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**BILL REQUEST - CODE REVISER'S OFFICE**

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BILL REQ. #: H-4483.1/02

ATTY/TYPIST: KT:rmh

BRIEF DESCRIPTION:

2 **ESSB 6704** - H COMM AMD

3 By Select Committee on Community Security

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5 Strike everything after the enacting clause and insert the  
6 following:

7 NEW SECTION. **Sec. 1.** LEGISLATIVE FINDINGS--INTENT. The  
8 legislature finds that the events of September 11, 2001, have focused  
9 our nation's attention on the importance of preparedness in preventing,  
10 investigating, and prosecuting acts of terrorism against its citizens.  
11 The legislature further finds that, to be effective, this effort  
12 requires a partnership among the federal, state, and local governments.  
13 In furtherance of this partnership, it is the legislature's intent to  
14 strengthen the laws of the state of Washington to better protect the  
15 health and safety of Washington state and its residents from acts of  
16 terrorism. It is also the intent of the legislature that this act be  
17 interpreted to provide the greatest measure of protection and safety  
18 for the people of this state and to preserve and protect their  
19 constitutional rights, including the right to petition their  
20 governments and to exercise their rights under the First Amendment to  
21 the United States Constitution.

22 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this  
23 section apply throughout this chapter unless the context clearly  
24 requires otherwise.

25 (1) "Biological agent" means any microorganism, virus, infectious  
26 substance, or biological product that may be engineered as a result of  
27 biotechnology, or any naturally occurring microorganism, virus,  
28 infectious substance, biological product, or toxin or vector, or any  
29 naturally occurring or bioengineered component thereof, capable of  
30 causing:

31 (a) Death, disease, or other biological malfunction in a human, an  
32 animal, a plant, or another living organism; or

33 (b) Deterioration of food, water equipment, supplies, or material  
34 of any kind; or

35 (c) Deleterious alteration of the environment.

1 (2) "Chemical agent" means any weapon, device, material, or  
2 substance that is designed or intended to cause widespread death or  
3 physical injury through the release, dissemination, or impact of toxic  
4 or poisonous chemicals or precursors of toxic or poisonous chemicals.

5 (3) "Imitation weapon of mass destruction" means any device,  
6 object, or substance that is not a weapon of mass destruction, but  
7 which by appearance or representation would lead a reasonable person to  
8 believe that the device or substance is a weapon of mass destruction.

9 (4) "Material support or resources" means currency or other  
10 financial securities, financial services, lodging, training,  
11 safehouses, false documentation or identification, intelligence  
12 information, communications equipment, facilities, weapons, lethal  
13 substances, explosives, personnel, transportation, and other assets.

14 (5) "Physical damage" has the meaning given in RCW 9A.48.100.

15 (6) "Public water system" means any publicly or privately owned  
16 system, including a system serving only one single-family residence,  
17 providing piped water for human consumption, including any collection,  
18 treatment, storage, or distribution facilities.

19 (7) "Radioactive material" means any material containing, emitting,  
20 or otherwise releasing radiation or radioactivity at a level dangerous  
21 to human life.

22 (8) "Toxin" means the toxic material of plants, animals,  
23 microorganisms, viruses, fungi, or infectious substances, or a  
24 recombinant molecule, whatever its origin or method of production,  
25 including:

26 (a) Any poisonous substance or biological product that may be  
27 engineered as a result of biotechnology produced by a living organism;  
28 or

29 (b) Any poisonous isomer or biological product, homolog, or  
30 derivative of such a substance.

31 (9) "Vector" means a living organism, or molecule, including a  
32 recombinant molecule, or biological product that may be engineered as  
33 a result of biotechnology, capable of carrying a biological agent or  
34 toxin to a host.

35 (10) "Weapon of mass destruction" means any device, object, or  
36 substance that is designed, or that a person intends to use, to cause  
37 multiple human deaths, or a biological agent, radioactive material, or  
38 chemical agent that is possessed, released, or disseminated without  
39 lawful authority.

1        NEW SECTION.    **Sec. 3.**    TERRORISM IN THE FIRST DEGREE.    (1) A person  
2 is guilty of terrorism in the first degree if such person, with the  
3 intent to significantly disrupt the conduct of government or of the  
4 general civilian population of the state or the United States, commits  
5 an act which manifests an extreme indifference to human life and  
6 thereby causes the death of another person.

7        (2) For the purposes of this section, "another person," in addition  
8 to its ordinary meaning, includes, but is not limited to, any emergency  
9 services personnel or a member of the civilian population responding,  
10 at any point in time, to render aid in response to the act referred to  
11 in subsection (1) of this section.

12        (3) Terrorism in the first degree is a class A felony and, any  
13 other provision of law notwithstanding, is punishable as provided in  
14 RCW 10.95.010, 10.95.030 through 10.95.900, and section 13 of this act.

15        NEW SECTION.    **Sec. 4.**    TERRORISM IN THE SECOND DEGREE.    (1) A  
16 person is guilty of terrorism in the second degree if such person, with  
17 the intent to significantly disrupt the conduct of government or of the  
18 general civilian population of the state or the United States, commits  
19 an act which manifests an extreme indifference to human life and  
20 thereby:

21        (a) Causes substantial bodily harm to any other person; or

22        (b) Causes substantial damage to a habitable building or structure,  
23 whether or not occupied, sufficient to create a substantial risk of  
24 death to another person if the building or structure had been occupied  
25 by any such person; or

26        (c) Causes substantial physical damage sufficient to disrupt the  
27 normal functioning of a critical public or private infrastructure  
28 system including, but not limited to, a public water system, or an  
29 emergency, governmental, medical, fire, or law enforcement response  
30 system.

31        (2) Terrorism in the second degree is a class A felony.

32        NEW SECTION.    **Sec. 5.**    UNLAWFUL USE OR POSSESSION OF A WEAPON OF  
33 MASS DESTRUCTION.    (1) Any person who, with the intent to significantly  
34 disrupt the conduct of government or of the general civilian population  
35 of the state or the United States by engaging in conduct manifesting  
36 extreme indifference to human life, uses, manufactures, transports,  
37 possesses, spills, disposes of, or otherwise releases a weapon of mass

1 destruction is guilty of unlawful use or possession of a weapon of mass  
2 destruction.

3 (2) Unlawful use or possession of a weapon of mass destruction is  
4 a class A felony.

5 NEW SECTION. **Sec. 6.** THREATENING ACTS OF TERRORISM. (1) Any  
6 person who knowingly threatens to use or release, or falsely claims to  
7 have used or released, a weapon of mass destruction, or who takes any  
8 other action intended to cause a reasonable belief that a weapon of  
9 mass destruction has been or will be used or released, including, but  
10 not limited to, placement of an imitation weapon of mass destruction in  
11 an area open to or frequented by the public, is guilty of:

12 (a) Threatening acts of terrorism in the first degree if the  
13 offense is committed with the intent to significantly disrupt the  
14 conduct of government or of the general civilian population of the  
15 state or the United States by threatening to engage in conduct which  
16 manifests an extreme indifference to human life. Threatening acts of  
17 terrorism in the first degree is a class B felony;

18 (b) Threatening acts of terrorism in the second degree if the  
19 offense is committed under circumstances not amounting to threatening  
20 acts of terrorism in the first degree. Threatening acts of terrorism  
21 in the second degree is a class C felony.

22 (2) It is not a defense to any prosecution under this section that  
23 the defendant did not have the intention or capability of actually  
24 using or releasing a weapon of mass destruction.

25 NEW SECTION. **Sec. 7.** PROVIDING MATERIAL SUPPORT OR RESOURCES TO  
26 TERRORISTS. (1) Any person who knowingly provides material support or  
27 resources or conceals or disguises the nature, location, source, or  
28 ownership of material support or resources, intending that the material  
29 support or resources are to be used in planning, preparing for, or  
30 carrying out a crime defined in this chapter, or in planning, preparing  
31 for, or carrying out the concealment or an escape from the commission  
32 of any such offense, is guilty of providing material support or  
33 resources to terrorists.

34 (2) Providing material support or resources to terrorists is a  
35 class B felony.

1        NEW SECTION.    **Sec. 8.**    UNLAWFUL POSSESSION OF FALSE IDENTIFICATION  
2 FOR TERRORIST PURPOSES.    (1) A person is guilty of unlawful possession  
3 of false identification for terrorist purposes if he or she, with the  
4 intent to commit or facilitate the commission of a crime defined in  
5 this chapter, possesses or uses any document or record that contains  
6 false information relating to the person who is the subject of such  
7 document or record.

8        (2) Unlawful possession of false identification for terrorist  
9 purposes is a class B felony.

10        **Sec. 9.**    RCW 9A.82.010 and 2001 c 222 s 3 and 2001 c 217 s 11 are  
11 each reenacted and amended to read as follows:

12        Unless the context requires the contrary, the definitions in this  
13 section apply throughout this chapter.

14        (1)(a) "Beneficial interest" means:

15        (i) The interest of a person as a beneficiary under a trust  
16 established under Title 11 RCW in which the trustee for the trust holds  
17 legal or record title to real property;

18        (ii) The interest of a person as a beneficiary under any other  
19 trust arrangement under which a trustee holds legal or record title to  
20 real property for the benefit of the beneficiary; or

21        (iii) The interest of a person under any other form of express  
22 fiduciary arrangement under which one person holds legal or record  
23 title to real property for the benefit of the other person.

24        (b) "Beneficial interest" does not include the interest of a  
25 stockholder in a corporation or the interest of a partner in a general  
26 partnership or limited partnership.

27        (c) A beneficial interest is considered to be located where the  
28 real property owned by the trustee is located.

29        (2) "Control" means the possession of a sufficient interest to  
30 permit substantial direction over the affairs of an enterprise.

31        (3) "Creditor" means a person making an extension of credit or a  
32 person claiming by, under, or through a person making an extension of  
33 credit.

