

1 **ESHB 1210 - H AMD 445 NOT CONSIDERED 2-14-00**

2 By Representative Schoesler

3 On page 7, after line 16, insert the following:

4 NEW SECTION. **Sec. 3** A new section is added to chapter 69.50 RCW
5 to read as follows:

6 (1) The definitions in this subsection apply throughout this
7 section.

8 (a) "Child" means a person under eighteen years of age.

9 (2) A person is guilty of manufacture of methamphetamine in the
10 presence of a child if he or she manufactures methamphetamine, or
11 possesses ephedrine or pseudoephedrine with intent to manufacture
12 methamphetamine, in or within one hundred feet of a residence where the
13 person knows or reasonably should know that a child is present, or
14 inside a motor vehicle as defined in RCW 46.04.320, a vehicle as
15 defined in RCW 46.04.670, or a vessel as defined in RCW 88.02.010 where
16 the person knows or reasonably should know that a child is present.

17 (3) Manufacture of methamphetamine in the presence of a child
18 shall be punishable by up to ten years in prison or a fine of not more
19 than twenty-five thousand dollars, or both such imprisonment and fine.

20 **Sec. 4.** RCW 9.94A.320 and 1999 c 352 s 3 and 1999 c 322 s 5 are
21 each reenacted and amended to read as follows:

22

23

TABLE 2

24

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

25

XVI Aggravated Murder 1 (RCW 10.95.020)

26

XV Homicide by abuse (RCW 9A.32.055)

27

Malicious explosion 1 (RCW 70.74.280(1))

28

Murder 1 (RCW 9A.32.030)

29

XIV Murder 2 (RCW 9A.32.050)

30

XIII Malicious explosion 2 (RCW 70.74.280(2))

1 Malicious placement of an explosive 1 (RCW
2 70.74.270(1))

3 XII Assault 1 (RCW 9A.36.011)
4 Assault of a Child 1 (RCW 9A.36.120)
5 Malicious placement of an imitation device
6 1 (RCW 70.74.272(1)(a))
7 Rape 1 (RCW 9A.44.040)
8 Rape of a Child 1 (RCW 9A.44.073)

9 XI Manslaughter 1 (RCW 9A.32.060)
10 Rape 2 (RCW 9A.44.050)
11 Rape of a Child 2 (RCW 9A.44.076)

12 X Child Molestation 1 (RCW 9A.44.083)
13 Indecent Liberties (with forcible
14 compulsion) (RCW 9A.44.100(1)(a))
15 Kidnapping 1 (RCW 9A.40.020)
16 Leading Organized Crime (RCW
17 9A.82.060(1)(a))
18 Malicious explosion 3 (RCW 70.74.280(3))
19 Manufacture of methamphetamine (RCW
20 69.50.401(a)(1)(ii))
21 Manufacture of methamphetamine in the presence of a child
22 (section 3 of this act)
23 Over 18 and deliver heroin,
24 methamphetamine, a narcotic from
25 Schedule I or II, or flunitrazepam
26 from Schedule IV to someone under 18
27 (RCW 69.50.406)

28 IX Assault of a Child 2 (RCW 9A.36.130)
29 Controlled Substance Homicide (RCW
30 69.50.415)
31 Explosive devices prohibited (RCW
32 70.74.180)
33 Homicide by Watercraft, by being under the
34 influence of intoxicating liquor or
35 any drug (*RCW 88.12.029)

1 Inciting Criminal Profiteering (RCW
2 9A.82.060(1)(b))
3 Malicious placement of an explosive 2 (RCW
4 70.74.270(2))
5 Over 18 and deliver narcotic from Schedule
6 III, IV, or V or a nonnarcotic, except
7 flunitrazepam or methamphetamine, from
8 Schedule I-V to someone under 18 and 3
9 years junior (RCW 69.50.406)
10 Robbery 1 (RCW 9A.56.200)
11 Sexual Exploitation (RCW 9.68A.040)
12 Vehicular Homicide, by being under the
13 influence of intoxicating liquor or
14 any drug (RCW 46.61.520)

