
ENGROSSED HOUSE BILL 2759

State of Washington

57th Legislature

2002 Regular Session

By Representatives Buck, Hurst, Lisk, Talcott, Schoesler, Pflug, Woods and Pearson

Read first time 01/28/2002. Referred to Committee on Select Committee on Community Security.

1 AN ACT Relating to crimes involving chemical, biological,
2 explosive, incendiary, flammable, or radiological substances or
3 devices; amending RCW 10.95.020 and 13.40.0357; reenacting and amending
4 RCW 9.94A.030 and 9.94A.515; adding a new chapter to Title 9A RCW;
5 repealing RCW 9.61.160, 9.61.170, 9.61.180, 70.74.270, 70.74.272,
6 70.74.275, and 70.74.280; prescribing penalties; and declaring an
7 emergency.

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

9 NEW SECTION. **Sec. 1.** DEFINITIONS. The definitions in this
10 section apply throughout this chapter unless the context clearly
11 requires otherwise.

12 (1) "Device" means any apparatus, appliance, contrivance, or
13 contraption that is assembled, fabricated, or manufactured with any
14 chemical, biological, explosive, incendiary, flammable, or radiological
15 substance that is destructive, lethal, or noxious, and that is designed
16 or intended to disfigure, damage, destroy, distract, or harass.

17 (2) "Imitation, fake, or hoax substance or device" means any
18 substance or device that is not a chemical, biological, explosive,
19 incendiary, flammable, or radiological substance or device, but that by

1 appearance or representation would lead a reasonable person to believe
2 that the device or substance is a chemical, biological, explosive,
3 incendiary, flammable, or radiological substance or device.

4 (3) "Biological agent" means any microorganism, virus, infectious
5 substance, or biological product that may be engineered as a result of
6 biotechnology, or any naturally occurring or bioengineered component of
7 any such microorganism, virus infectious substance, biological product,
8 or toxin or vector, capable of causing:

9 (a) Death, disease, or other biological malfunction in a human, an
10 animal, a plant, or another microorganism; or

11 (b) Deterioration of food, water equipment, supplies, or material
12 of any kind; or

13 (c) Deleterious alteration of the environment.

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

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

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

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

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

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

34 (8) For the purposes of this section, "explosive" has the same
35 meaning as provided in RCW 70.74.010(3).

36 NEW SECTION. **Sec. 2.** MALICIOUS DETONATION OR RELEASE OF A
37 CHEMICAL, BIOLOGICAL, EXPLOSIVE, INCENDIARY, FLAMMABLE, OR RADIOLOGICAL
38 SUBSTANCE OR DEVICE. Any person who maliciously, by the detonation or

1 release of a chemical, biological, explosive, incendiary, flammable, or
2 radiological substance or device, disfigures, damages, destroys, or
3 contaminates any building, vehicle, roadway, bridge, ferry, vessel,
4 canal, train, railroad track, airplane, public or private electric,
5 water, sewer, gas, telecommunications, or other utility production or
6 transmission facility, structure or equipment, computer system or
7 network, or any other structure, utility, common carrier, or mode of
8 transportation, is guilty of:

9 (1) Malicious detonation or release of a chemical, biological,
10 explosive, incendiary, flammable, or radiological substance or device
11 in the first degree if the offense is committed with intent to commit
12 a terrorist act, or to further the commission, instigation, planning,
13 preparation, aiding, or financing of any terrorist act. Malicious
14 detonation or release of a chemical, biological, explosive, incendiary,
15 flammable, or radiological substance or device in the first degree is
16 a class A felony;

17 (2) Malicious detonation or release of a chemical, biological,
18 explosive, incendiary, flammable, or radiological substance or device
19 in the second degree if the offense is committed under circumstances
20 not amounting to malicious detonation or release of a chemical,
21 biological, explosive, incendiary, flammable, or radiological substance
22 or device in the first degree and if thereby the life or safety of a
23 human being is endangered. Malicious detonation or release of a
24 chemical, biological, explosive, incendiary, flammable, or radiological
25 substance or device in the second degree is a class A felony;

26 (3) Malicious detonation or release of a chemical, biological,
27 explosive, incendiary, flammable, or radiological substance or device
28 in the third degree if the offense is committed under circumstances not
29 amounting to malicious detonation or release of a chemical, biological,
30 explosive, incendiary, flammable, or radiological substance or device
31 in the first or second degree. Malicious detonation or release of a
32 chemical, biological, explosive, incendiary, flammable, or radiological
33 substance or device in the third degree is a class B felony.