34        (4) "Criminal profiteering" means any act, including any  
35 anticipatory or completed offense, committed for financial gain, or any  
36 offense, including any anticipatory or completed offense, which is  
37 defined in chapter 9A.-- RCW (sections 1 through 8 and 19 through 25 of  
38 this act), whether or not committed for financial gain, that is

1 chargeable or indictable under the laws of the state in which the act  
2 occurred and, if the act occurred in a state other than this state,  
3 would be chargeable or indictable under the laws of this state had the  
4 act occurred in this state and punishable as a felony and by  
5 imprisonment for more than one year, regardless of whether the act is  
6 charged or indicted, as any of the following:

- 7 (a) Murder, as defined in RCW 9A.32.030 and 9A.32.050;
- 8 (b) Robbery, as defined in RCW 9A.56.200 and 9A.56.210;
- 9 (c) Kidnapping, as defined in RCW 9A.40.020 and 9A.40.030;
- 10 (d) Forgery, as defined in RCW 9A.60.020 and 9A.60.030;
- 11 (e) Theft, as defined in RCW 9A.56.030, 9A.56.040, 9A.56.060, and  
12 9A.56.080;
- 13 (f) Unlawful sale of subscription television services, as defined  
14 in RCW 9A.56.230;
- 15 (g) Theft of telecommunication services or unlawful manufacture of  
16 a telecommunication device, as defined in RCW 9A.56.262 and 9A.56.264;
- 17 (h) Child selling or child buying, as defined in RCW 9A.64.030;
- 18 (i) Bribery, as defined in RCW 9A.68.010, 9A.68.020, 9A.68.040, and  
19 9A.68.050;
- 20 (j) Gambling, as defined in RCW 9.46.220 and 9.46.215 and 9.46.217;
- 21 (k) Extortion, as defined in RCW 9A.56.120 and 9A.56.130;
- 22 (l) Extortionate extension of credit, as defined in RCW 9A.82.020;
- 23 (m) Advancing money for use in an extortionate extension of credit,  
24 as defined in RCW 9A.82.030;
- 25 (n) Collection of an extortionate extension of credit, as defined  
26 in RCW 9A.82.040;
- 27 (o) Collection of an unlawful debt, as defined in RCW 9A.82.045;
- 28 (p) Delivery or manufacture of controlled substances or possession  
29 with intent to deliver or manufacture controlled substances under  
30 chapter 69.50 RCW;
- 31 (q) Trafficking in stolen property, as defined in RCW 9A.82.050;
- 32 (r) Leading organized crime, as defined in RCW 9A.82.060;
- 33 (s) Money laundering, as defined in RCW 9A.83.020;
- 34 (t) Obstructing criminal investigations or prosecutions in  
35 violation of RCW 9A.72.090, 9A.72.100, 9A.72.110, 9A.72.120, 9A.72.130,  
36 9A.76.070, or 9A.76.180;
- 37 (u) Fraud in the purchase or sale of securities, as defined in RCW  
38 21.20.010;
- 39 (v) Promoting pornography, as defined in RCW 9.68.140;

1 (w) Sexual exploitation of children, as defined in RCW 9.68A.040,  
2 9.68A.050, and 9.68A.060;

3 (x) Promoting prostitution, as defined in RCW 9A.88.070 and  
4 9A.88.080;

5 (y) Arson, as defined in RCW 9A.48.020 and 9A.48.030;

6 (z) Assault, as defined in RCW 9A.36.011 and 9A.36.021;

7 (aa) Assault of a child, as defined in RCW 9A.36.120 and 9A.36.130;

8 (bb) A pattern of equity skimming, as defined in RCW 61.34.020;

9 (cc) Commercial telephone solicitation in violation of RCW  
10 19.158.040(1);

11 (dd) Trafficking in insurance claims, as defined in RCW 48.30A.015;

12 (ee) Unlawful practice of law, as defined in RCW 2.48.180;

13 (ff) Commercial bribery, as defined in RCW 9A.68.060;

14 (gg) Health care false claims, as defined in RCW 48.80.030;

15 (hh) Unlicensed practice of a profession or business, as defined in  
16 RCW 18.130.190(7);

17 (ii) Improperly obtaining financial information, as defined in RCW  
18 9.35.010; (~~ex~~)

19 (jj) Identity theft, as defined in RCW 9.35.020;

20 (kk) Terrorism in the first degree, as defined in section 3 of this  
21 act;

22 (ll) Terrorism in the second degree, as defined in section 4 of  
23 this act;

24 (mm) Unlawful use or possession of a weapon of mass destruction, as  
25 defined in section 5 of this act;

26 (nn) Threatening acts of terrorism in the first degree, as defined  
27 in section 6(1)(a) of this act;

28 (oo) Threatening acts of terrorism in the second degree, as defined  
29 in section 6(1)(b) of this act;

30 (pp) Providing material support or resources to terrorists, as  
31 defined in section 7 of this act; or

32 (qq) Unlawful possession of false identification for terrorist  
33 purposes, as defined in section 8 of this act.

34 (5) "Dealer in property" means a person who buys and sells property  
35 as a business.

36 (6) "Debtor" means a person to whom an extension of credit is made  
37 or a person who guarantees the repayment of an extension of credit or  
38 in any manner undertakes to indemnify the creditor against loss



1 resulting from the failure of a person to whom an extension is made to  
2 repay the same.

3 (7) "Documentary material" means any book, paper, document,  
4 writing, drawing, graph, chart, photograph, phonograph record, magnetic  
5 tape, computer printout, other data compilation from which information  
6 can be obtained or from which information can be translated into usable  
7 form, or other tangible item.

8 (8) "Enterprise" includes any individual, sole proprietorship,  
9 partnership, corporation, business trust, or other profit or nonprofit  
10 legal entity, and includes any union, association, or group of  
11 individuals associated in fact although not a legal entity, and both  
12 illicit and licit enterprises and governmental and nongovernmental  
13 entities.

14 (9) "Extortionate extension of credit" means an extension of credit  
15 with respect to which it is the understanding of the creditor and the  
16 debtor at the time the extension is made that delay in making repayment  
17 or failure to make repayment could result in the use of violence or  
18 other criminal means to cause harm to the person, reputation, or  
19 property of any person.

20 (10) "Extortionate means" means the use, or an express or implicit  
21 threat of use, of violence or other criminal means to cause harm to the  
22 person, reputation, or property of any person.

23 (11) "Financial institution" means any bank, trust company, savings  
24 and loan association, savings bank, mutual savings bank, credit union,  
25 or loan company under the jurisdiction of the state or an agency of the  
26 United States.

27 (12) "Pattern of criminal profiteering activity" means engaging in  
28 at least three acts of criminal profiteering, one of which occurred  
29 after July 1, 1985, and the last of which occurred within five years,  
30 excluding any period of imprisonment, after the commission of the  
31 earliest act of criminal profiteering. In order to constitute a  
32 pattern, the three acts must have the same or similar intent, results,  
33 accomplices, principals, victims, or methods of commission, or be  
34 otherwise interrelated by distinguishing characteristics including a  
35 nexus to the same enterprise, and must not be isolated events.  
36 However, in any civil proceedings brought pursuant to RCW 9A.82.100 by  
37 any person other than the attorney general or county prosecuting  
38 attorney in which one or more acts of fraud in the purchase or sale of  
39 securities are asserted as acts of criminal profiteering activity, it

1 is a condition to civil liability under RCW 9A.82.100 that the  
2 defendant has been convicted in a criminal proceeding of fraud in the  
3 purchase or sale of securities under RCW 21.20.400 or under the laws of  
4 another state or of the United States requiring the same elements of  
5 proof, but such conviction need not relate to any act or acts asserted  
6 as acts of criminal profiteering activity in such civil action under  
7 RCW 9A.82.100.

8 (13) "Real property" means any real property or interest in real  
9 property, including but not limited to a land sale contract, lease, or  
10 mortgage of real property.

11 (14) "Records" means any book, paper, writing, record, computer  
12 program, or other material.

13 (15) "Repayment of an extension of credit" means the repayment,  
14 satisfaction, or discharge in whole or in part of a debt or claim,  
15 acknowledged or disputed, valid or invalid, resulting from or in  
16 connection with that extension of credit.

17 (16) "Stolen property" means property that has been obtained by  
18 theft, robbery, or extortion.

19 (17) "To collect an extension of credit" means to induce in any way  
20 a person to make repayment thereof.

21 (18) "To extend credit" means to make or renew a loan or to enter  
22 into an agreement, tacit or express, whereby the repayment or  
23 satisfaction of a debt or claim, whether acknowledged or disputed,  
24 valid or invalid, and however arising, may or shall be deferred.

25 (19) "Traffic" means to sell, transfer, distribute, dispense, or  
26 otherwise dispose of stolen property to another person, or to buy,  
27 receive, possess, or obtain control of stolen property, with intent to  
28 sell, transfer, distribute, dispense, or otherwise dispose of the  
29 property to another person.

30 (20)(a) "Trustee" means:

31 (i) A person acting as a trustee under a trust established under  
32 Title 11 RCW in which the trustee holds legal or record title to real  
33 property;

34 (ii) A person who holds legal or record title to real property in  
35 which another person has a beneficial interest; or

36 (iii) A successor trustee to a person who is a trustee under (a)(i)  
37 or (ii) of this subsection.

38 (b) "Trustee" does not mean a person appointed or acting as:

39 (i) A personal representative under Title 11 RCW;

- 1 (ii) A trustee of any testamentary trust;  
2 (iii) A trustee of any indenture of trust under which a bond is  
3 issued; or  
4 (iv) A trustee under a deed of trust.

5 (21) "Unlawful debt" means any money or other thing of value  
6 constituting principal or interest of a debt that is legally  
7 unenforceable in the state in full or in part because the debt was  
8 incurred or contracted:

9 (a) In violation of any one of the following:

10 (i) Chapter 67.16 RCW relating to horse racing;

11 (ii) Chapter 9.46 RCW relating to gambling;

12 (b) In a gambling activity in violation of federal law; or

13 (c) In connection with the business of lending money or a thing of  
14 value at a rate that is at least twice the permitted rate under the  
15 applicable state or federal law relating to usury.

16 **Sec. 10.** RCW 9A.82.090 and 2001 c 222 s 13 are each amended to  
17 read as follows:

18 During the pendency of any criminal case charging a violation of  
19 RCW 9A.82.060 or (~~a violation of RCW~~) 9A.82.080, or of an offense  
20 defined in chapter 9A.-- RCW (sections 1 through 8 and 19 through 25 of  
21 this act) whether or not committed for financial gain, the superior  
22 court may, in addition to its other powers, issue an order pursuant to  
23 RCW 9A.82.100 (2) or (3). Upon conviction of a person for a violation  
24 of RCW 9A.82.060 or (~~a violation of RCW~~) 9A.82.080, or of an offense  
25 defined in chapter 9A.-- RCW (sections 1 through 8 and 19 through 25 of  
26 this act) whether or not committed for financial gain, the superior  
27 court may, in addition to its other powers of disposition, issue an  
28 order pursuant to RCW 9A.82.100.