15 VIII Arson 1 (RCW 9A.48.020)
16 Deliver or possess with intent to deliver
17 m e t h a m p h e t a m i n e (R C W
18 69.50.401(a)(1)(ii))
19 Homicide by Watercraft, by the operation of
20 any vessel in a reckless manner (*RCW
21 88.12.029)
22 Manslaughter 2 (RCW 9A.32.070)
23 Manufacture, deliver, or possess with
24 intent to deliver amphetamine (RCW
25 69.50.401(a)(1)(ii))
26 Manufacture, deliver, or possess with
27 intent to deliver heroin or cocaine
28 (RCW 69.50.401(a)(1)(i))
29 Possession of ephedrine or pseudoephedrine
30 with intent to manufacture
31 methamphetamine (RCW 69.50.440)
32 Promoting Prostitution 1 (RCW 9A.88.070)
33 Selling for profit (controlled or
34 counterfeit) any controlled substance
35 (RCW 69.50.410)

1 Vehicular Homicide, by the operation of any
2 vehicle in a reckless manner (RCW
3 46.61.520)

4 VII Burglary 1 (RCW 9A.52.020)
5 Child Molestation 2 (RCW 9A.44.086)
6 Dealing in depictions of minor engaged in
7 sexually explicit conduct (RCW
8 9.68A.050)
9 Drive-by Shooting (RCW 9A.36.045)
10 Homicide by Watercraft, by disregard for
11 the safety of others (*RCW 88.12.029)
12 Indecent Liberties (without forcible
13 compulsion) (RCW 9A.44.100(1) (b) and
14 (c))
15 Introducing Contraband 1 (RCW 9A.76.140)
16 Involving a minor in drug dealing (RCW
17 69.50.401(f))
18 Malicious placement of an explosive 3 (RCW
19 70.74.270(3))
20 Sending, bringing into state depictions of
21 minor engaged in sexually explicit
22 conduct (RCW 9.68A.060)
23 Unlawful Possession of a Firearm in the
24 first degree (RCW 9.41.040(1)(a))
25 Use of a Machine Gun in Commission of a
26 Felony (RCW 9.41.225)
27 Vehicular Homicide, by disregard for the
28 safety of others (RCW 46.61.520)

29 VI Bail Jumping with Murder 1 (RCW
30 9A.76.170(2)(a))
31 Bribery (RCW 9A.68.010)
32 Incest 1 (RCW 9A.64.020(1))
33 Intimidating a Judge (RCW 9A.72.160)
34 Intimidating a Juror/Witness (RCW
35 9A.72.110, 9A.72.130)
36 Malicious placement of an imitation device
37 2 (RCW 70.74.272(1)(b))

1 Manufacture, deliver, or possess with
2 intent to deliver narcotics from
3 Schedule I or II (except heroin or
4 cocaine) or flunitrazepam from
5 Schedule IV (RCW 69.50.401(a)(1)(i))
6 Rape of a Child 3 (RCW 9A.44.079)
7 Theft of a Firearm (RCW 9A.56.300)

8 V Abandonment of dependent person 1 (RCW
9 9A.42.060)

10 Advancing money or property for
11 extortionate extension of credit (RCW
12 9A.82.030)

13 Bail Jumping with class A Felony (RCW
14 9A.76.170(2)(b))

15 Child Molestation 3 (RCW 9A.44.089)
16 Criminal Mistreatment 1 (RCW 9A.42.020)
17 Custodial Sexual Misconduct 1 (RCW
18 9A.44.160)

19 Delivery of imitation controlled substance
20 by person eighteen or over to person
21 under eighteen (RCW 69.52.030(2))

22 Extortion 1 (RCW 9A.56.120)
23 Extortionate Extension of Credit (RCW
24 9A.82.020)

25 Extortionate Means to Collect Extensions of
26 Credit (RCW 9A.82.040)

27 Incest 2 (RCW 9A.64.020(2))
28 Kidnapping 2 (RCW 9A.40.030)

29 On and after July 1, 2000: No-Contact
30 Order Violation: Domestic Violence
31 Pretrial Condition (RCW 10.99.040(4)
32 (b) and (c))

