i>(Victim 14 or over) (9A.88.010)</i>	<i>E</i>
5	<i>B+</i>	<i>Promoting Prostitution 1</i>	
6		<i>(9A.88.070)</i>	<i>C+</i>
7	<i>C+</i>	<i>Promoting Prostitution 2</i>	
8		<i>(9A.88.080)</i>	<i>D+</i>
9	<i>E</i>	<i>O &amp; A (Prostitution) (9A.88.030)</i>	<i>E</i>
10	<i>B+</i>	<i>Indecent Liberties (9A.44.100)</i>	<i>C+</i>
11	<i>B+</i>	<i>Child Molestation 1 (9A.44.083)</i>	<i>C+</i>
12	<i>C+</i>	<i>Child Molestation 2 (9A.44.086)</i>	<i>C</i>
13		<b><i>Theft, Robbery, Extortion, and Forgery</i></b>	
14	<i>B</i>	<i>Theft 1 (9A.56.030)</i>	<i>C</i>
15	<i>C</i>	<i>Theft 2 (9A.56.040)</i>	<i>D</i>
16	<i>D</i>	<i>Theft 3 (9A.56.050)</i>	<i>E</i>
17	<i>B</i>	<i>Theft of Livestock (9A.56.080)</i>	<i>C</i>
18	<i>C</i>	<i>Forgery (9A.60.020)</i>	<i>D</i>
19	<i>A</i>	<i>Robbery 1 (9A.56.200)</i>	<i>B+</i>
20	<i>B+</i>	<i>Robbery 2 (9A.56.210)</i>	<i>C+</i>
21	<i>B+</i>	<i>Extortion 1 (9A.56.120)</i>	<i>C+</i>
22	<i>C+</i>	<i>Extortion 2 (9A.56.130)</i>	<i>D+</i>
23	<i>B</i>	<i>Possession of Stolen Property 1</i>	
24		<i>(9A.56.150)</i>	<i>C</i>
25	<i>C</i>	<i>Possession of Stolen Property 2</i>	
26		<i>(9A.56.160)</i>	<i>D</i>
27	<i>D</i>	<i>Possession of Stolen Property 3</i>	
28		<i>(9A.56.170)</i>	<i>E</i>
29	<i>C</i>	<i>Taking Motor Vehicle Without</i>	
30		<i>Owner's Permission (9A.56.070)</i>	<i>D</i>
31		<b><i>Motor Vehicle Related Crimes</i></b>	
32	<i>E</i>	<i>Driving Without a License</i>	
33		<i>(46.20.021)</i>	<i>E</i>
34	<i>C</i>	<i>Hit and Run - Injury</i>	
35		<i>(46.52.020(4))</i>	<i>D</i>
36	<i>D</i>	<i>Hit and Run-Attended</i>	
37		<i>(46.52.020(5))</i>	<i>E</i>



1	<i>E</i>	<i>Hit and Run-Unattended</i>	
2		<i>(46.52.010)</i>	<i>E</i>
3	<i>C</i>	<i>Vehicular Assault (46.61.522)</i>	<i>D</i>
4	<i>C</i>	<i>Attempting to Elude Pursuing</i>	
5		<i>Police Vehicle (46.61.024)</i>	<i>D</i>
6	<i>E</i>	<i>Reckless Driving (46.61.500)</i>	<i>E</i>
7	<i>D</i>	<i>Driving While Under the Influence</i>	
8		<i>(46.61.502 and 46.61.504)</i>	<i>E</i>
9	<i>D</i>	<i>Vehicle Prowling (9A.52.100)</i>	<i>E</i>
10	<i>C</i>	<i>Taking Motor Vehicle Without</i>	
11		<i>Owner's Permission (9A.56.070)</i>	<i>D</i>
12		<b><i>Other</i></b>	
13	<i>B</i>	<i>Bomb Threat (9.61.160)</i>	<i>C</i>
14	<i>C</i>	<i>Escape 1 (9A.76.110)</i>	<i>C</i>
15	<i>C</i>	<i>Escape 2 (9A.76.120)</i>	<i>C</i>
16	<i>D</i>	<i>Escape 3 (9A.76.130)</i>	<i>E</i>
17	<i>E</i>	<i>Obscene, Harassing, Etc.,</i>	
18		<i>Phone Calls (9.61.230)</i>	<i>E</i>
19	<i>A</i>	<i>Other Offense Equivalent to an</i>	
20		<i>Adult Class A Felony</i>	<i>B+</i>
21	<i>B</i>	<i>Other Offense Equivalent to an</i>	
22		<i>Adult Class B Felony</i>	<i>C</i>
23	<i>C</i>	<i>Other Offense Equivalent to an</i>	
24		<i>Adult Class C Felony</i>	<i>D</i>
25	<i>D</i>	<i>Other Offense Equivalent to an</i>	
26		<i>Adult Gross Misdemeanor</i>	<i>E</i>
27	<i>E</i>	<i>Other Offense Equivalent to an</i>	
28		<i>Adult Misdemeanor</i>	<i>E</i>
29	<i>V</i>	<i>Violation of Order of Restitution,</i>	
30		<i>Community Supervision, or</i>	
31		<i>Confinement (13.40.200)</i>	<i>V</i>