29 **Sec. 11.** RCW 9A.82.100 and 2001 c 222 s 14 are each amended to  
30 read as follows:

31 (1)(a) A person who sustains injury to his or her person, business,  
32 or property by an act of criminal profiteering that is part of a  
33 pattern of criminal profiteering activity, or by an offense defined in  
34 chapter 9A.-- RCW (sections 1 through 8 and 19 through 25 of this act)  
35 whether or not committed for financial gain, or by a violation of RCW  
36 9A.82.060 or 9A.82.080 may file an action in superior court for the

1 recovery of damages and the costs of the suit, including reasonable  
2 investigative and attorney's fees.

3 (b) The attorney general or county prosecuting attorney may file an  
4 action: (i) On behalf of those persons injured or, respectively, on  
5 behalf of the state or county if the entity has sustained damages, or  
6 (ii) to prevent, restrain, or remedy a pattern of criminal profiteering  
7 activity, or an offense defined in chapter 9A.-- RCW (sections 1  
8 through 8 and 19 through 25 of this act) whether or not committed for  
9 financial gain, or a violation of RCW 9A.82.060 or 9A.82.080.

10 (c) An action for damages filed by or on behalf of an injured  
11 person, the state, or the county shall be for the recovery of damages  
12 and the costs of the suit, including reasonable investigative and  
13 attorney's fees.

14 (d) In an action filed to prevent, restrain, or remedy a pattern of  
15 criminal profiteering activity, or an offense defined in chapter 9A.--  
16 RCW (sections 1 through 8 and 19 through 25 of this act) whether or not  
17 committed for financial gain, or a violation of RCW 9A.82.060 or  
18 9A.82.080, the court, upon proof of the violation, may impose a civil  
19 penalty not exceeding two hundred fifty thousand dollars, in addition  
20 to awarding the cost of the suit, including reasonable investigative  
21 and attorney's fees.

22 (2) The superior court has jurisdiction to prevent, restrain, and  
23 remedy a pattern of criminal profiteering, or an offense defined in  
24 chapter 9A.-- RCW (sections 1 through 8 and 19 through 25 of this act)  
25 whether or not committed for financial gain, or a violation of RCW  
26 9A.82.060 or 9A.82.080 after making provision for the rights of all  
27 innocent persons affected by the violation and after hearing or trial,  
28 as appropriate, by issuing appropriate orders.

29 (3) Prior to a determination of liability, orders issued under  
30 subsection (2) of this section may include, but are not limited to,  
31 entering restraining orders or prohibitions or taking such other  
32 actions, including the acceptance of satisfactory performance bonds, in  
33 connection with any property or other interest subject to damages,  
34 forfeiture, or other restraints pursuant to this section as the court  
35 deems proper. The orders may also include attachment, receivership, or  
36 injunctive relief in regard to personal or real property pursuant to  
37 Title 7 RCW. In shaping the reach or scope of receivership,  
38 attachment, or injunctive relief, the superior court shall provide for  
39 the protection of bona fide interests in property, including community

1 property, of persons who were not involved in the violation of this  
2 chapter, except to the extent that such interests or property were  
3 acquired or used in such a way as to be subject to forfeiture under RCW  
4 9A.82.100(4)(f).

5 (4) Following a determination of liability, orders may include, but  
6 are not limited to:

7 (a) Ordering any person to divest himself or herself of any  
8 interest, direct or indirect, in any enterprise.

9 (b) Imposing reasonable restrictions on the future activities or  
10 investments of any person, including prohibiting any person from  
11 engaging in the same type of endeavor as the enterprise engaged in, the  
12 activities of which affect the laws of this state, to the extent the  
13 Constitutions of the United States and this state permit.

14 (c) Ordering dissolution or reorganization of any enterprise.

15 (d) Ordering the payment of actual damages sustained to those  
16 persons injured by a violation of RCW 9A.82.060 or 9A.82.080, or an  
17 offense defined in chapter 9A.-- RCW (sections 1 through 8 and 19  
18 through 25 of this act) whether or not committed for financial gain, or  
19 an act of criminal profiteering that is part of a pattern of criminal  
20 profiteering, and in the court's discretion, increasing the payment to  
21 an amount not exceeding three times the actual damages sustained.

22 (e) Ordering the payment of all costs and expenses of the  
23 prosecution and investigation of a pattern of criminal profiteering  
24 activity, or an offense defined in chapter 9A.-- RCW (sections 1  
25 through 8 and 19 through 25 of this act) whether or not committed for  
26 financial gain, or a violation of RCW 9A.82.060 or 9A.82.080, civil and  
27 criminal, incurred by the state or county, including any costs of  
28 defense provided at public expense, as appropriate to the state general  
29 fund or the antiprofitteering revolving fund of the county.

30 (f) Ordering forfeiture first as restitution to any person damaged  
31 by an act of criminal profiteering that is part of a pattern of  
32 criminal profiteering, or by an offense defined in chapter 9A.-- RCW  
33 (sections 1 through 8 and 19 through 25 of this act) whether or not  
34 committed for financial gain, then to the state general fund or  
35 antiprofitteering revolving fund of the county, as appropriate, to the  
36 extent not already ordered to be paid in other damages, of the  
37 following:

38 (i) Any property or other interest acquired or maintained in  
39 violation of RCW 9A.82.060 or 9A.82.080 to the extent of the investment

1 of funds, and any appreciation or income attributable to the  
2 investment, from a violation of RCW 9A.82.060 or 9A.82.080.

3 (ii) Any property, contractual right, or claim against property  
4 used to influence any enterprise that a person has established,  
5 operated, controlled, conducted, or participated in the conduct of, in  
6 violation of RCW 9A.82.060 or 9A.82.080.

7 (iii) All proceeds traceable to or derived from an offense included  
8 in the pattern of criminal profiteering activity, or an offense defined  
9 in chapter 9A.-- RCW (sections 1 through 8 and 19 through 25 of this  
10 act) whether or not committed for financial gain, and all moneys,  
11 negotiable instruments, securities, and other things of value  
12 significantly used or intended to be used significantly to facilitate  
13 commission of the offense.

14 (g) Ordering payment to the state general fund or antiprofitteering  
15 revolving fund of the county, as appropriate, of an amount equal to the  
16 gain a person has acquired or maintained through an offense included in  
17 the definition of criminal profiteering.

18 (5) In addition to or in lieu of an action under this section, the  
19 attorney general or county prosecuting attorney may file an action for  
20 forfeiture to the state general fund or antiprofitteering revolving fund  
21 of the county, as appropriate, to the extent not already ordered paid  
22 pursuant to this section, of the following:

23 (a) Any interest acquired or maintained by a person in violation of  
24 RCW 9A.82.060 or 9A.82.080 to the extent of the investment of funds  
25 obtained from a violation of RCW 9A.82.060 or 9A.82.080 and any  
26 appreciation or income attributable to the investment.

27 (b) Any property, contractual right, or claim against property used  
28 to influence any enterprise that a person has established, operated,  
29 controlled, conducted, or participated in the conduct of, in violation  
30 of RCW 9A.82.060 or 9A.82.080.

31 (c) All proceeds traceable to or derived from an offense included  
32 in the pattern of criminal profiteering activity, or an offense defined  
33 in chapter 9A.-- RCW (sections 1 through 8 and 19 through 25 of this  
34 act) whether or not committed for financial gain, and all moneys,  
35 negotiable instruments, securities, and other things of value  
36 significantly used or intended to be used significantly to facilitate  
37 the commission of the offense.

38 (6) A defendant convicted in any criminal proceeding is precluded  
39 in any civil proceeding from denying the essential allegations of the

1 criminal offense proven in the criminal trial in which the defendant  
2 was convicted. For the purposes of this subsection, a conviction shall  
3 be deemed to have occurred upon a verdict, finding, or plea of guilty,  
4 notwithstanding the fact that appellate review of the conviction and  
5 sentence has been or may be sought. If a subsequent reversal of the  
6 conviction occurs, any judgment that was based upon that conviction may  
7 be reopened upon motion of the defendant.

8 (7) The initiation of civil proceedings under this section shall be  
9 commenced within three years after discovery of the pattern of criminal  
10 profiteering activity or after the pattern should reasonably have been  
11 discovered or, in the case of an offense which is defined in chapter  
12 9A.-- RCW (sections 1 through 8 and 19 through 25 of this act), within  
13 three years after the final disposition of any criminal charges  
14 relating to the offense, whichever is later.

15 (8) The attorney general or county prosecuting attorney may, in a  
16 civil action brought pursuant to this section, file with the clerk of  
17 the superior court a certificate stating that the case is of special  
18 public importance. A copy of that certificate shall be furnished  
19 immediately by the clerk to the presiding chief judge of the superior  
20 court in which the action is pending and, upon receipt of the copy, the  
21 judge shall immediately designate a judge to hear and determine the  
22 action. The judge so designated shall promptly assign the action for  
23 hearing, participate in the hearings and determination, and cause the  
24 action to be expedited.

25 (9) The standard of proof in actions brought pursuant to this  
26 section is the preponderance of the evidence test.

27 (10) A person other than the attorney general or county prosecuting  
28 attorney who files an action under this section shall serve notice and  
29 one copy of the pleading on the attorney general within thirty days  
30 after the action is filed with the superior court. The notice shall  
31 identify the action, the person, and the person's attorney. Service of  
32 the notice does not limit or otherwise affect the right of the state to  
33 maintain an action under this section or intervene in a pending action  
34 nor does it authorize the person to name the state or the attorney  
35 general as a party to the action.

36 (11) Except in cases filed by a county prosecuting attorney, the  
37 attorney general may, upon timely application, intervene in any civil  
38 action or proceeding brought under this section if the attorney general  
39 certifies that in the attorney general's opinion the action is of

1 special public importance. Upon intervention, the attorney general may  
2 assert any available claim and is entitled to the same relief as if the  
3 attorney general had instituted a separate action.

4 (12) In addition to the attorney general's right to intervene as a  
5 party in any action under this section, the attorney general may appear  
6 as amicus curiae in any proceeding in which a claim under this section  
7 has been asserted or in which a court is interpreting RCW 9A.82.010,  
8 9A.82.080, 9A.82.090, 9A.82.110, or 9A.82.120, or this section.