33 On and after July 1, 2000: No-Contact
34 Order Violation: Domestic Violence
35 Sentence Condition (RCW 10.99.050(2))

1 On and after July 1, 2000: Protection
2 Order Violation: Domestic Violence
3 Civil Action (RCW 26.50.110 (4) and
4 (5))
5 On and after July 1, 2000: Stalking (RCW
6 9A.46.110)
7 Perjury 1 (RCW 9A.72.020)
8 Persistent prison misbehavior (RCW
9 9.94.070)
10 Possession of a Stolen Firearm (RCW
11 9A.56.310)
12 Rape 3 (RCW 9A.44.060)
13 Rendering Criminal Assistance 1 (RCW
14 9A.76.070)
15 Sexual Misconduct with a Minor 1 (RCW
16 9A.44.093)
17 Sexually Violating Human Remains (RCW
18 9A.44.105)

19 IV Arson 2 (RCW 9A.48.030)
20 Assault 2 (RCW 9A.36.021)
21 Assault by Watercraft (*RCW 88.12.032)
22 Bribing a Witness/Bribe Received by Witness
23 (RCW 9A.72.090, 9A.72.100)
24 Commercial Bribery (RCW 9A.68.060)
25 Counterfeiting (RCW 9.16.035(4))
26 Escape 1 (RCW 9A.76.110)
27 Hit and Run--Injury Accident (RCW
28 46.52.020(4))
29 Hit and Run with Vessel--Injury Accident
30 (*RCW 88.12.155(3))
31 Indecent Exposure to Person Under Age
32 Fourteen (subsequent sex offense) (RCW
33 9A.88.010)
34 Influencing Outcome of Sporting Event (RCW
35 9A.82.070)
36 Knowingly Trafficking in Stolen Property
37 (RCW 9A.82.050(2))

1 Malicious Harassment (RCW 9A.36.080)
2 Manufacture, deliver, or possess with
3 intent to deliver narcotics from
4 Schedule III, IV, or V or nonnarcotics
5 from Schedule I-V (except marijuana,
6 amphetamine, methamphetamines, or
7 flunitrazepam) (RCW 69.50.401(a)(1)
8 (iii) through (v))
9 Residential Burglary (RCW 9A.52.025)
10 Robbery 2 (RCW 9A.56.210)
11 Theft of Livestock 1 (RCW 9A.56.080)
12 Threats to Bomb (RCW 9.61.160)
13 Use of Proceeds of Criminal Profiteering
14 (RCW 9A.82.080 (1) and (2))
15 Vehicular Assault (RCW 46.61.522)
16 Willful Failure to Return from Furlough
17 (RCW 72.66.060)
18 III Abandonment of dependent person 2 (RCW
19 9A.42.070)
20 Assault 3 (RCW 9A.36.031)
21 Assault of a Child 3 (RCW 9A.36.140)
22 Bail Jumping with class B or C Felony (RCW
23 9A.76.170(2)(c))
24 Burglary 2 (RCW 9A.52.030)
25 Communication with a Minor for Immoral
26 Purposes (RCW 9.68A.090)
27 Criminal Gang Intimidation (RCW 9A.46.120)
28 Criminal Mistreatment 2 (RCW 9A.42.030)
29 Custodial Assault (RCW 9A.36.100)
30 Delivery of a material in lieu of a
31 controlled substance (RCW
32 69.50.401(c))
33 Escape 2 (RCW 9A.76.120)
34 Extortion 2 (RCW 9A.56.130)
35 Harassment (RCW 9A.46.020)
36 Intimidating a Public Servant (RCW
37 9A.76.180)