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

- 34 1st escape or attempted escape during 12-month period - 4 weeks
- 35 confinement
- 36 2nd escape or attempted escape during 12-month period - 8 weeks
- 37 confinement

1 3rd and subsequent escape or attempted escape during 12-month  
2 period - 12 weeks confinement

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

5 **SCHEDULE B**

6 **PRIOR OFFENSE INCREASE FACTOR**

7 For use with all CURRENT OFFENSES occurring on or after July 1,  
8 1989.

9 **TIME SPAN**

<i>OFFENSE</i>	<i>0-12</i>	<i>13-24</i>	<i>25 Months</i>
<i>CATEGORY</i>	<i>Months</i>	<i>Months</i>	<i>or More</i>
.....			
<i>A+</i>	<i>.9</i>	<i>.9</i>	<i>.9</i>
<i>A</i>	<i>.9</i>	<i>.8</i>	<i>.6</i>
<i>A-</i>	<i>.9</i>	<i>.8</i>	<i>.5</i>
<i>B+</i>	<i>.9</i>	<i>.7</i>	<i>.4</i>
<i>B</i>	<i>.9</i>	<i>.6</i>	<i>.3</i>
<i>C+</i>	<i>.6</i>	<i>.3</i>	<i>.2</i>
<i>C</i>	<i>.5</i>	<i>.2</i>	<i>.2</i>
<i>D+</i>	<i>.3</i>	<i>.2</i>	<i>.1</i>
<i>D</i>	<i>.2</i>	<i>.1</i>	<i>.1</i>
<i>E</i>	<i>.1</i>	<i>.1</i>	<i>.1</i>

23 Prior history - Any offense in which a diversion agreement or counsel  
24 and release form was signed, or any offense which has been adjudicated  
25 by court to be correct prior to the commission of the current  
26 offense(s).

27 **SCHEDULE C**

28 **CURRENT OFFENSE POINTS**

29 For use with all CURRENT OFFENSES occurring on or after July 1,  
30 1989.

31 **AGE**

<i>OFFENSE</i>	<i>12 &amp;</i>					
<i>CATEGORY</i>	<i>Under</i>	<i>13</i>	<i>14</i>	<i>15</i>	<i>16</i>	<i>17</i>

1	.....
2	<b>A+ STANDARD RANGE 180-224 WEEKS</b>
3	<b>A 250 300 350 375 375 375</b>
4	<b>A- 150 150 150 200 200 200</b>
5	<b>B+ 110 110 120 130 140 150</b>
6	<b>B 45 45 50 50 57 57</b>
7	<b>C+ 44 44 49 49 55 55</b>
8	<b>C 40 40 45 45 50 50</b>
9	<b>D+ 16 18 20 22 24 26</b>
10	<b>D 14 16 18 20 22 24</b>
11	<b>E 4 4 4 6 8 10</b>

12 **JUVENILE SENTENCING STANDARDS**  
13 **SCHEDULE D-1**

14 This schedule may only be used for minor/first offenders. After the  
15 determination is made that a youth is a minor/first offender, the court  
16 has the discretion to select sentencing option A, B, or C.

17 **MINOR/FIRST OFFENDER**  
18 **OPTION A**  
19 **STANDARD RANGE**

20	<i>Community</i>			
21	<i>Community</i>	<i>Service</i>		
22	<i>Points</i>	<i>Supervision</i>	<i>Hours</i>	<i>Fine</i>
23	.....			
24	<b>1-9</b>	<b>0-3 months</b>	<b>and/or 0-8</b>	<b>and/or 0-\$10</b>
25	<b>10-19</b>	<b>0-3 months</b>	<b>and/or 0-8</b>	<b>and/or 0-\$10</b>
26	<b>20-29</b>	<b>0-3 months</b>	<b>and/or 0-16</b>	<b>and/or 0-\$10</b>
27	<b>30-39</b>	<b>0-3 months</b>	<b>and/or 8-24</b>	<b>and/or 0-\$25</b>
28	<b>40-49</b>	<b>3-6 months</b>	<b>and/or 16-32</b>	<b>and/or 0-\$25</b>
29	<b>50-59</b>	<b>3-6 months</b>	<b>and/or 24-40</b>	<b>and/or 0-\$25</b>
30	<b>60-69</b>	<b>6-9 months</b>	<b>and/or 32-48</b>	<b>and/or 0-\$50</b>
31	<b>70-79</b>	<b>6-9 months</b>	<b>and/or 40-56</b>	<b>and/or 0-\$50</b>
32	<b>80-89</b>	<b>9-12 months</b>	<b>and/or 48-64</b>	<b>and/or 10-\$100</b>
33	<b>90-109</b>	<b>9-12 months</b>	<b>and/or 56-72</b>	<b>and/or 10-\$100</b>

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OR

OPTION B

STATUTORY OPTION

- 0-12 Months Community Supervision
- 0-150 Hours Community Service
- 0-100 Fine
- Posting of a Probation Bond

A term of community supervision with a maximum of 150 hours, \$100.00 fine, and 12 months supervision.