34 For the purposes of this section, "terrorist act" has the same
35 meaning as provided in RCW 70.74.285.

36 NEW SECTION. **Sec. 3.** MALICIOUS PLACEMENT OF A CHEMICAL,
37 BIOLOGICAL, EXPLOSIVE, INCENDIARY, FLAMMABLE, OR RADIOLOGICAL SUBSTANCE
38 OR DEVICE. Any person who maliciously places a chemical, biological,

1 explosive, incendiary, flammable, or radiological substance or device
2 in, upon, under, against, or near any building, vehicle, roadway,
3 bridge, ferry, vessel, canal, train, railroad track, airplane, public
4 or private electric, water, sewer, gas, telecommunications, or other
5 utility production or transmission facility, structure or equipment,
6 computer system or network, or any other structure, utility, common
7 carrier, or mode of transportation, in such manner or under such
8 circumstances as to destroy, contaminate, damage, or injure it if
9 diffused, ignited, or exploded is guilty of:

10 (1) Malicious placement of a chemical, biological, explosive,
11 incendiary, flammable, or radiological substance or device in the first
12 degree if the offense is committed with intent to commit a terrorist
13 act, or to further the commission, instigation, planning, preparation,
14 aiding, or financing of any terrorist act. Malicious placement of a
15 chemical, biological, explosive, incendiary, flammable, or radiological
16 substance or device in the first degree is a class A felony;

17 (2) Malicious placement of a chemical, biological, explosive,
18 incendiary, flammable, or radiological substance or device in the
19 second degree if the offense is committed under circumstances not
20 amounting to malicious placement of a chemical, biological, explosive,
21 incendiary, flammable, or radiological substance or device in the first
22 degree and if thereby the life or safety of a human being is
23 endangered. Malicious placement of a chemical, biological, explosive,
24 incendiary, flammable, or radiological substance or device in the
25 second degree is a class B felony;

26 (3) Malicious placement of a chemical, biological, explosive,
27 incendiary, flammable, or radiological substance or device in the third
28 degree if the offense is committed under circumstances not amounting to
29 malicious placement of a chemical, biological, explosive, incendiary,
30 flammable, or radiological substance or device in the first or second
31 degree. Malicious placement of a chemical, biological, explosive,
32 incendiary, flammable, or radiological substance or device in the third
33 degree is a class B felony.

34 For the purposes of this section, "terrorist act" has the same
35 meaning as provided in RCW 70.74.285.

36 NEW SECTION. **Sec. 4.** MALICIOUS PLACEMENT OF AN IMITATION, FAKE,
37 OR HOAX CHEMICAL, BIOLOGICAL, EXPLOSIVE, INCENDIARY, FLAMMABLE, OR
38 RADIOLOGICAL SUBSTANCE OR DEVICE. Any person who maliciously places an

1 imitation, fake, or hoax chemical, biological, explosive, incendiary,
2 flammable, or radiological substance or device in, upon, under,
3 against, or near any building, vehicle, roadway, bridge, ferry, vessel,
4 canal, train, railroad track, airplane, public or private electric,
5 water, sewer, gas, telecommunications, or other utility production or
6 transmission facility, structure or equipment, computer system or
7 network, or any other structure, utility, common carrier, or mode of
8 transportation, with the intent to give the appearance or impression
9 that the imitation, fake, or hoax substance or device is a chemical,
10 biological, explosive, incendiary, flammable, or radiological substance
11 or device, is guilty of:

12 (1) Malicious placement of an imitation, fake, or hoax chemical,
13 biological, explosive, incendiary, flammable, or radiological substance
14 or device in the first degree if the offense is committed with intent
15 to commit a terrorist act, or to further the commission, instigation,
16 planning, preparation, aiding, or financing of any terrorist act.
17 Malicious placement of an imitation, fake, or hoax chemical,
18 biological, explosive, incendiary, flammable, or radiological substance
19 or device in the first degree is a class B felony;

20 (2) Malicious placement of an imitation, fake, or hoax chemical,
21 biological, explosive, incendiary, flammable, or radiological substance
22 or device in the second degree if the offense is committed under
23 circumstances not amounting to malicious placement of an imitation,
24 fake, or hoax chemical, biological, explosive, incendiary, flammable,
25 or radiological substance or device in the first degree. Malicious
26 placement of an imitation, fake, or hoax chemical, biological,
27 explosive, incendiary, flammable, or radiological substance or device
28 in the second degree is a class C felony.

29 For the purposes of this section, "terrorist act" has the same
30 meaning as provided in RCW 70.74.285.

31 NEW SECTION. **Sec. 5.** MALICIOUS INTIMIDATION OR HARASSMENT WITH A
32 CHEMICAL, BIOLOGICAL, EXPLOSIVE, INCENDIARY, FLAMMABLE, OR RADIOLOGICAL
33 SUBSTANCE OR DEVICE. Any person who maliciously exhibits a chemical,
34 biological, explosive, incendiary, flammable, or radiological substance
35 or device who intends to, and does, intimidate or harass a person is
36 guilty of:

37 (1) Malicious intimidation or harassment with a chemical,
38 biological, explosive, incendiary, flammable, or radiological substance

1 or device in the first degree if the offense is committed to further
2 the commission, instigation, planning, preparation, aiding, or
3 financing of any terrorist act. Malicious intimidation or harassment
4 with a chemical, biological, explosive, incendiary, flammable, or
5 radiological substance or device in the first degree is a class A
6 felony;