1 Introducing Contraband 2 (RCW 9A.76.150)
2 Maintaining a Dwelling or Place for
3 Controlled Substances (RCW
4 69.50.402(a)(6))
5 Malicious Injury to Railroad Property (RCW
6 81.60.070)
7 Manufacture, deliver, or possess with
8 intent to deliver marijuana (RCW
9 69.50.401(a)(1)(iii))
10 Manufacture, distribute, or possess with
11 intent to distribute an imitation
12 controlled substance (RCW
13 69.52.030(1))
14 Patronizing a Juvenile Prostitute (RCW
15 9.68A.100)
16 Perjury 2 (RCW 9A.72.030)
17 Possession of Incendiary Device (RCW
18 9.40.120)
19 Possession of Machine Gun or Short-Barreled
20 Shotgun or Rifle (RCW 9.41.190)
21 Promoting Prostitution 2 (RCW 9A.88.080)
22 Recklessly Trafficking in Stolen Property
23 (RCW 9A.82.050(1))
24 Securities Act violation (RCW 21.20.400)
25 Tampering with a Witness (RCW 9A.72.120)
26 Telephone Harassment (subsequent conviction
27 or threat of death) (RCW 9.61.230)
28 Theft of Livestock 2 (RCW 9A.56.080)
29 Unlawful Imprisonment (RCW 9A.40.040)
30 Unlawful possession of firearm in the
31 second degree (RCW 9.41.040(1)(b))
32 Unlawful Use of Building for Drug Purposes
33 (RCW 69.53.010)
34 Willful Failure to Return from Work Release
35 (RCW 72.65.070)

1 II Computer Trespass 1 (RCW 9A.52.110)
2 Counterfeiting (RCW 9.16.035(3))
3 Create, deliver, or possess a counterfeit
4 controlled substance (RCW
5 69.50.401(b))
6 Escape from Community Custody (RCW
7 72.09.310)
8 Health Care False Claims (RCW 48.80.030)
9 Malicious Mischief 1 (RCW 9A.48.070)
10 Possession of controlled substance that is
11 either heroin or narcotics from
12 Schedule I or II or flunitrazepam from
13 Schedule IV (RCW 69.50.401(d))
14 Possession of phencyclidine (PCP) (RCW
15 69.50.401(d))
16 Possession of Stolen Property 1 (RCW
17 9A.56.150)
18 Theft 1 (RCW 9A.56.030)
19 Theft of Rental, Leased, or Lease-purchased
20 Property (valued at one thousand five
21 hundred dollars or more) (RCW
22 9A.56.096(4))
23 Trafficking in Insurance Claims (RCW
24 48.30A.015)
25 Unlawful Practice of Law (RCW 2.48.180)
26 Unlicensed Practice of a Profession or
27 Business (RCW 18.130.190(7))

28 I Attempting to Elude a Pursuing Police
29 Vehicle (RCW 46.61.024)
30 False Verification for Welfare (RCW
31 74.08.055)
32 Forged Prescription (RCW 69.41.020)
33 Forged Prescription for a Controlled
34 Substance (RCW 69.50.403)
35 Forgery (RCW 9A.60.020)
36 Malicious Mischief 2 (RCW 9A.48.080)

1 Possess Controlled Substance that is a
2 Narcotic from Schedule III, IV, or V
3 or Non-narcotic from Schedule I-V
4 (except phencyclidine or
5 flunitrazepam) (RCW 69.50.401(d))
6 Possession of Stolen Property 2 (RCW
7 9A.56.160)
8 Reckless Burning 1 (RCW 9A.48.040)
9 Taking Motor Vehicle Without Permission
10 (RCW 9A.56.070)
11 Theft 2 (RCW 9A.56.040)
12 Theft of Rental, Leased, or Lease-purchased
13 Property (valued at two hundred fifty
14 dollars or more but less than one
15 thousand five hundred dollars) (RCW
16 9A.56.096(4))
17 Unlawful Issuance of Checks or Drafts (RCW
18 9A.56.060)
19 Unlawful Use of Food Stamps (RCW 9.91.140
20 (2) and (3))
21 Vehicle Prowl 1 (RCW 9A.52.095)