9 (13) A private civil action under this section does not limit any  
10 other civil or criminal action under this chapter or any other  
11 provision. Private civil remedies provided under this section are  
12 supplemental and not mutually exclusive.

13 (14) Upon motion by the defendant, the court may authorize the sale  
14 or transfer of assets subject to an order or lien authorized by this  
15 chapter for the purpose of paying actual attorney's fees and costs of  
16 defense. The motion shall specify the assets for which sale or  
17 transfer is sought and shall be accompanied by the defendant's sworn  
18 statement that the defendant has no other assets available for such  
19 purposes. No order authorizing such sale or transfer may be entered  
20 unless the court finds that the assets involved are not subject to  
21 possible forfeiture under RCW 9A.82.100(4)(f). Prior to disposition of  
22 the motion, the court shall notify the state of the assets sought to be  
23 sold or transferred and shall hear argument on the issue of whether the  
24 assets are subject to forfeiture under RCW 9A.82.100(4)(f). Such a  
25 motion may be made from time to time and shall be heard by the court on  
26 an expedited basis.

27 (15) In an action brought under subsection (1)(a) and (b)(i) of  
28 this section, either party has the right to a jury trial.

29 **Sec. 12.** RCW 9A.82.120 and 2001 c 222 s 16 are each amended to  
30 read as follows:

31 (1) The state, upon filing a criminal action under RCW 9A.82.060 or  
32 9A.82.080 or for an offense defined in chapter 9A.-- RCW (sections 1  
33 through 8 and 19 through 25 of this act) whether or not committed for  
34 financial gain, or a civil action under RCW 9A.82.100, may file in  
35 accordance with this section a criminal profiteering lien. A filing  
36 fee or other charge is not required for filing a criminal profiteering  
37 lien.



1 (2) A criminal profiteering lien shall be signed by the attorney  
2 general or the county prosecuting attorney representing the state in  
3 the action and shall set forth the following information:

4 (a) The name of the defendant whose property or other interests are  
5 to be subject to the lien;

6 (b) In the discretion of the attorney general or county prosecuting  
7 attorney filing the lien, any aliases or fictitious names of the  
8 defendant named in the lien;

9 (c) If known to the attorney general or county prosecuting attorney  
10 filing the lien, the present residence or principal place of business  
11 of the person named in the lien;

12 (d) A reference to the proceeding pursuant to which the lien is  
13 filed, including the name of the court, the title of the action, and  
14 the court's file number for the proceeding;

15 (e) The name and address of the attorney representing the state in  
16 the proceeding pursuant to which the lien is filed;

17 (f) A statement that the notice is being filed pursuant to this  
18 section;

19 (g) The amount that the state claims in the action or, with respect  
20 to property or other interests that the state has requested forfeiture  
21 to the state or county, a description of the property or interests  
22 sought to be paid or forfeited;

23 (h) If known to the attorney general or county prosecuting attorney  
24 filing the lien, a description of property that is subject to  
25 forfeiture to the state or property in which the defendant has an  
26 interest that is available to satisfy a judgment entered in favor of  
27 the state; and

28 (i) Such other information as the attorney general or county  
29 prosecuting attorney filing the lien deems appropriate.

30 (3) The attorney general or the county prosecuting attorney filing  
31 the lien may amend a lien filed under this section at any time by  
32 filing an amended criminal profiteering lien in accordance with this  
33 section that identifies the prior lien amended.

34 (4) The attorney general or the county prosecuting attorney filing  
35 the lien shall, as soon as practical after filing a criminal  
36 profiteering lien, furnish to any person named in the lien a notice of  
37 the filing of the lien. Failure to furnish notice under this  
38 subsection does not invalidate or otherwise affect a criminal  
39 profiteering lien filed in accordance with this section.

1 (5)(a) A criminal profiteering lien is perfected against interests  
2 in personal property in the same manner as a security interest in like  
3 property pursuant to RCW 62A.9-302, 62A.9-303, 62A.9-304, 62A.9-305,  
4 and 62A.9-306 or as otherwise required to perfect a security interest  
5 in like property under applicable law. In the case of perfection by  
6 filing, the state shall file, in lieu of a financing statement in the  
7 form prescribed by RCW 62A.9-402, a notice of lien in substantially the  
8 following form:

9 NOTICE OF LIEN

10 Pursuant to RCW 9A.82.120, the state of Washington claims a  
11 criminal profiteering lien on all real and personal property of:

12 Name: . . . . .  
13 14 Address: . . . . .  
15 16 . . . . .

17 State of Washington  
18 . . . . .

19 By (authorized signature)

20 On receipt of such a notice from the state, a filing officer shall,  
21 without payment of filing fee, file and index the notice as if it were  
22 a financing statement naming the state as secured party and the  
23 defendant as debtor.

24 (b) A criminal profiteering lien is perfected against interests in  
25 real property by filing the lien in the office where a mortgage on the  
26 real estate would be filed or recorded. The filing officer shall file  
27 and index the criminal profiteering lien, without payment of a filing  
28 fee, in the same manner as a mortgage.

29 (6) The filing of a criminal profiteering lien in accordance with  
30 this section creates a lien in favor of the state in:

31 (a) Any interest of the defendant, in real property situated in the  
32 county in which the lien is filed, then maintained, or thereafter  
33 acquired in the name of the defendant identified in the lien;

34 (b) Any interest of the defendant, in personal property situated in  
35 this state, then maintained or thereafter acquired in the name of the  
36 defendant identified in the lien; and

37 (c) Any property identified in the lien to the extent of the  
38 defendant's interest therein.

1           (7) The lien created in favor of the state in accordance with this  
2 section, when filed or otherwise perfected as provided in subsection  
3 (5) of this section, has, with respect to any of the property described  
4 in subsection (6) of this section, the same priority determined  
5 pursuant to the laws of this state as a mortgage or security interest  
6 given for value (but not a purchase money security interest) and  
7 perfected in the same manner with respect to such property; except that  
8 any lien perfected pursuant to Title 60 RCW by any person who, in the  
9 ordinary course of his business, furnishes labor, services, or  
10 materials, or rents, leases, or otherwise supplies equipment, without  
11 knowledge of the criminal profiteering lien, is superior to the  
12 criminal profiteering lien.

13           (8) Upon entry of judgment in favor of the state, the state may  
14 proceed to execute thereon as in the case of any other judgment, except  
15 that in order to preserve the state's lien priority as provided in this  
16 section the state shall, in addition to such other notice as is  
17 required by law, give at least thirty days' notice of the execution to  
18 any person possessing at the time the notice is given, an interest  
19 recorded subsequent to the date the state's lien was perfected.

20           (9) Upon the entry of a final judgment in favor of the state  
21 providing for forfeiture of property to the state, the title of the  
22 state to the property:

23           (a) In the case of real property or a beneficial interest in real  
24 property, relates back to the date of filing the criminal profiteering  
25 lien or, if no criminal profiteering lien is filed, then to the date of  
26 recording of the final judgment or the abstract thereof; or

27           (b) In the case of personal property or a beneficial interest in  
28 personal property, relates back to the date the personal property was  
29 seized by the state, or the date of filing of a criminal profiteering  
30 lien in accordance with this section, whichever is earlier, but if the  
31 property was not seized and no criminal profiteering lien was filed  
32 then to the date the final judgment was filed with the department of  
33 licensing and, if the personal property is an aircraft, with the  
34 federal aviation administration.

35           (10) This section does not limit the right of the state to obtain  
36 any order or injunction, receivership, writ, attachment, garnishment,  
37 or other remedy authorized under RCW 9A.82.100 or appropriate to  
38 protect the interests of the state or available under other applicable  
39 law.

1 (11) In a civil or criminal action under this chapter, the superior  
2 court shall provide for the protection of bona fide interests in  
3 property, including community property, subject to liens of persons who  
4 were not involved in the violation of this chapter, except to the  
5 extent that such interests or property were acquired or used in such a  
6 way as to be subject to forfeiture pursuant to RCW 9A.82.100(4)(f).

7 NEW SECTION. **Sec. 13.** A new section is added to chapter 10.95 RCW  
8 to read as follows:

9 AGGRAVATED FIRST DEGREE MURDER--DEFINITION--ALTERNATIVE MEANS OF  
10 COMMISSION--TERRORISM IN THE FIRST DEGREE. A person is guilty of  
11 aggravated murder in the first degree if he or she commits terrorism in  
12 the first degree as defined by section 3 of this act and shall be  
13 punished in accordance with the provisions of this chapter.

14 **Sec. 14.** RCW 10.95.040 and 1981 c 138 s 4 are each amended to read  
15 as follows:

16 (1) If a person is charged with aggravated first degree murder as  
17 defined by RCW 10.95.020 or section 13 of this act, the prosecuting  
18 attorney shall file written notice of a special sentencing proceeding  
19 to determine whether or not the death penalty should be imposed when  
20 there is reason to believe that there are not sufficient mitigating  
21 circumstances to merit leniency.

22 (2) The notice of special sentencing proceeding shall be filed and  
23 served on the defendant or the defendant's attorney within thirty days  
24 after the defendant's arraignment upon the charge of aggravated first  
25 degree murder unless the court, for good cause shown, extends or  
26 reopens the period for filing and service of the notice. Except with  
27 the consent of the prosecuting attorney, during the period in which the  
28 prosecuting attorney may file the notice of special sentencing  
29 proceeding, the defendant may not tender a plea of guilty to the charge  
30 of aggravated first degree murder nor may the court accept a plea of  
31 guilty to the charge of aggravated first degree murder or any lesser  
32 included offense.

33 (3) If a notice of special sentencing proceeding is not filed and  
34 served as provided in this section, the prosecuting attorney may not  
35 request the death penalty.