7 (2) Malicious intimidation or harassment with a chemical,
8 biological, explosive, incendiary, flammable, or radiological substance
9 or device in the second degree if the offense is committed under
10 circumstances not amounting to malicious intimidation or harassment
11 with a chemical, biological, explosive, incendiary, flammable, or
12 radiological substance or device in the first degree and if thereby the
13 life or safety of a human being is endangered. Malicious intimidation
14 or harassment with a chemical, biological, explosive, incendiary,
15 flammable, or radiological substance or device in the second degree is
16 a class B felony;

17 (3) Malicious intimidation or harassment with a chemical,
18 biological, explosive, incendiary, flammable, or radiological substance
19 or device in the third degree if the offense is committed under
20 circumstances not amounting to malicious intimidation or harassment
21 with a chemical, biological, explosive, incendiary, flammable, or
22 radiological substance or device in the first or second degree.
23 Malicious intimidation or harassment with a chemical, biological,
24 explosive, incendiary, flammable, or radiological substance or device
25 in the third degree is a class C felony.

26 For the purposes of this section, "terrorist act" has the same
27 meaning as provided in RCW 70.74.285.

28 NEW SECTION. **Sec. 6.** MALICIOUS INTIMIDATION OR HARASSMENT WITH AN
29 IMITATION, FAKE, OR HOAX CHEMICAL, BIOLOGICAL, EXPLOSIVE, INCENDIARY,
30 FLAMMABLE, OR RADIOLOGICAL SUBSTANCE OR DEVICE. Any person who
31 maliciously exhibits an imitation, fake, or hoax chemical, biological,
32 explosive, incendiary, flammable, or radiological substance or device,
33 and who intends to, and does, intimidate or harass a person, is guilty
34 of:

35 (1) Malicious intimidation or harassment with an imitation, fake,
36 or hoax chemical, biological, explosive, incendiary, flammable, or
37 radiological substance or device in the first degree if the offense is
38 committed to further the commission, instigation, planning,

1 preparation, aiding, or financing of any terrorist act. Malicious
2 intimidation or harassment with an imitation, fake, or hoax chemical,
3 biological, explosive, incendiary, flammable, or radiological substance
4 or device in the first degree is a class B felony;

5 (2) Malicious intimidation or harassment with an imitation, fake,
6 or hoax chemical, biological, explosive, incendiary, flammable, or
7 radiological substance or device in the second degree if the offense is
8 committed under circumstances not amounting to malicious intimidation
9 or harassment with an imitation, fake, or hoax chemical, biological,
10 explosive, incendiary, flammable, or radiological substance or device
11 in the first degree. Malicious intimidation or harassment with an
12 imitation, fake, or hoax chemical, biological, explosive, incendiary,
13 flammable, or radiological substance or device in the second degree is
14 a class C felony.

15 For the purposes of this section, "terrorist act" has the same
16 meaning as provided in RCW 70.74.285.

17 NEW SECTION. **Sec. 7.** MALICIOUS THREAT TO USE A CHEMICAL,
18 BIOLOGICAL, EXPLOSIVE, INCENDIARY, FLAMMABLE, OR RADIOLOGICAL SUBSTANCE
19 OR DEVICE. Any person who maliciously threatens to use a chemical,
20 biological, explosive, incendiary, flammable, or radiological substance
21 or device against any public or private school building, any place of
22 worship or public assembly, any governmental property, or any other
23 building, common carrier, or structure, or any place used for human
24 occupancy; or communicates or repeats any information concerning any
25 such threatened use, knowing such information to be false and with
26 intent to alarm the person or persons to whom the information is
27 communicated or repeated is guilty of:

28 (1) Malicious threat to use a chemical, biological, explosive,
29 incendiary, flammable, or radiological substance or device in the first
30 degree if the offense is committed to further the commission,
31 instigation, planning, preparation, aiding, or financing of any
32 terrorist act. Malicious threat to use a chemical, biological,
33 explosive, incendiary, flammable, or radiological substance or device
34 in the first degree is a class B felony;

35 (2) Malicious threat to use a chemical, biological, explosive,
36 incendiary, flammable, or radiological substance or device in the
37 second degree if the offense is committed under circumstances not
38 amounting to malicious threat to use a chemical, biological, explosive,

1 incendiary, flammable, or radiological substance or device in the first
2 degree and if thereby the life or safety of a human being is
3 endangered. Malicious threat to use a chemical, biological, explosive,
4 incendiary, flammable, or radiological substance or device in the
5 second degree is a class B felony;

6 (3) Malicious threat to use a chemical, biological, explosive,
7 incendiary, flammable, or radiological substance or device in the third
8 degree if the offense is committed under circumstances not amounting to
9 malicious threat to use a chemical, biological, explosive, incendiary,
10 flammable, or radiological substance or device in the first or second
11 degree. Malicious threat to use a chemical, biological, explosive,
12 incendiary, flammable, or radiological substance or device in the third
13 degree is a class C felony.