22 **Sec. 5.** RCW 9.94A.030 and 1999 c 352 s 8 and 1999 c 197 s 1 are
23 each reenacted and amended to read as follows:

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

26 (1) "Collect," or any derivative thereof, "collect and remit," or
27 "collect and deliver," when used with reference to the department of
28 corrections, means that the department, either directly or through a
29 collection agreement authorized by RCW 9.94A.145, is responsible for
30 monitoring and enforcing the offender's sentence with regard to the
31 legal financial obligation, receiving payment thereof from the
32 offender, and, consistent with current law, delivering daily the entire
33 payment to the superior court clerk without depositing it in a
34 departmental account.

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

36 (3) "Community corrections officer" means an employee of the
37 department who is responsible for carrying out specific duties in

1 supervision of sentenced offenders and monitoring of sentence
2 conditions.

3 (4) "Community custody" means that portion of an offender's
4 sentence of confinement in lieu of earned release time or imposed
5 pursuant to RCW 9.94A.120 (5), (6), (7), (8), (10), or (11), or RCW
6 9.94A.383, served in the community subject to controls placed on the
7 offender's movement and activities by the department of corrections.
8 For offenders placed on community custody for crimes committed on or
9 after July 1, 2000, the department shall assess the offender's risk of
10 reoffense and may establish and modify conditions of community custody,
11 in addition to those imposed by the court, based upon the risk to
12 community safety.

13 (5) "Community custody range" means the minimum and maximum period
14 of community custody included as part of a sentence under RCW
15 9.94A.120(11), as established by the sentencing guidelines commission
16 or the legislature under RCW 9.94A.040, for crimes committed on or
17 after July 1, 2000.

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

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

28 (8) "Community supervision" means a period of time during which a
29 convicted offender is subject to crime-related prohibitions and other
30 sentence conditions imposed by a court pursuant to this chapter or RCW
31 16.52.200(6) or 46.61.524. For first-time offenders, the supervision
32 may include crime-related prohibitions and other conditions imposed
33 pursuant to RCW 9.94A.120(5). Where the court finds that any offender
34 has a chemical dependency that has contributed to his or her offense,
35 the conditions of supervision may, subject to available resources,
36 include treatment. For purposes of the interstate compact for out-of-
37 state supervision of parolees and probationers, RCW 9.95.270, community

1 supervision is the functional equivalent of probation and should be
2 considered the same as probation by other states.

3 (9) "Confinement" means total or partial confinement as defined in
4 this section.

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

8 (11) "Court-ordered legal financial obligation" means a sum of
9 money that is ordered by a superior court of the state of Washington
10 for legal financial obligations which may include restitution to the
11 victim, statutorily imposed crime victims' compensation fees as
12 assessed pursuant to RCW 7.68.035, court costs, county or interlocal
13 drug funds, court-appointed attorneys' fees, and costs of defense,
14 fines, and any other financial obligation that is assessed to the
15 offender as a result of a felony conviction. Upon conviction for
16 vehicular assault while under the influence of intoxicating liquor or
17 any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the
18 influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a),
19 legal financial obligations may also include payment to a public agency
20 of the expense of an emergency response to the incident resulting in
21 the conviction, subject to the provisions in RCW 38.52.430.

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

29 (13) "Criminal history" means the list of a defendant's prior
30 convictions and juvenile adjudications, whether in this state, in
31 federal court, or elsewhere. The history shall include, where known,
32 for each conviction (a) whether the defendant has been placed on
33 probation and the length and terms thereof; and (b) whether the
34 defendant has been incarcerated and the length of incarceration.

35 (14) "Day fine" means a fine imposed by the sentencing judge that
36 equals the difference between the offender's net daily income and the
37 reasonable obligations that the offender has for the support of the
38 offender and any dependents.

1 (15) "Day reporting" means a program of enhanced supervision
2 designed to monitor the defendant's daily activities and compliance
3 with sentence conditions, and in which the defendant is required to
4 report daily to a specific location designated by the department or the
5 sentencing judge.