1           Leading Organized Crime (RCW  
2           9A.82.060(1)(a))  
3           Malicious explosion 3 (RCW 70.74.280(3))  
4           Manufacture of methamphetamine (RCW  
5           69.50.401(a)(1)(ii))  
6           Over 18 and deliver heroin,  
7           methamphetamine, a narcotic from  
8           Schedule I or II, or flunitrazepam  
9           from Schedule IV to someone under 18  
10          (RCW 69.50.406)  
11          Providing Material Support or Resources to  
12          Terrorists (RCW 9A.--.--- (section 7  
13          of this act))  
14          Sexually Violent Predator Escape (RCW  
15          9A.76.115)  
16          Unlawful Possession of False Identification  
17          for Terrorist Purposes (RCW 9A.--.---  
18          (section 8 of this act))  
  
19    IX       Assault of a Child 2 (RCW 9A.36.130)  
20           Controlled Substance Homicide (RCW  
21           69.50.415)  
22           Explosive devices prohibited (RCW  
23           70.74.180)  
24           Hit and Run--Death (RCW 46.52.020(4)(a))  
25           Homicide by Watercraft, by being under the  
26           influence of intoxicating liquor or  
27           any drug (RCW 79A.60.050)  
28           Inciting Criminal Profiteering (RCW  
29           9A.82.060(1)(b))  
30           Malicious placement of an explosive 2 (RCW  
31           70.74.270(2))  
32           Over 18 and deliver narcotic from Schedule  
33           III, IV, or V or a nonnarcotic, except  
34           flunitrazepam or methamphetamine, from  
35           Schedule I-V to someone under 18 and 3  
36           years junior (RCW 69.50.406)  
37           Robbery 1 (RCW 9A.56.200)  
38           Sexual Exploitation (RCW 9.68A.040)

1 Vehicular Homicide, by being under the  
2 influence of intoxicating liquor or  
3 any drug (RCW 46.61.520)

4 VIII Arson 1 (RCW 9A.48.020)  
5 Deliver or possess with intent to deliver  
6 methamphetamine (RCW  
7 69.50.401(a)(1)(ii))  
8 Homicide by Watercraft, by the operation of  
9 any vessel in a reckless manner (RCW  
10 79A.60.050)  
11 Manslaughter 2 (RCW 9A.32.070)  
12 Manufacture, deliver, or possess with  
13 intent to deliver amphetamine (RCW  
14 69.50.401(a)(1)(ii))  
15 Manufacture, deliver, or possess with  
16 intent to deliver heroin or cocaine  
17 (RCW 69.50.401(a)(1)(i))  
18 Possession of Ephedrine, Pseudoephedrine,  
19 or Anhydrous Ammonia with intent to  
20 manufacture methamphetamine (RCW  
21 69.50.440)  
22 Promoting Prostitution 1 (RCW 9A.88.070)  
23 Selling for profit (controlled or  
24 counterfeit) any controlled substance  
25 (RCW 69.50.410)  
26 Theft of Anhydrous Ammonia (RCW 69.55.010)  
27 Vehicular Homicide, by the operation of any  
28 vehicle in a reckless manner (RCW  
29 46.61.520)

30 VII Burglary 1 (RCW 9A.52.020)  
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)  
35 Drive-by Shooting (RCW 9A.36.045)  
36 Homicide by Watercraft, by disregard for  
37 the safety of others (RCW 79A.60.050)

1 Indecent Liberties (without forcible  
 2 compulsion) (RCW 9A.44.100(1) (b) and  
 3 (c))  
 4 Introducing Contraband 1 (RCW 9A.76.140)  
 5 Involving a minor in drug dealing (RCW  
 6 69.50.401(f))  
 7 Malicious placement of an explosive 3 (RCW  
 8 70.74.270(3))  
 9 Sending, bringing into state depictions of  
 10 minor engaged in sexually explicit  
 11 conduct (RCW 9.68A.060)  
 12 Unlawful Possession of a Firearm in the  
 13 first degree (RCW 9.41.040(1)(a))  
 14 Use of a Machine Gun in Commission of a  
 15 Felony (RCW 9.41.225)  
 16 Vehicular Homicide, by disregard for the  
 17 safety of others (RCW 46.61.520)  
 18 VI Bail Jumping with Murder 1 (RCW  
 19 9A.76.170(3)(a))  
 20 Bribery (RCW 9A.68.010)  
 21 Incest 1 (RCW 9A.64.020(1))  
 22 Intimidating a Judge (RCW 9A.72.160)  
 23 Intimidating a Juror/Witness (RCW  
 24 9A.72.110, 9A.72.130)  
 25 Malicious placement of an imitation device  
 26 2 (RCW 70.74.272(1)(b))  
 27 Manufacture, deliver, or possess with  
 28 intent to deliver narcotics from  
 29 Schedule I or II (except heroin or  
 30 cocaine) or flunitrazepam from  
 31 Schedule IV (RCW 69.50.401(a)(1)(i))  
 32 Rape of a Child 3 (RCW 9A.44.079)  
 33 Theft of a Firearm (RCW 9A.56.300)  
 34 Unlawful Storage of Anhydrous Ammonia (RCW  
 35 69.55.020)  
 36 V Abandonment of dependent person 1 (RCW  
 37 9A.42.060)



1 Advancing money or property for  
2 extortionate extension of credit (RCW  
3 9A.82.030)  
4 Bail Jumping with class A Felony (RCW  
5 9A.76.170(3)(b))  
6 Child Molestation 3 (RCW 9A.44.089)  
7 Criminal Mistreatment 1 (RCW 9A.42.020)  
8 Custodial Sexual Misconduct 1 (RCW  
9 9A.44.160)  
10 Delivery of imitation controlled substance  
11 by person eighteen or over to person  
12 under eighteen (RCW 69.52.030(2))  
13 Domestic Violence Court Order Violation  
14 (RCW 10.99.040, 10.99.050, 26.09.300,  
15 26.10.220, 26.26.138, 26.50.110,  
16 26.52.070, or 74.34.145)  
17 Extortion 1 (RCW 9A.56.120)  
18 Extortionate Extension of Credit (RCW  
19 9A.82.020)  
20 Extortionate Means to Collect Extensions of  
21 Credit (RCW 9A.82.040)  
22 Incest 2 (RCW 9A.64.020(2))  
23 Kidnapping 2 (RCW 9A.40.030)  
24 Perjury 1 (RCW 9A.72.020)  
25 Persistent prison misbehavior (RCW  
26 9.94.070)  
27 Possession of a Stolen Firearm (RCW  
28 9A.56.310)  
29 Rape 3 (RCW 9A.44.060)  
30 Rendering Criminal Assistance 1 (RCW  
31 9A.76.070)  
32 Sexual Misconduct with a Minor 1 (RCW  
33 9A.44.093)  
34 Sexually Violating Human Remains (RCW  
35 9A.44.105)  
36 Stalking (RCW 9A.46.110)  
37 IV Arson 2 (RCW 9A.48.030)  
38 Assault 2 (RCW 9A.36.021)  
39 Assault by Watercraft (RCW 79A.60.060)

1           Bribing a Witness/Bribe Received by Witness  
2                 (RCW 9A.72.090, 9A.72.100)  
3           Commercial Bribery (RCW 9A.68.060)  
4           Counterfeiting (RCW 9.16.035(4))  
5           Escape 1 (RCW 9A.76.110)  
6           Hit and Run--Injury (RCW 46.52.020(4)(b))  
7           Hit and Run with Vessel--Injury Accident  
8                 (RCW 79A.60.200(3))  
9           Identity Theft 1 (RCW 9.35.020(2)(a))  
10          Indecent Exposure to Person Under Age  
11                 Fourteen (subsequent sex offense) (RCW  
12                 9A.88.010)  
13          Influencing Outcome of Sporting Event (RCW  
14                 9A.82.070)  
15          Knowingly Trafficking in Stolen Property  
16                 (RCW 9A.82.050(2))  
17          Malicious Harassment (RCW 9A.36.080)  
18          Manufacture, deliver, or possess with  
19                 intent to deliver narcotics from  
20                 Schedule III, IV, or V or nonnarcotics  
21                 from Schedule I-V (except marijuana,  
22                 amphetamine, methamphetamines, or  
23                 flunitrazepam) (RCW 69.50.401(a)(1)  
24                 (iii) through (v))  
25          Residential Burglary (RCW 9A.52.025)  
26          Robbery 2 (RCW 9A.56.210)  
27          Theft of Livestock 1 (RCW 9A.56.080)  
28          Threats to Bomb (RCW 9.61.160)  
29          Use of Proceeds of Criminal Profiteering  
30                 (RCW 9A.82.080 (1) and (2))  
31          Vehicular Assault, by being under the  
32                 influence of intoxicating liquor or  
33                 any drug, or by the operation or  
34                 driving of a vehicle in a reckless  
35                 manner (RCW 46.61.522)  
36          Willful Failure to Return from Furlough  
37                 (RCW 72.66.060)  
38          III       Abandonment of dependent person 2 (RCW  
39                 9A.42.070)

1 Assault 3 (RCW 9A.36.031)  
2 Assault of a Child 3 (RCW 9A.36.140)  
3 Bail Jumping with class B or C Felony (RCW  
4 9A.76.170(3)(c))  
5 Burglary 2 (RCW 9A.52.030)  
6 Communication with a Minor for Immoral  
7 Purposes (RCW 9.68A.090)  
8 Criminal Gang Intimidation (RCW 9A.46.120)  
9 Criminal Mistreatment 2 (RCW 9A.42.030)  
10 Custodial Assault (RCW 9A.36.100)  
11 Delivery of a material in lieu of a  
12 controlled substance (RCW  
13 69.50.401(c))  
14 Escape 2 (RCW 9A.76.120)  
15 Extortion 2 (RCW 9A.56.130)  
16 Harassment (RCW 9A.46.020)  
17 Intimidating a Public Servant (RCW  
18 9A.76.180)  
19 Introducing Contraband 2 (RCW 9A.76.150)  
20 Maintaining a Dwelling or Place for  
21 Controlled Substances (RCW  
22 69.50.402(a)(6))  
23 Malicious Injury to Railroad Property (RCW  
24 81.60.070)  
25 Manufacture, deliver, or possess with  
26 intent to deliver marijuana (RCW  
27 69.50.401(a)(1)(iii))  
28 Manufacture, distribute, or possess with  
29 intent to distribute an imitation  
30 controlled substance (RCW  
31 69.52.030(1))  
32 Patronizing a Juvenile Prostitute (RCW  
33 9.68A.100)  
34 Perjury 2 (RCW 9A.72.030)  
35 Possession of Incendiary Device (RCW  
36 9.40.120)  
37 Possession of Machine Gun or Short-Barreled  
38 Shotgun or Rifle (RCW 9.41.190)  
39 Promoting Prostitution 2 (RCW 9A.88.080)