14 It is not a defense to any prosecution under this section that the
15 threat was a hoax.

16 For the purposes of this section, "terrorist act" has the same
17 meaning as provided in RCW 70.74.285.

18 **Sec. 8.** RCW 10.95.020 and 1998 c 305 s 1 are each amended to read
19 as follows:

20 A person is guilty of aggravated first degree murder if he or she
21 commits first degree murder as defined by RCW 9A.32.030(1)(a), as now
22 or hereafter amended, and one or more of the following aggravating
23 circumstances exist:

24 (1) The victim was a law enforcement officer, corrections officer,
25 or fire fighter who was performing his or her official duties at the
26 time of the act resulting in death and the victim was known or
27 reasonably should have been known by the person to be such at the time
28 of the killing;

29 (2) At the time of the act resulting in the death, the person was
30 serving a term of imprisonment, had escaped, or was on authorized or
31 unauthorized leave in or from a state facility or program for the
32 incarceration or treatment of persons adjudicated guilty of crimes;

33 (3) At the time of the act resulting in death, the person was in
34 custody in a county or county-city jail as a consequence of having been
35 adjudicated guilty of a felony;

36 (4) The person committed the murder pursuant to an agreement that
37 he or she would receive money or any other thing of value for
38 committing the murder;

1 (5) The person solicited another person to commit the murder and
2 had paid or had agreed to pay money or any other thing of value for
3 committing the murder;

4 (6) The person committed the murder to obtain or maintain his or
5 her membership or to advance his or her position in the hierarchy of an
6 organization, association, or identifiable group;

7 (7) The murder was committed during the course of or as a result of
8 a shooting where the discharge of the firearm, as defined in RCW
9 9.41.010, is either from a motor vehicle or from the immediate area of
10 a motor vehicle that was used to transport the shooter or the firearm,
11 or both, to the scene of the discharge;

12 (8) The victim was:

13 (a) A judge; juror or former juror; prospective, current, or former
14 witness in an adjudicative proceeding; prosecuting attorney; deputy
15 prosecuting attorney; defense attorney; a member of the indeterminate
16 sentence review board; or a probation or parole officer; and

17 (b) The murder was related to the exercise of official duties
18 performed or to be performed by the victim;

19 (9) The person committed the murder to conceal the commission of a
20 crime or to protect or conceal the identity of any person committing a
21 crime, including, but specifically not limited to, any attempt to avoid
22 prosecution as a persistent offender as defined in RCW 9.94A.030;

23 (10) There was more than one victim and the murders were part of a
24 common scheme or plan or the result of a single act of the person;

25 (11) The murder was committed in the course of, in furtherance of,
26 or in immediate flight from one of the following crimes:

27 (a) Robbery in the first or second degree;

28 (b) Rape in the first or second degree;

29 (c) Burglary in the first or second degree or residential burglary;

30 (d) Kidnapping in the first degree; or

31 (e) Arson in the first degree;

32 (12) The victim was regularly employed or self-employed as a
33 newsreporter and the murder was committed to obstruct or hinder the
34 investigative, research, or reporting activities of the victim;

35 (13) At the time the person committed the murder, there existed a
36 court order, issued in this or any other state, which prohibited the
37 person from either contacting the victim, molesting the victim, or
38 disturbing the peace of the victim, and the person had knowledge of the
39 existence of that order;

1 (14) At the time the person committed the murder, the person and
2 the victim were "family or household members" as that term is defined
3 in RCW 10.99.020(1), and the person had previously engaged in a pattern
4 or practice of three or more of the following crimes committed upon the
5 victim within a five-year period, regardless of whether a conviction
6 resulted:

- 7 (a) Harassment as defined in RCW 9A.46.020; or
- 8 (b) Any criminal assault.

9 **Sec. 9.** RCW 9.94A.030 and 2001 2nd sp.s. c 12 s 301, 2001 c 300 s
10 3, and 2001 c 7 s 2 are each reenacted and amended to read as follows:

11 Unless the context clearly requires otherwise, the definitions in
12 this section apply throughout this chapter.

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

15 (2) "Collect," or any derivative thereof, "collect and remit," or
16 "collect and deliver," when used with reference to the department,
17 means that the department, either directly or through a collection
18 agreement authorized by RCW 9.94A.760, is responsible for monitoring
19 and enforcing the offender's sentence with regard to the legal
20 financial obligation, receiving payment thereof from the offender, and,
21 consistent with current law, delivering daily the entire payment to the
22 superior court clerk without depositing it in a departmental account.

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

24 (4) "Community corrections officer" means an employee of the
25 department who is responsible for carrying out specific duties in
26 supervision of sentenced offenders and monitoring of sentence
27 conditions.

28 (5) "Community custody" means that portion of an offender's
29 sentence of confinement in lieu of earned release time or imposed
30 pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670,
31 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545, served in the
32 community subject to controls placed on the offender's movement and
33 activities by the department. For offenders placed on community
34 custody for crimes committed on or after July 1, 2000, the department
35 shall assess the offender's risk of reoffense and may establish and
36 modify conditions of community custody, in addition to those imposed by
37 the court, based upon the risk to community safety.

1 (6) "Community custody range" means the minimum and maximum period
2 of community custody included as part of a sentence under RCW
3 9.94A.715, as established by the commission or the legislature under
4 RCW 9.94A.850, for crimes committed on or after July 1, 2000.