6 (16) "Department" means the department of corrections.

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

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

27 (19) "Drug offense" means:

28 (a) Any felony violation of chapter 69.50 RCW except possession of
29 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
30 controlled substance (RCW 69.50.403);

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

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

37 (20) "Escape" means:

1 (a) Escape in the first degree (RCW 9A.76.110), escape in the
2 second degree (RCW 9A.76.120), willful failure to return from furlough
3 (RCW 72.66.060), willful failure to return from work release (RCW
4 72.65.070), or willful failure to be available for supervision by the
5 department while in community custody (RCW 72.09.310); or

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

9 (21) "Felony traffic offense" means:

10 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
11 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
12 and-run injury-accident (RCW 46.52.020(4)); or

13 (b) 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 felony
15 traffic offense under (a) of this subsection.

16 (22) "Fines" means the requirement that the offender pay a
17 specific sum of money over a specific period of time to the court.

18 (23) "First-time offender" means any person who is convicted of a
19 felony (a) not classified as a violent offense or a sex offense under
20 this chapter, or (b) that is not the manufacture, delivery, or
21 possession with intent to manufacture or deliver a controlled substance
22 classified in Schedule I or II that is a narcotic drug or flunitrazepam
23 classified in Schedule IV, nor the manufacture, delivery, or possession
24 with intent to deliver methamphetamine, its salts, isomers, and salts
25 of its isomers as defined in RCW 69.50.206(d)(2), nor the selling for
26 profit of any controlled substance or counterfeit substance classified
27 in Schedule I, RCW 69.50.204, except leaves and flowering tops of
28 marihuana, who previously has never been convicted of a felony in this
29 state, federal court, or another state, and who has never participated
30 in a program of deferred prosecution for a felony offense.

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

34 (25) "Most serious offense" means any of the following felonies or
35 a felony attempt to commit any of the following felonies, as now
36 existing or hereafter amended:

- 1 (a) Any felony defined under any law as a class A felony or
2 criminal solicitation of or criminal conspiracy to commit a class A
3 felony;
- 4 (b) Assault in the second degree;
- 5 (c) Assault of a child in the second degree;
- 6 (d) Child molestation in the second degree;
- 7 (e) Controlled substance homicide;
- 8 (f) Extortion in the first degree;
- 9 (g) Incest when committed against a child under age fourteen;
- 10 (h) Indecent liberties;
- 11 (i) Kidnapping in the second degree;
- 12 (j) Leading organized crime;
- 13 (k) Manslaughter in the first degree;
- 14 (l) Manslaughter in the second degree;
- 15 (m) Manufacture of methamphetamine in the presence of a child.
- 16 (n) Promoting prostitution in the first degree;
- 17 (~~((n))~~) (o) Rape in the third degree;
- 18 (~~((o))~~) (p) Robbery in the second degree;
- 19 (~~((p))~~) (q) Sexual exploitation;
- 20 (~~((q))~~) (r) Vehicular assault;
- 21 (~~((r))~~) (s) Vehicular homicide, when proximately caused by the
22 driving of any vehicle by any person while under the influence of
23 intoxicating liquor or any drug as defined by RCW 46.61.502, or by the
24 operation of any vehicle in a reckless manner;
- 25 (~~((s))~~) (t) Any other class B felony offense with a finding of
26 sexual motivation, as "sexual motivation" is defined under this
27 section;
- 28 (~~((t))~~) (u) Any other felony with a deadly weapon verdict under
29 RCW 9.94A.125;
- 30 (~~((u))~~) (v) Any felony offense in effect at any time prior to
31 December 2, 1993, that is comparable to a most serious offense under
32 this subsection, or any federal or out-of-state conviction for an
33 offense that under the laws of this state would be a felony classified
34 as a most serious offense under this subsection;
- 35 (~~((v))~~) (w)(i) A prior conviction for indecent liberties under
36 *RCW 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex.
37 sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and
38 (c) as it existed from July 1, 1979, until June 11, 1986, and RCW

1 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until
2 July 1, 1988;

3 (ii) A prior conviction for indecent liberties under RCW
4 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
5 if: (A) The crime was committed against a child under the age of
6 fourteen; or (B) the relationship between the victim and perpetrator is
7 included in the definition of indecent liberties under RCW
8 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
9 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
10 through July 27, 1997.