1 Recklessly Trafficking in Stolen Property  
2 (RCW 9A.82.050(1))  
3 Securities Act violation (RCW 21.20.400)  
4 Tampering with a Witness (RCW 9A.72.120)  
5 Telephone Harassment (subsequent conviction  
6 or threat of death) (RCW 9.61.230)  
7 Theft of Livestock 2 (RCW 9A.56.080)  
8 Unlawful Imprisonment (RCW 9A.40.040)  
9 Unlawful possession of firearm in the  
10 second degree (RCW 9.41.040(1)(b))  
11 Unlawful Use of Building for Drug Purposes  
12 (RCW 69.53.010)  
13 Vehicular Assault, by the operation or  
14 driving of a vehicle with disregard  
15 for the safety of others (RCW  
16 46.61.522)  
17 Willful Failure to Return from Work Release  
18 (RCW 72.65.070)

19 II Computer Trespass 1 (RCW 9A.52.110)  
20 Counterfeiting (RCW 9.16.035(3))  
21 Create, deliver, or possess a counterfeit  
22 controlled substance (RCW  
23 69.50.401(b))  
24 Escape from Community Custody (RCW  
25 72.09.310)  
26 Health Care False Claims (RCW 48.80.030)  
27 Identity Theft 2 (RCW 9.35.020(2)(b))  
28 Improperly Obtaining Financial Information  
29 (RCW 9.35.010)  
30 Malicious Mischief 1 (RCW 9A.48.070)  
31 Possession of controlled substance that is  
32 either heroin or narcotics from  
33 Schedule I or II or flunitrazepam from  
34 Schedule IV (RCW 69.50.401(d))  
35 Possession of phencyclidine (PCP) (RCW  
36 69.50.401(d))  
37 Possession of Stolen Property 1 (RCW  
38 9A.56.150)  
39 Theft 1 (RCW 9A.56.030)

1 Theft of Rental, Leased, or Lease-purchased  
2 Property (valued at one thousand five  
3 hundred dollars or more) (RCW  
4 9A.56.096(4))  
5 Trafficking in Insurance Claims (RCW  
6 48.30A.015)  
7 Unlawful Practice of Law (RCW 2.48.180)  
8 Unlicensed Practice of a Profession or  
9 Business (RCW 18.130.190(7))  
10 I Attempting to Elude a Pursuing Police  
11 Vehicle (RCW 46.61.024)  
12 False Verification for Welfare (RCW  
13 74.08.055)  
14 Forged Prescription (RCW 69.41.020)  
15 Forged Prescription for a Controlled  
16 Substance (RCW 69.50.403)  
17 Forgery (RCW 9A.60.020)  
18 Malicious Mischief 2 (RCW 9A.48.080)  
19 Possess Controlled Substance that is a  
20 Narcotic from Schedule III, IV, or V  
21 or Non-narcotic from Schedule I-V  
22 (except phencyclidine or  
23 flunitrazepam) (RCW 69.50.401(d))  
24 Possession of Stolen Property 2 (RCW  
25 9A.56.160)  
26 Reckless Burning 1 (RCW 9A.48.040)  
27 Taking Motor Vehicle Without Permission  
28 (RCW 9A.56.070)  
29 Theft 2 (RCW 9A.56.040)  
30 Theft of Rental, Leased, or Lease-purchased  
31 Property (valued at two hundred fifty  
32 dollars or more but less than one  
33 thousand five hundred dollars) (RCW  
34 9A.56.096(4))  
35 Unlawful Issuance of Checks or Drafts (RCW  
36 9A.56.060)  
37 Unlawful Use of Food Stamps (RCW 9.91.140  
38 (2) and (3))  
39 Vehicle Prowl 1 (RCW 9A.52.095)



1	B	Residential Burglary	
2		(9A.52.025)	C
3	B	Burglary 2 (9A.52.030)	C
4	D	Burglary Tools (Possession of)	
5		(9A.52.060)	E
6	D	Criminal Trespass 1 (9A.52.070)	E
7	E	Criminal Trespass 2 (9A.52.080)	E
8	C	Vehicle Prowling 1 (9A.52.095)	D
9	D	Vehicle Prowling 2 (9A.52.100)	E
10		<b>Drugs</b>	
11	E	Possession/Consumption of Alcohol	
12		(66.44.270)	E
13	C	Illegally Obtaining Legend Drug	
14		(69.41.020)	D
15	C+	Sale, Delivery, Possession of Legend	
16		Drug with Intent to Sell	
17		(69.41.030)	D+
18	E	Possession of Legend Drug	
19		(69.41.030)	E
20	B+	Violation of Uniform Controlled	
21		Substances Act - Narcotic,	
22		Methamphetamine, or Flunitrazepam	
23		Sale (69.50.401(a)(1) (i) or (ii))	B+
24	C	Violation of Uniform Controlled	
25		Substances Act - Nonnarcotic Sale	
26		(69.50.401(a)(1)(iii))	C
27	E	Possession of Marihuana <40 grams	
28		(69.50.401(e))	E
29	C	Fraudulently Obtaining Controlled	
30		Substance (69.50.403)	C
31	C+	Sale of Controlled Substance	
32		for Profit (69.50.410)	C+
33	E	Unlawful Inhalation (9.47A.020)	E
34	B	Violation of Uniform Controlled	
35		Substances Act - Narcotic,	
36		Methamphetamine, or Flunitrazepam	
37		Counterfeit Substances	
38		(69.50.401(b)(1) (i) or (ii))	B

1	C	Violation of Uniform Controlled	
2		Substances Act - Nonnarcotic	
3		Counterfeit Substances	
4		(69.50.401(b)(1) (iii), (iv), (v))	C
5	C	Violation of Uniform Controlled	
6		Substances Act - Possession of a	
7		Controlled Substance	
8		(69.50.401(d))	C
9	C	Violation of Uniform Controlled	
10		Substances Act - Possession of a	
11		Controlled Substance	
12		(69.50.401(c))	C
13		<b>Firearms and Weapons</b>	
14	B	Theft of Firearm (9A.56.300)	C
15	B	Possession of Stolen Firearm	
16		(9A.56.310)	C
17	E	Carrying Loaded Pistol Without	
18		Permit (9.41.050)	E
19	C	Possession of Firearms by Minor (<18)	
20		(9.41.040(1)(b)(iii))	C
21	D+	Possession of Dangerous Weapon	
22		(9.41.250)	E
23	D	Intimidating Another Person by use	
24		of Weapon (9.41.270)	E
25		<b>Homicide</b>	
26	A+	Murder 1 (9A.32.030)	A
27	A+	Murder 2 (9A.32.050)	B+
28	B+	Manslaughter 1 (9A.32.060)	C+
29	C+	Manslaughter 2 (9A.32.070)	D+
30	B+	Vehicular Homicide (46.61.520)	C+
31		<b>Kidnapping</b>	
32	A	Kidnap 1 (9A.40.020)	B+
33	B+	Kidnap 2 (9A.40.030)	C+
34	C+	Unlawful Imprisonment	
35		(9A.40.040)	D+



1		<b>Obstructing Governmental Operation</b>	
2	D	Obstructing a Law Enforcement	
3		Officer (9A.76.020)	E
4	E	Resisting Arrest (9A.76.040)	E
5	B	Introducing Contraband 1	
6		(9A.76.140)	C
7	C	Introducing Contraband 2	
8		(9A.76.150)	D
9	E	Introducing Contraband 3	
10		(9A.76.160)	E
11	B+	Intimidating a Public Servant	
12		(9A.76.180)	C+
13	B+	Intimidating a Witness	
14		(9A.72.110)	C+
15		<b>Public Disturbance</b>	
16	C+	Riot with Weapon (9A.84.010)	D+
17	D+	Riot Without Weapon	
18		(9A.84.010)	E
19	E	Failure to Disperse (9A.84.020)	E
20	E	Disorderly Conduct (9A.84.030)	E
21		<b>Sex Crimes</b>	
22	A	Rape 1 (9A.44.040)	B+
23	A-	Rape 2 (9A.44.050)	B+
24	C+	Rape 3 (9A.44.060)	D+
25	A-	Rape of a Child 1 (9A.44.073)	B+
26	B+	Rape of a Child 2 (9A.44.076)	C+
27	B	Incest 1 (9A.64.020(1))	C
28	C	Incest 2 (9A.64.020(2))	D
29	D+	Indecent Exposure	
30		(Victim <14) (9A.88.010)	E
31	E	Indecent Exposure	
32		(Victim 14 or over) (9A.88.010)	E
33	B+	Promoting Prostitution 1	
34		(9A.88.070)	C+
35	C+	Promoting Prostitution 2	
36		(9A.88.080)	D+
37	E	O & A (Prostitution) (9A.88.030)	E
38	B+	Indecent Liberties (9A.44.100)	C+

1	A-	Child Molestation 1 (9A.44.083)	B+
2	B	Child Molestation 2 (9A.44.086)	C+
3		<b><u>Terrorism</u></b>	
4	<u>A+</u>	<u>Terrorism in the First</u>	
5		<u>Degree (section 3 of this act)</u>	<u>A</u>
6	<u>A</u>	<u>Terrorism in the Second Degree</u>	
7		<u>(section 4 of this act)</u>	<u>B+</u>
8	<u>B+</u>	<u>Unlawful Use or Possession</u>	
9		<u>of Weapon of Mass Destruction</u>	
10		<u>(section 5 of this act)</u>	<u>C+</u>
11	<u>B</u>	<u>Threatening Acts of Terrorism 1</u>	
12		<u>(section 6(1)(a) of this act)</u>	<u>C</u>
13	<u>C+</u>	<u>Providing Material Support or</u>	
14		<u>Resources to Terrorists (section</u>	
15		<u>7 of this act)</u>	<u>D+</u>
16	<u>C</u>	<u>Unlawful Possession of False</u>	
17		<u>Identification for Terrorist Purposes</u>	
18		<u>(section 8 of this act)</u>	<u>D</u>
19	<u>D+</u>	<u>Threatening Acts of Terrorism 2</u>	
20		<u>(section 6(1)(b) of this act)</u>	<u>E</u>
21		<b><u>Theft, Robbery, Extortion, and Forgery</u></b>	
22	B	Theft 1 (9A.56.030)	C
23	C	Theft 2 (9A.56.040)	D
24	D	Theft 3 (9A.56.050)	E
25	B	Theft of Livestock (9A.56.080)	C
26	C	Forgery (9A.60.020)	D
27	A	Robbery 1 (9A.56.200)	B+
28	B+	Robbery 2 (9A.56.210)	C+
29	B+	Extortion 1 (9A.56.120)	C+
30	C+	Extortion 2 (9A.56.130)	D+
31	C	Identity Theft 1 (9.35.020(2)(a))	D
32	D	Identity Theft 2 (9.35.020(2)(b))	E
33	D	Improperly Obtaining Financial	
34		Information ( <del>((9.35.010))</del> )	
35		<u>(9.35.010)</u>	<u>E</u>
36	B	Possession of Stolen Property 1	
37		(9A.56.150)	C