5 (7) "Community placement" means that period during which the
6 offender is subject to the conditions of community custody and/or
7 postrelease supervision, which begins either upon completion of the
8 term of confinement (postrelease supervision) or at such time as the
9 offender is transferred to community custody in lieu of earned release.
10 Community placement may consist of entirely community custody, entirely
11 postrelease supervision, or a combination of the two.

12 (8) "Community service" means compulsory service, without
13 compensation, performed for the benefit of the community by the
14 offender.

15 (9) "Community supervision" means a period of time during which a
16 convicted offender is subject to crime-related prohibitions and other
17 sentence conditions imposed by a court pursuant to this chapter or RCW
18 16.52.200(6) or 46.61.524. Where the court finds that any offender has
19 a chemical dependency that has contributed to his or her offense, the
20 conditions of supervision may, subject to available resources, include
21 treatment. For purposes of the interstate compact for out-of-state
22 supervision of parolees and probationers, RCW 9.95.270, community
23 supervision is the functional equivalent of probation and should be
24 considered the same as probation by other states.

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

26 (11) "Conviction" means an adjudication of guilt pursuant to Titles
27 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
28 acceptance of a plea of guilty.

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

36 (13) "Criminal history" means the list of a defendant's prior
37 convictions and juvenile adjudications, whether in this state, in
38 federal court, or elsewhere. The history shall include, where known,
39 for each conviction (a) whether the defendant has been placed on

1 probation and the length and terms thereof; and (b) whether the
2 defendant has been incarcerated and the length of incarceration.

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

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

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

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

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

33 (19) "Drug offender sentencing alternative" is a sentencing option
34 available to persons convicted of a felony offense other than a violent
35 offense or a sex offense and who are eligible for the option under RCW
36 9.94A.660.

37 (20) "Drug offense" means:

1 (a) Any felony violation of chapter 69.50 RCW except possession of
2 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
3 controlled substance (RCW 69.50.403);

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

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

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

12 (22) "Escape" means:

13 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the
14 first degree (RCW 9A.76.110), escape in the second degree (RCW
15 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
16 willful failure to return from work release (RCW 72.65.070), or willful
17 failure to be available for supervision by the department while in
18 community custody (RCW 72.09.310); or

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

22 (23) "Felony traffic offense" means:

23 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
24 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
25 and-run injury-accident (RCW 46.52.020(4)); or

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

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

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

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

38 (27) "Legal financial obligation" means a sum of money that is
39 ordered by a superior court of the state of Washington for legal

1 financial obligations which may include restitution to the victim,
2 statutorily imposed crime victims' compensation fees as assessed
3 pursuant to RCW 7.68.035, court costs, county or interlocal drug funds,
4 court-appointed attorneys' fees, and costs of defense, fines, and any
5 other financial obligation that is assessed to the offender as a result
6 of a felony conviction. Upon conviction for vehicular assault while
7 under the influence of intoxicating liquor or any drug, RCW
8 46.61.522(1)(b), or vehicular homicide while under the influence of
9 intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial
10 obligations may also include payment to a public agency of the expense
11 of an emergency response to the incident resulting in the conviction,
12 subject to RCW 38.52.430.

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

15 (a) Any felony defined under any law as a class A felony or
16 criminal solicitation of or criminal conspiracy to commit a class A
17 felony;

18 (b) Assault in the second degree;

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

20 (d) Child molestation in the second degree;

21 (e) Controlled substance homicide;

22 (f) Extortion in the first degree;

23 (g) Incest when committed against a child under age fourteen;

24 (h) Indecent liberties;

25 (i) Kidnapping in the second degree;

26 (j) Leading organized crime;

27 (k) Manslaughter in the first degree;

28 (l) Manslaughter in the second degree;

29 (m) Promoting prostitution in the first degree;

30 (n) Rape in the third degree;

31 (o) Robbery in the second degree;

32 (p) Sexual exploitation;

33 (q) Vehicular assault, when caused by the operation or driving of
34 a vehicle by a person while under the influence of intoxicating liquor
35 or any drug or by the operation or driving of a vehicle in a reckless
36 manner;

37 (r) Vehicular homicide, when proximately caused by the driving of
38 any vehicle by any person while under the influence of intoxicating

1 liquor or any drug as defined by RCW 46.61.502, or by the operation of
2 any vehicle in a reckless manner;

3 (s) Any other class B felony offense with a finding of sexual
4 motivation;

5 (t) Any other felony with a deadly weapon verdict under RCW
6 9.94A.602;

7 (u) Any felony offense in effect at any time prior to December 2,
8 1993, that is comparable to a most serious offense under this
9 subsection, or any federal or out-of-state conviction for an offense
10 that under the laws of this state would be a felony classified as a
11 most serious offense under this subsection;

12 (v)(i) A prior conviction for indecent liberties under RCW
13 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
14 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
15 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
16 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

17 (ii) A prior conviction for indecent liberties under RCW
18 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
19 if: (A) The crime was committed against a child under the age of
20 fourteen; or (B) the relationship between the victim and perpetrator is
21 included in the definition of indecent liberties under RCW
22 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
23 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
24 through July 27, 1997.