OR

OPTION C

MANIFEST INJUSTICE

When a term of community supervision would effectuate a manifest injustice, another disposition may be imposed. When a judge imposes a sentence of confinement exceeding 30 days, the court shall sentence the juvenile to a maximum term and the provisions of RCW 13.40.030(2) shall be used to determine the range.

JUVENILE SENTENCING STANDARDS

SCHEDULE D-2

This schedule may only be used for middle offenders. After the determination is made that a youth is a middle offender, the court has the discretion to select sentencing option A, B, or C.

MIDDLE OFFENDER

OPTION A

STANDARD RANGE

Points	Community			Confinement
	Community Supervision	Service Hours	Fine	
1-9	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
10-19	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
20-29	0-3 months	and/or 0-16	and/or 0-\$10	and/or 0
30-39	0-3 months	and/or 8-24	and/or 0-\$25	and/or 2-4
40-49	3-6 months	and/or 16-32	and/or 0-\$25	and/or 2-4
50-59	3-6 months	and/or 24-40	and/or 0-\$25	and/or 5-10

1	<i>60-69</i>	<i>6-9 months</i>	<i>and/or 32-48</i>	<i>and/or 0-\$50</i>	<i>and/or 5-10</i>
2	<i>70-79</i>	<i>6-9 months</i>	<i>and/or 40-56</i>	<i>and/or 0-\$50</i>	<i>and/or 10-20</i>
3	<i>80-89</i>	<i>9-12 months</i>	<i>and/or 48-64</i>	<i>and/or 0-\$100</i>	<i>and/or 10-20</i>
4	<i>90-109</i>	<i>9-12 months</i>	<i>and/or 56-72</i>	<i>and/or 0-\$100</i>	<i>and/or 15-30</i>
5	<i>110-129</i>				<i>8-12</i>
6	<i>130-149</i>				<i>13-16</i>
7	<i>150-199</i>				<i>21-28</i>
8	<i>200-249</i>				<i>30-40</i>
9	<i>250-299</i>				<i>52-65</i>
10	<i>300-374</i>				<i>80-100</i>
11	<i>375+</i>				<i>103-129</i>

12 Middle offenders with 110 points or more do not have to be committed.  
 13 They may be assigned community supervision under option B.  
 14 All A+ offenses 180-224 weeks

15 **OR**

16 **OPTION B**

17 **STATUTORY OPTION**

- 18 0-12 Months Community Supervision
- 19 0-150 Hours Community Service
- 20 0-100 Fine
- 21 Posting of a Probation Bond

22 If the offender has less than 110 points, the court may impose a  
 23 determinate disposition of community supervision and/or up to 30 days  
 24 confinement; in which case, if confinement has been imposed, the court  
 25 shall state either aggravating or mitigating factors as set forth in  
 26 RCW 13.40.150.

27 If the middle offender has 110 points or more, the court may  
 28 impose a disposition under option A and may suspend the disposition on  
 29 the condition that the offender serve up to thirty days of confinement  
 30 and follow all conditions of community supervision. If the offender  
 31 fails to comply with the terms of community supervision, the court may  
 32 impose sanctions pursuant to RCW 13.40.200 or may revoke the suspended  
 33 disposition and order execution of the disposition. If the court  
 34 imposes confinement for offenders with 110 points or more, the court  
 35 shall state either aggravating or mitigating factors set forth in RCW  
 36 13.40.150.

37 **OR**

1                                   **OPTION C**

2                                   **MANIFEST INJUSTICE**

3 If the court determines that a disposition under A or B would  
4 effectuate a manifest injustice, the court shall sentence the juvenile  
5 to a maximum term and the provisions of RCW 13.40.030(2) shall be used  
6 to determine the range.

7                                   **JUVENILE SENTENCING STANDARDS**

8                                   **SCHEDULE D-3**

9 This schedule may only be used for serious offenders. After the  
10 determination is made that a youth is a serious offender, the court has  
11 the discretion to select sentencing option A or B.

12                                   **SERIOUS OFFENDER**

13                                   **OPTION A**

14                                   **STANDARD RANGE**

<i>Points</i>	<i>Institution Time</i>
.....	
<i>0-129</i>	<i>8-12 weeks</i>
<i>130-149</i>	<i>13-16 weeks</i>
<i>150-199</i>	<i>21-28 weeks</i>
<i>200-249</i>	<i>30-40 weeks</i>
<i>250-299</i>	<i>52-65 weeks</i>
<i>300-374</i>	<i>80-100 weeks</i>
<i>375+</i>	<i>103-129 weeks</i>
<i>All A+ Offenses</i>	<i>180-224 weeks</i>

25                                   **OR**

26                                   **OPTION B**

27                                   **MANIFEST INJUSTICE**

28 A disposition outside the standard range shall be determined and shall  
29 be comprised of confinement or community supervision including posting  
30 a probation bond or a combination thereof. When a judge finds a  
31 manifest injustice and imposes a sentence of confinement exceeding 30

1 days, the court shall sentence the juvenile to a maximum term, and the  
2 provisions of RCW 13.40.030(2) shall be used to determine the range.

--- END ---