1	C	Possession of Stolen Property 2	
2		(9A.56.160)	D
3	D	Possession of Stolen Property 3	
4		(9A.56.170)	E
5	C	Taking Motor Vehicle Without	
6		Owner's Permission (9A.56.070)	D
7		<b>Motor Vehicle Related Crimes</b>	
8	E	Driving Without a License	
9		(46.20.005)	E
10	B+	Hit and Run - Death	
11		(46.52.020(4)(a))	C+
12	C	Hit and Run - Injury	
13		(46.52.020(4)(b))	D
14	D	Hit and Run-Attended	
15		(46.52.020(5))	E
16	E	Hit and Run-Unattended	
17		(46.52.010)	E
18	C	Vehicular Assault (46.61.522)	D
19	C	Attempting to Elude Pursuing	
20		Police Vehicle (46.61.024)	D
21	E	Reckless Driving (46.61.500)	E
22	D	Driving While Under the Influence	
23		(46.61.502 and 46.61.504)	E
24		<b>Other</b>	
25	B	Bomb Threat (9.61.160)	C
26	C	Escape 1 (9A.76.110)	C
27	C	Escape 2 (9A.76.120)	C
28	D	Escape 3 (9A.76.130)	E
29	E	Obscene, Harassing, Etc.,	
30		Phone Calls (9.61.230)	E
31	A	Other Offense Equivalent to an	
32		Adult Class A Felony	B+
33	B	Other Offense Equivalent to an	
34		Adult Class B Felony	C
35	C	Other Offense Equivalent to an	
36		Adult Class C Felony	D
37	D	Other Offense Equivalent to an	
38		Adult Gross Misdemeanor	E

1	E	Other Offense Equivalent to an	
2		Adult Misdemeanor	E
3	V	Violation of Order of Restitution,	
4		Community Supervision, or	
5		Confinement (13.40.200)	V

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

8 1st escape or attempted escape during 12-month period - 4 weeks  
9 confinement

10 2nd escape or attempted escape during 12-month period - 8 weeks  
11 confinement

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

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

16 **JUVENILE SENTENCING STANDARDS**

17 This schedule must be used for juvenile offenders. The court may  
18 select sentencing option A, B, or C.

**OPTION A**  
**JUVENILE OFFENDER SENTENCING GRID**  
**STANDARD RANGE**

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Current Offense Category	15-36 WEEKS	52-65 WEEKS	80-100 WEEKS	103-129 WEEKS	
A+	180 WEEKS TO AGE 21 YEARS				
A	103 WEEKS TO 129 WEEKS				
A-	15-36 WEEKS	52-65 WEEKS	80-100 WEEKS	103-129 WEEKS	
	EXCEPT 30-40 WEEKS FOR 15-17 YEAR OLDS				
B+	15-36 WEEKS	52-65 WEEKS	80-100 WEEKS	103-129 WEEKS	
B	LOCAL SANCTIONS (LS)	15-36 WEEKS	52-65 WEEKS		
C+	LS	15-36 WEEKS			
C	LS	15-36 WEEKS			
		Local Sanctions: 0 to 30 Days			
D+	LS	0 to 12 Months Community Supervision 0 to 150 Hours Community Service			
D	LS	\$0 to \$500 Fine			
E	LS				
	0	1	2	3	4 or more
	PRIOR ADJUDICATIONS				

36 NOTE: References in the grid to days or weeks mean periods of  
37 confinement.

38 (1) The vertical axis of the grid is the current offense category.  
39 The current offense category is determined by the offense of  
40 adjudication.

41 (2) The horizontal axis of the grid is the number of prior  
42 adjudications included in the juvenile's criminal history. Each prior  
43 felony adjudication shall count as one point. Each prior violation,

1 misdemeanor, and gross misdemeanor adjudication shall count as 1/4  
2 point. Fractional points shall be rounded down.

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

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

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

11 OR

12 OPTION B

13 CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE

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

18 OR

19 OPTION C

20 MANIFEST INJUSTICE

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

24 **Sec. 17.** RCW 9.94A.030 and 2001 2nd sp.s. c 12 s 301, 2001 c 300  
25 s 3, and 2001 c 7 s 2 are each reenacted and amended to read as  
26 follows:

27 Unless the context clearly requires otherwise, the definitions in  
28 this section apply throughout this chapter.

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

31 (2) "Collect," or any derivative thereof, "collect and remit," or  
32 "collect and deliver," when used with reference to the department,  
33 means that the department, either directly or through a collection  
34 agreement authorized by RCW 9.94A.760, is responsible for monitoring  
35 and enforcing the offender's sentence with regard to the legal

1 financial obligation, receiving payment thereof from the offender, and,  
2 consistent with current law, delivering daily the entire payment to the  
3 superior court clerk without depositing it in a departmental account.

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

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

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

19 (6) "Community custody range" means the minimum and maximum period  
20 of community custody included as part of a sentence under RCW  
21 9.94A.715, as established by the commission or the legislature under  
22 RCW 9.94A.850, for crimes committed on or after July 1, 2000.

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

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

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

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

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

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

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

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

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

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

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

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



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

13 (19) "Drug offender sentencing alternative" is a sentencing option  
14 available to persons convicted of a felony offense other than a violent  
15 offense or a sex offense and who are eligible for the option under RCW  
16 9.94A.660.

17 (20) "Drug offense" means:

18 (a) Any felony violation of chapter 69.50 RCW except possession of  
19 a controlled substance (RCW 69.50.401(d)) or forged prescription for a  
20 controlled substance (RCW 69.50.403);

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

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

27 (21) "Earned release" means earned release from confinement as  
28 provided in RCW 9.94A.728.

29 (22) "Escape" means:

30 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the  
31 first degree (RCW 9A.76.110), escape in the second degree (RCW  
32 9A.76.120), willful failure to return from furlough (RCW 72.66.060),  
33 willful failure to return from work release (RCW 72.65.070), or willful  
34 failure to be available for supervision by the department while in  
35 community custody (RCW 72.09.310); or

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

39 (23) "Felony traffic offense" means:

1 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
2 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-  
3 and-run injury-accident (RCW 46.52.020(4)); or

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

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

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

13 (26) "Home detention" means a program of partial confinement  
14 available to offenders wherein the offender is confined in a private  
15 residence subject to electronic surveillance.

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

30 (28) "Most serious offense" means any of the following felonies or  
31 a felony attempt to commit any of the following felonies:

32 (a) Any felony defined under any law as a class A felony or  
33 criminal solicitation of or criminal conspiracy to commit a class A  
34 felony;

35 (b) Assault in the second degree;

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

37 (d) Child molestation in the second degree;

38 (e) Controlled substance homicide;

39 (f) Extortion in the first degree;

1 (g) Incest when committed against a child under age fourteen;  
2 (h) Indecent liberties;  
3 (i) Kidnapping in the second degree;  
4 (j) Leading organized crime;  
5 (k) Manslaughter in the first degree;  
6 (l) Manslaughter in the second degree;  
7 (m) Promoting prostitution in the first degree;  
8 (n) Rape in the third degree;  
9 (o) Robbery in the second degree;  
10 (p) Sexual exploitation;  
11 (q) Vehicular assault, when caused by the operation or driving of  
12 a vehicle by a person while under the influence of intoxicating liquor  
13 or any drug or by the operation or driving of a vehicle in a reckless  
14 manner;  
15 (r) Vehicular homicide, when proximately caused by the driving of  
16 any vehicle by any person while under the influence of intoxicating  
17 liquor or any drug as defined by RCW 46.61.502, or by the operation of  
18 any vehicle in a reckless manner;  
19 (s) Any other class B felony offense with a finding of sexual  
20 motivation;  
21 (t) Any other felony with a deadly weapon verdict under RCW  
22 9.94A.602;  
23 (u) Any felony offense in effect at any time prior to December 2,  
24 1993, that is comparable to a most serious offense under this  
25 subsection, or any federal or out-of-state conviction for an offense  
26 that under the laws of this state would be a felony classified as a  
27 most serious offense under this subsection;  
28 (v)(i) A prior conviction for indecent liberties under RCW  
29 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.  
30 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as  
31 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)  
32 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;  
33 (ii) A prior conviction for indecent liberties under RCW  
34 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,  
35 if: (A) The crime was committed against a child under the age of  
36 fourteen; or (B) the relationship between the victim and perpetrator is  
37 included in the definition of indecent liberties under RCW  
38 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,

1 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,  
2 through July 27, 1997.

3 (29) "Nonviolent offense" means an offense which is not a violent  
4 offense.

5 (30) "Offender" means a person who has committed a felony  
6 established by state law and is eighteen years of age or older or is  
7 less than eighteen years of age but whose case is under superior court  
8 jurisdiction under RCW 13.04.030 or has been transferred by the  
9 appropriate juvenile court to a criminal court pursuant to RCW  
10 13.40.110. Throughout this chapter, the terms "offender" and  
11 "defendant" are used interchangeably.

12 (31) "Partial confinement" means confinement for no more than one  
13 year in a facility or institution operated or utilized under contract  
14 by the state or any other unit of government, or, if home detention or  
15 work crew has been ordered by the court, in an approved residence, for  
16 a substantial portion of each day with the balance of the day spent in  
17 the community. Partial confinement includes work release, home  
18 detention, work crew, and a combination of work crew and home  
19 detention.