25 (29) "Nonviolent offense" means an offense which is not a violent
26 offense.

27 (30) "Offender" means a person who has committed a felony
28 established by state law and is eighteen years of age or older or is
29 less than eighteen years of age but whose case is under superior court
30 jurisdiction under RCW 13.04.030 or has been transferred by the
31 appropriate juvenile court to a criminal court pursuant to RCW
32 13.40.110. Throughout this chapter, the terms "offender" and
33 "defendant" are used interchangeably.

34 (31) "Partial confinement" means confinement for no more than one
35 year in a facility or institution operated or utilized under contract
36 by the state or any other unit of government, or, if home detention or
37 work crew has been ordered by the court, in an approved residence, for
38 a substantial portion of each day with the balance of the day spent in
39 the community. Partial confinement includes work release, home

1 detention, work crew, and a combination of work crew and home
2 detention.

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

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

6 (ii) Has, before the commission of the offense under (a) of this
7 subsection, been convicted as an offender on at least two separate
8 occasions, whether in this state or elsewhere, of felonies that under
9 the laws of this state would be considered most serious offenses and
10 would be included in the offender score under RCW 9.94A.525; provided
11 that of the two or more previous convictions, at least one conviction
12 must have occurred before the commission of any of the other most
13 serious offenses for which the offender was previously convicted; or

14 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
15 of a child in the first degree, child molestation in the first degree,
16 rape in the second degree, rape of a child in the second degree, or
17 indecent liberties by forcible compulsion; (B) any of the following
18 offenses with a finding of sexual motivation: Murder in the first
19 degree, murder in the second degree, homicide by abuse, kidnapping in
20 the first degree, kidnapping in the second degree, assault in the first
21 degree, assault in the second degree, assault of a child in the first
22 degree, or burglary in the first degree; or (C) an attempt to commit
23 any crime listed in this subsection (32)(b)(i); and

24 (ii) Has, before the commission of the offense under (b)(i) of this
25 subsection, been convicted as an offender on at least one occasion,
26 whether in this state or elsewhere, of an offense listed in (b)(i) of
27 this subsection or any federal or out-of-state offense or offense under
28 prior Washington law that is comparable to the offenses listed in
29 (b)(i) of this subsection. A conviction for rape of a child in the
30 first degree constitutes a conviction under (b)(i) of this subsection
31 only when the offender was sixteen years of age or older when the
32 offender committed the offense. A conviction for rape of a child in
33 the second degree constitutes a conviction under (b)(i) of this
34 subsection only when the offender was eighteen years of age or older
35 when the offender committed the offense.

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

38 (34) "Restitution" means a specific sum of money ordered by the
39 sentencing court to be paid by the offender to the court over a

1 specified period of time as payment of damages. The sum may include
2 both public and private costs.

3 (35) "Risk assessment" means the application of an objective
4 instrument supported by research and adopted by the department for the
5 purpose of assessing an offender's risk of reoffense, taking into
6 consideration the nature of the harm done by the offender, place and
7 circumstances of the offender related to risk, the offender's
8 relationship to any victim, and any information provided to the
9 department by victims. The results of a risk assessment shall not be
10 based on unconfirmed or unconfirmable allegations.

11 (36) "Serious traffic offense" means:

12 (a) Driving while under the influence of intoxicating liquor or any
13 drug (RCW 46.61.502), actual physical control while under the influence
14 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving
15 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));
16 or

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

20 (37) "Serious violent offense" is a subcategory of violent offense
21 and means:

22 (a)(i) Murder in the first degree;

23 (ii) Homicide by abuse;

24 (iii) Murder in the second degree;

25 (iv) Manslaughter in the first degree;

26 (v) Assault in the first degree;

27 (vi) Kidnapping in the first degree;

28 (vii) Rape in the first degree;

29 (viii) Assault of a child in the first degree; or

30 (ix) An attempt, criminal solicitation, or criminal conspiracy to
31 commit one of these felonies; or

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

35 (38) "Sex offense" means:

36 (a)(i) A felony that is a violation of chapter 9A.44 RCW other than
37 RCW 9A.44.130(11);

38 (ii) A violation of RCW 9A.64.020;

1 (iii) A felony that is a violation of chapter 9.68A RCW other than
2 RCW 9.68A.070 or 9.68A.080; or

3 (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt,
4 criminal solicitation, or criminal conspiracy to commit such crimes;

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 sex
7 offense in (a) of this subsection;

8 (c) A felony with a finding of sexual motivation under RCW
9 9.94A.835 or 13.40.135; or

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

13 (39) "Sexual motivation" means that one of the purposes for which
14 the defendant committed the crime was for the purpose of his or her
15 sexual gratification.