11 (26) "Nonviolent offense" means an offense which is not a violent
12 offense.

13 (27) "Offender" means a person who has committed a felony
14 established by state law and is eighteen years of age or older or is
15 less than eighteen years of age but whose case is under superior court
16 jurisdiction under RCW 13.04.030 or has been transferred by the
17 appropriate juvenile court to a criminal court pursuant to RCW
18 13.40.110. Throughout this chapter, the terms "offender" and
19 "defendant" are used interchangeably.

20 (28) "Partial confinement" means confinement for no more than one
21 year in a facility or institution operated or utilized under contract
22 by the state or any other unit of government, or, if home detention or
23 work crew has been ordered by the court, in an approved residence, for
24 a substantial portion of each day with the balance of the day spent in
25 the community. Partial confinement includes work release, home
26 detention, work crew, and a combination of work crew and home detention
27 as defined in this section.

28 (29) "Persistent offender" is an offender who:

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

31 (ii) Has, before the commission of the offense under (a) of this
32 subsection, been convicted as an offender on at least two separate
33 occasions, whether in this state or elsewhere, of felonies that under
34 the laws of this state would be considered most serious offenses and
35 would be included in the offender score under RCW 9.94A.360; provided
36 that of the two or more previous convictions, at least one conviction
37 must have occurred before the commission of any of the other most
38 serious offenses for which the offender was previously convicted; or

1 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
2 of a child in the first degree, child molestation in the first degree,
3 rape in the second degree, rape of a child in the second degree, or
4 indecent liberties by forcible compulsion; (B) murder in the first
5 degree, murder in the second degree, homicide by abuse, kidnapping in
6 the first degree, kidnapping in the second degree, assault in the first
7 degree, assault in the second degree, assault of a child in the first
8 degree, or burglary in the first degree, with a finding of sexual
9 motivation; or (C) an attempt to commit any crime listed in this
10 subsection (29)(b)(i); and

11 (ii) Has, before the commission of the offense under (b)(i) of
12 this subsection, been convicted as an offender on at least one
13 occasion, whether in this state or elsewhere, of an offense listed in
14 (b)(i) of this subsection. A conviction for rape of a child in the
15 first degree constitutes a conviction under subsection (29)(b)(i) only
16 when the offender was sixteen years of age or older when the offender
17 committed the offense. A conviction for rape of a child in the second
18 degree constitutes a conviction under subsection (29)(b)(i) only when
19 the offender was eighteen years of age or older when the offender
20 committed the offense.

21 (30) "Postrelease supervision" is that portion of an offender's
22 community placement that is not community custody.

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

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

35 (33) "Serious traffic offense" means:

36 (a) Driving while under the influence of intoxicating liquor or
37 any drug (RCW 46.61.502), actual physical control while under the
38 influence of intoxicating liquor or any drug (RCW 46.61.504), reckless

1 driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW
2 46.52.020(5)); or

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

6 (34) "Serious violent offense" is a subcategory of violent offense
7 and means:

8 (a) Murder in the first degree, homicide by abuse, murder in the
9 second degree, manslaughter in the first degree, assault in the first
10 degree, kidnapping in the first degree, or rape in the first degree,
11 assault of a child in the first degree, or an attempt, criminal
12 solicitation, or criminal conspiracy to commit one of these felonies;
13 or

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

17 (35) "Sentence range" means the sentencing court's discretionary
18 range in imposing a nonappealable sentence.