20 (32) "Persistent offender" is an offender who:

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

23 (ii) Has, before the commission of the offense under (a) of this  
24 subsection, been convicted as an offender on at least two separate  
25 occasions, whether in this state or elsewhere, of felonies that under  
26 the laws of this state would be considered most serious offenses and  
27 would be included in the offender score under RCW 9.94A.525; provided  
28 that of the two or more previous convictions, at least one conviction  
29 must have occurred before the commission of any of the other most  
30 serious offenses for which the offender was previously convicted; or

31 (b)(i) Has been convicted of: (A) Rape in the first degree, rape  
32 of a child in the first degree, child molestation in the first degree,  
33 rape in the second degree, rape of a child in the second degree, or  
34 indecent liberties by forcible compulsion; (B) any of the following  
35 offenses with a finding of sexual motivation: Murder in the first  
36 degree, murder in the second degree, homicide by abuse, kidnapping in  
37 the first degree, kidnapping in the second degree, assault in the first  
38 degree, assault in the second degree, assault of a child in the first

1 degree, or burglary in the first degree; or (C) an attempt to commit  
2 any crime listed in this subsection (32)(b)(i); and

3 (ii) Has, before the commission of the offense under (b)(i) of this  
4 subsection, been convicted as an offender on at least one occasion,  
5 whether in this state or elsewhere, of an offense listed in (b)(i) of  
6 this subsection or any federal or out-of-state offense or offense under  
7 prior Washington law that is comparable to the offenses listed in  
8 (b)(i) of this subsection. A conviction for rape of a child in the  
9 first degree constitutes a conviction under (b)(i) of this subsection  
10 only when the offender was sixteen years of age or older when the  
11 offender committed the offense. A conviction for rape of a child in  
12 the second degree constitutes a conviction under (b)(i) of this  
13 subsection only when the offender was eighteen years of age or older  
14 when the offender committed the offense.

15 (33) "Postrelease supervision" is that portion of an offender's  
16 community placement that is not community custody.

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

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

29 (36) "Serious traffic offense" means:

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

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

38 (37) "Serious violent offense" is a subcategory of violent offense  
39 and means:

1 (a)(i) Murder in the first degree;  
2 (ii) Homicide by abuse;  
3 (iii) Murder in the second degree;  
4 (iv) Manslaughter in the first degree;  
5 (v) Assault in the first degree;  
6 (vi) Kidnapping in the first degree;  
7 (vii) Rape in the first degree;  
8 (viii) Assault of a child in the first degree; (~~or~~)  
9 (ix) Terrorism in the first degree (RCW 9A.--.--- (section 3 of  
10 this act));  
11 (x) Terrorism in the second degree (RCW 9A.--.--- (section 4 of  
12 this act));  
13 (xi) Unlawful use or possession of a weapon of mass destruction  
14 (RCW 9A.--.--- (section 5 of this act)); or  
15 (xii) An attempt, criminal solicitation, or criminal conspiracy to  
16 commit one of these felonies; or  
17 (b) Any federal or out-of-state conviction for an offense that  
18 under the laws of this state would be a felony classified as a serious  
19 violent offense under (a) of this subsection.  
20 (38) "Sex offense" means:  
21 (a)(i) A felony that is a violation of chapter 9A.44 RCW other than  
22 RCW 9A.44.130(11);  
23 (ii) A violation of RCW 9A.64.020;  
24 (iii) A felony that is a violation of chapter 9.68A RCW other than  
25 RCW 9.68A.070 or 9.68A.080; or  
26 (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt,  
27 criminal solicitation, or criminal conspiracy to commit such crimes;  
28 (b) Any conviction for a felony offense in effect at any time prior  
29 to July 1, 1976, that is comparable to a felony classified as a sex  
30 offense in (a) of this subsection;  
31 (c) A felony with a finding of sexual motivation under RCW  
32 9.94A.835 or 13.40.135; or  
33 (d) Any federal or out-of-state conviction for an offense that  
34 under the laws of this state would be a felony classified as a sex  
35 offense under (a) of this subsection.  
36 (39) "Sexual motivation" means that one of the purposes for which  
37 the defendant committed the crime was for the purpose of his or her  
38 sexual gratification.

1 (40) "Standard sentence range" means the sentencing court's  
2 discretionary range in imposing a nonappealable sentence.

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

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

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

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

20 (45) "Violent offense" means:

21 (a) Any of the following felonies:

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

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

26 (iii) Manslaughter in the first degree;

27 (iv) Manslaughter in the second degree;

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

29 (vi) Kidnapping in the second degree;

30 (vii) Arson in the second degree;

31 (viii) Assault in the second degree;

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

33 (x) Extortion in the first degree;

34 (xi) Robbery in the second degree;

35 (xii) Drive-by shooting;

36 (xiii) Vehicular assault, when caused by the operation or driving  
37 of a vehicle by a person while under the influence of intoxicating  
38 liquor or any drug or by the operation or driving of a vehicle in a  
39 reckless manner; and

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

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

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

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

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

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

24 **Sec. 18.** RCW 9A.04.080 and 1998 c 221 s 2 are each amended to read  
25 as follows:

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

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

30 (i) Murder;

31 (ii) Any offense defined in chapter 9A.-- RCW (sections 1 through  
32 8 and 19 through 25 of this act);

33 (iii) Homicide by abuse;

34 ~~((iii))~~ (iv) Arson if a death results;

35 ~~((iv))~~ (v) Vehicular homicide;

36 ~~((v))~~ (vi) Vehicular assault if a death results;

37 ~~((vi))~~ (vii) Hit-and-run injury-accident if a death results (RCW  
38 46.52.020(4)).



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

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

6 (ii) Arson if no death results; or

7 (iii) Violations of RCW 9A.44.040 or 9A.44.050 if the rape is  
8 reported to a law enforcement agency within one year of its commission;  
9 except that if the victim is under fourteen years of age when the rape  
10 is committed and the rape is reported to a law enforcement agency  
11 within one year of its commission, the violation may be prosecuted up  
12 to three years after the victim's eighteenth birthday or up to ten  
13 years after the rape's commission, whichever is later. If a violation  
14 of RCW 9A.44.040 or 9A.44.050 is not reported within one year, the rape  
15 may not be prosecuted: (A) More than three years after its commission  
16 if the violation was committed against a victim fourteen years of age  
17 or older; or (B) more than three years after the victim's eighteenth  
18 birthday or more than seven years after the rape's commission,  
19 whichever is later, if the violation was committed against a victim  
20 under fourteen years of age.

21 (c) Violations of the following statutes shall not be prosecuted  
22 more than three years after the victim's eighteenth birthday or more  
23 than seven years after their commission, whichever is later: RCW  
24 9A.44.073, 9A.44.076, 9A.44.083, 9A.44.086, 9A.44.070, 9A.44.080,  
25 9A.44.100(1)(b), or 9A.64.020.

26 (d) The following offenses shall not be prosecuted more than six  
27 years after their commission: Violations of RCW 9A.82.060 or  
28 9A.82.080.

29 (e) The following offenses shall not be prosecuted more than five  
30 years after their commission: Any class C felony under chapter 74.09,  
31 82.36, or 82.38 RCW.

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

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

37 (h) No other felony may be prosecuted more than three years after  
38 its commission; except that in a prosecution under RCW 9A.44.115, if  
39 the person who was viewed, photographed, or filmed did not realize at

1 the time that he or she was being viewed, photographed, or filmed, the  
2 prosecution must be commenced within two years of the time the person  
3 who was viewed or in the photograph or film first learns that he or she  
4 was viewed, photographed, or filmed.

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

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

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

12 (3) If, before the end of a period of limitation prescribed in  
13 subsection (1) of this section, an indictment has been found or a  
14 complaint or an information has been filed, and the indictment,  
15 complaint, or information is set aside, then the period of limitation  
16 is extended by a period equal to the length of time from the finding or  
17 filing to the setting aside.

18 NEW SECTION. **Sec. 19.** CRIMINAL PENALTIES ADDITIONAL TO CIVIL AND  
19 ADMINISTRATIVE SANCTIONS. The penalties imposed pursuant to this  
20 chapter shall be in addition to, and not in lieu of, all other civil,  
21 administrative, and other penalties and remedies provided for by other  
22 laws providing penalties or remedies for actions or conduct which also  
23 constitutes a violation of this chapter.

24 NEW SECTION. **Sec. 20.** ADDITIONAL PENALTIES. In addition to all  
25 other penalties, criminal or civil, and any other provision of law  
26 notwithstanding, any person convicted of any of the offenses described  
27 in this chapter shall be ordered by the sentencing court to:

28 (1) Make restitution for actual damages sustained to those persons  
29 or entities injured by the commission of any of the offenses described  
30 in this chapter;

31 (2) Make restitution of all costs and expenses incurred by the  
32 state or county in the investigation and prosecution of the offense,  
33 including any costs of defense provided at public expense.

34 NEW SECTION. **Sec. 21.** ANTIMERGER PROVISION. Every person who, in  
35 the commission of an offense defined by this chapter, commits any other

1 crime may be punished therefor, as well as for the violation of this  
2 chapter, and may be prosecuted for each crime separately.

3 NEW SECTION. **Sec. 22.** SECTION CAPTIONS. Section captions as used  
4 in this chapter do not constitute any part of the law.

5 NEW SECTION. **Sec. 23.** SEVERABILITY. If any provision of this act  
6 or its application to any person or circumstance is held invalid, the  
7 remainder of the act or the application of the provision to other  
8 persons or circumstances is not affected.

9 NEW SECTION. **Sec. 24.** SHORT TITLE. This act shall be known as  
10 the Washington AntiTerrorism Act of 2002.

11 NEW SECTION. **Sec. 25.** DECLARING AN EMERGENCY. This act is  
12 necessary for the immediate preservation of the public peace, health,  
13 or safety, or support of the state government and its existing public  
14 institutions, and takes effect immediately.

15 NEW SECTION. **Sec. 26.** CODIFICATION INSTRUCTIONS. Sections 1  
16 through 8 and 19 through 25 of this act constitute a new chapter in  
17 Title 9A RCW."

18 Correct the title.

EFFECT: Creates these new felony terrorism crimes which must be committed with the intent to significantly disrupt the conduct of government or of the general civilian population of the state or the United States, and commits any act which manifests an extreme indifference to human life: Terrorism in the first degree; terrorism in the second degree; unlawful possession of a weapon of mass destruction; threatening acts of terrorism in the first and second degree; unlawful possession of false identification for terrorist purposes; and providing material support or resources to terrorists. Makes terrorism in the first degree an alternate means of committing aggravated first degree murder. Changes the definitions related to unconventional weapons. Adds terrorism crimes to the definition of crimes that constitute "criminal profiteering" regardless of whether the crimes were committed for financial gain. Removes the definition of "terrorist intent." Removes the felony terrorism crimes of hoax terrorist act; unlawful use of agents for terrorist purposes; possession of agents for terrorist purposes; releasing radioactive material with terrorist intent; and possession of radioactive material with terrorist intent. Removes the aggravating circumstance of "terrorist intent" from the list that allows for exceptional sentences.

Removes the definition of "terrorist offender." Removes terrorism  
crimes from the list of serious violent offenses.

--- END ---