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

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

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

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

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

35 (45) "Violent offense" means:

36 (a) Any of the following felonies:

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

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

3 (iii) Manslaughter in the first degree;

4 (iv) Manslaughter in the second degree;

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

6 (vi) Kidnapping in the second degree;

7 (vii) Arson in the second degree;

8 (viii) Assault in the second degree;

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

10 (x) Extortion in the first degree;

11 (xi) Robbery in the second degree;

12 (xii) Drive-by shooting;

13 (xiii) Vehicular assault, when caused by the operation or driving
14 of a vehicle by a person while under the influence of intoxicating
15 liquor or any drug or by the operation or driving of a vehicle in a
16 reckless manner; and

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

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

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

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

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

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

1 ((Malicious placement of an imitation
2 device 1 (RCW 70.74.272(1)(a))))
3 Rape 1 (RCW 9A.44.040)
4 Rape of a Child 1 (RCW 9A.44.073)

5 XI Malicious detonation or release of a
6 chemical, biological, explosive,
7 incendiary, flammable, or radiological
8 substance or device 3 (section 2(3) of
9 this act)
10 Manslaughter 1 (RCW 9A.32.060)
11 Rape 2 (RCW 9A.44.050)
12 Rape of a Child 2 (RCW 9A.44.076)

13 X Child Molestation 1 (RCW 9A.44.083)
14 Indecent Liberties (with forcible
15 compulsion) (RCW 9A.44.100(1)(a))
16 Kidnapping 1 (RCW 9A.40.020)
17 Leading Organized Crime (RCW
18 9A.82.060(1)(a))
19 ((Malicious explosion 3 (RCW
20 70.74.280(3))))
21 Malicious placement of a chemical,
22 biological, explosive, incendiary,
23 flammable, or radiological substance
24 or device 2 (section 3(2) of this act)
25 Manufacture of methamphetamine (RCW
26 69.50.401(a)(1)(ii))
27 Over 18 and deliver heroin,
28 methamphetamine, a narcotic from
29 Schedule I or II, or flunitrazepam
30 from Schedule IV to someone under 18
31 (RCW 69.50.406)
32 Sexually Violent Predator Escape (RCW
33 9A.76.115)

34 IX Assault of a Child 2 (RCW 9A.36.130)
35 Controlled Substance Homicide (RCW
36 69.50.415)
37 Explosive devices prohibited (RCW
38 70.74.180)

1 Hit and Run--Death (RCW 46.52.020(4)(a))
2 Homicide by Watercraft, by being under the
3 influence of intoxicating liquor or
4 any drug (RCW 79A.60.050)
5 Inciting Criminal Profiteering (RCW
6 9A.82.060(1)(b))
7 ~~((Malicious placement of an explosive 2~~
8 ~~{RCW 70.74.270(2)}))~~
9 Over 18 and deliver narcotic from Schedule
10 III, IV, or V or a nonnarcotic, except
11 flunitrazepam or methamphetamine, from
12 Schedule I-V to someone under 18 and 3
13 years junior (RCW 69.50.406)
14 Robbery 1 (RCW 9A.56.200)
15 Sexual Exploitation (RCW 9.68A.040)
16 Vehicular Homicide, by being under the
17 influence of intoxicating liquor or
18 any drug (RCW 46.61.520)

19 VIII Arson 1 (RCW 9A.48.020)
20 Deliver or possess with intent to deliver
21 m e t h a m p h e t a m i n e (R C W
22 69.50.401(a)(1)(ii))
23 Homicide by Watercraft, by the operation of
24 any vessel in a reckless manner (RCW
25 79A.60.050)
26 Malicious placement of a chemical,
27 biological, explosive, incendiary,
28 flammable, or radiological substance
29 or device 3 (section 3(3) of this act)
30 Manslaughter 2 (RCW 9A.32.070)
31 Manufacture, deliver, or possess with
32 intent to deliver amphetamine (RCW
33 69.50.401(a)(1)(ii))
34 Manufacture, deliver, or possess with
35 intent to deliver heroin or cocaine
36 (RCW 69.50.401(a)(1)(i))
37 Possession of Ephedrine, Pseudoephedrine,
38 or Anhydrous Ammonia with intent to

1 manufacture methamphetamine (RCW
2 69.50.440)
3 Promoting Prostitution 1 (RCW 9A.88.070)
4 Selling for profit (controlled or
5 counterfeit) any controlled substance
6 (RCW 69.50.410)
7 Theft of Anhydrous Ammonia (RCW 69.55.010)
8 Vehicular Homicide, by the operation of any
9 vehicle in a reckless manner (RCW
10 46.61.520)

11 VII Burglary 1 (RCW 9A.52.020)
12 Child Molestation 2 (RCW 9A.44.086)
13 Dealing in depictions of minor engaged in
14 sexually explicit conduct (RCW
15 9.68A.050)
16 Drive-by Shooting (RCW 9A.36.045)
17 Homicide by Watercraft, by disregard for
18 the safety of others (RCW 79A.60.050)
19 Indecent Liberties (without forcible
20 compulsion) (RCW 9A.44.100(1) (b) and
21 (c))
22 Introducing Contraband 1 (RCW 9A.76.140)
23 Involving a minor in drug dealing (RCW
24 69.50.401(f))
25 ~~((Malicious placement of an explosive 3~~
26 ~~{RCW 70.74.270(3)}))~~
27 Malicious intimidation or harassment with a
28 chemical, biological, explosive,
29 incendiary, flammable, or radiological
30 substance or device 1 (section 5(1) of
31 this act)
32 Malicious placement of an imitation, fake,
33 or hoax chemical, biological,
34 explosive, incendiary, flammable, or
35 radiological substance or device 2
36 (section 4(2) of this act)
37 Malicious threat to use a chemical,
38 biological, explosive, incendiary,