19 (36) "Sex offense" means:

20 (a) A felony that is a violation of chapter 9A.44 RCW, other than
21 **RCW 9A.44.130(10), or RCW 9A.64.020 or 9.68A.090 or a felony that is,
22 under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or
23 criminal conspiracy to commit such crimes;

24 (b) Any conviction for a felony offense in effect at any time
25 prior to July 1, 1976, that is comparable to a felony classified as a
26 sex offense in (a) of this subsection;

27 (c) A felony with a finding of sexual motivation under RCW
28 9.94A.127 or 13.40.135; or

29 (d) Any federal or out-of-state conviction for an offense that
30 under the laws of this state would be a felony classified as a sex
31 offense under (a) of this subsection.

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

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

1 (39) "Transition training" means written and verbal instructions
2 and assistance provided by the department to the offender during the
3 two weeks prior to the offender's successful completion of the work
4 ethic camp program. The transition training shall include instructions
5 in the offender's requirements and obligations during the offender's
6 period of community custody.

7 (40) "Victim" means any person who has sustained emotional,
8 psychological, physical, or financial injury to person or property as
9 a direct result of the crime charged.

10 (41) "Violent offense" means:

11 (a) Any of the following felonies, as now existing or hereafter
12 amended: Any felony defined under any law as a class A felony or an
13 attempt to commit a class A felony, criminal solicitation of or
14 criminal conspiracy to commit a class A felony, manslaughter in the
15 first degree, manslaughter in the second degree, indecent liberties if
16 committed by forcible compulsion, kidnapping in the second degree,
17 arson in the second degree, assault in the second degree, assault of a
18 child in the second degree, extortion in the first degree, robbery in
19 the second degree, drive-by shooting, vehicular assault, and vehicular
20 homicide, when proximately caused by the driving of any vehicle by any
21 person while under the influence of intoxicating liquor or any drug as
22 defined by RCW 46.61.502, or by the operation of any vehicle in a
23 reckless manner;

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

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

30 (42) "Work crew" means a program of partial confinement consisting
31 of civic improvement tasks for the benefit of the community of not less
32 than thirty-five hours per week that complies with RCW 9.94A.135. The
33 civic improvement tasks shall have minimal negative impact on existing
34 private industries or the labor force in the county where the service
35 or labor is performed. The civic improvement tasks shall not affect
36 employment opportunities for people with developmental disabilities
37 contracted through sheltered workshops as defined in RCW 82.04.385.
38 Only those offenders sentenced to a facility operated or utilized under

1 contract by a county or the state, or sanctioned under RCW 9.94A.205,
2 are eligible to participate on a work crew. Offenders sentenced for a
3 sex offense as defined in subsection (36) of this section are not
4 eligible for the work crew program.

5 (43) "Work ethic camp" means an alternative incarceration program
6 designed to reduce recidivism and lower the cost of corrections by
7 requiring offenders to complete a comprehensive array of real-world job
8 and vocational experiences, character-building work ethics training,
9 life management skills development, substance abuse rehabilitation,
10 counseling, literacy training, and basic adult education.

11 (44) "Work release" means a program of partial confinement
12 available to offenders who are employed or engaged as a student in a
13 regular course of study at school. Participation in work release shall
14 be conditioned upon the offender attending work or school at regularly
15 defined hours and abiding by the rules of the work release facility.-

16 Correct the title.

EFFECT: Creates the crime of manufacture of methamphetamine in the presence of a child.- A person is guilty of this crime if he or she manufactures methamphetamine, or possesses ephedrine or pseudoephedrine with intent to manufacture methamphetamine, in or within one hundred feet of a residence where a person knows or should know that a child resides, or inside a motor vehicle as defined in RCW 46.04.320, a vehicle as defined in RCW 46.04.670, or a vessel as defined in RCW 88.02.010 where the person knows or reasonably should know that a child is present.

Makes manufacture of methamphetamine in the presence of a child a class B, seriousness level X crime, which has a presumptive sentence range of 51-81 months for an offender with no prior criminal history.

The offense of manufacture of methamphetamine in the presence of a child is included in the list of most serious offenses.- This offense will count as a strike under the three strikes law.