1 flammable, or radiological substance
2 or device 1 (section 7(1) of this act)
3 Sending, bringing into state depictions of
4 minor engaged in sexually explicit
5 conduct (RCW 9.68A.060)
6 Unlawful Possession of a Firearm in the
7 first degree (RCW 9.41.040(1)(a))
8 Use of a Machine Gun in Commission of a
9 Felony (RCW 9.41.225)
10 Vehicular Homicide, by disregard for the
11 safety of others (RCW 46.61.520)

12 VI Bail Jumping with Murder 1 (RCW
13 9A.76.170(3)(a))
14 Bribery (RCW 9A.68.010)
15 Incest 1 (RCW 9A.64.020(1))
16 Intimidating a Judge (RCW 9A.72.160)
17 Intimidating a Juror/Witness (RCW
18 9A.72.110, 9A.72.130)
19 (~~(Malicious placement of an imitation~~
20 ~~device 2 (RCW 70.74.272(1)(b)))~~)
21 Malicious intimidation or harassment with a
22 chemical, biological, explosive,
23 incendiary, flammable, or radiological
24 substance or device 2 (section 5(2) of
25 this act)
26 Malicious threat to use a chemical,
27 biological, explosive, incendiary,
28 flammable, or radiological substance
29 or device 2 (section 7(2) of this act)
30 Manufacture, deliver, or possess with
31 intent to deliver narcotics from
32 Schedule I or II (except heroin or
33 cocaine) or flunitrazepam from
34 Schedule IV (RCW 69.50.401(a)(1)(i))
35 Rape of a Child 3 (RCW 9A.44.079)
36 Theft of a Firearm (RCW 9A.56.300)
37 Unlawful Storage of Anhydrous Ammonia (RCW
38 69.55.020)

1 V Abandonment of dependent person 1 (RCW
2 9A.42.060)
3 Advancing money or property for
4 extortionate extension of credit (RCW
5 9A.82.030)
6 Bail Jumping with class A Felony (RCW
7 9A.76.170(3)(b))
8 Child Molestation 3 (RCW 9A.44.089)
9 Criminal Mistreatment 1 (RCW 9A.42.020)
10 Custodial Sexual Misconduct 1 (RCW
11 9A.44.160)
12 Delivery of imitation controlled substance
13 by person eighteen or over to person
14 under eighteen (RCW 69.52.030(2))
15 Domestic Violence Court Order Violation
16 (RCW 10.99.040, 10.99.050, 26.09.300,
17 26.10.220, 26.26.138, 26.50.110,
18 26.52.070, or 74.34.145)
19 Extortion 1 (RCW 9A.56.120)
20 Extortionate Extension of Credit (RCW
21 9A.82.020)
22 Extortionate Means to Collect Extensions of
23 Credit (RCW 9A.82.040)
24 Incest 2 (RCW 9A.64.020(2))
25 Kidnapping 2 (RCW 9A.40.030)
26 Malicious intimidation or harassment with a
27 chemical, biological, explosive,
28 incendiary, flammable, or radiological
29 substance or device 3 (section 5(3) of
30 this act)
31 Malicious intimidation or harassment with
32 an imitation, fake, or hoax chemical,
33 biological, explosive, incendiary,
34 flammable, or radiological substance
35 or device 1 (section 6(1) of this act)
36 Malicious threat to use a chemical,
37 biological, explosive, incendiary,
38 flammable, or radiological substance
39 or device 3 (section 7(3) of this act)

1 Perjury 1 (RCW 9A.72.020)
2 Persistent prison misbehavior (RCW
3 9.94.070)
4 Possession of a Stolen Firearm (RCW
5 9A.56.310)
6 Rape 3 (RCW 9A.44.060)
7 Rendering Criminal Assistance 1 (RCW
8 9A.76.070)
9 Sexual Misconduct with a Minor 1 (RCW
10 9A.44.093)
11 Sexually Violating Human Remains (RCW
12 9A.44.105)
13 Stalking (RCW 9A.46.110)
14 IV Arson 2 (RCW 9A.48.030)
15 Assault 2 (RCW 9A.36.021)
16 Assault by Watercraft (RCW 79A.60.060)
17 Bribing a Witness/Bribe Received by Witness
18 (RCW 9A.72.090, 9A.72.100)
19 Commercial Bribery (RCW 9A.68.060)
20 Counterfeiting (RCW 9.16.035(4))
21 Escape 1 (RCW 9A.76.110)
22 Hit and Run--Injury (RCW 46.52.020(4)(b))
23 Hit and Run with Vessel--Injury Accident
24 (RCW 79A.60.200(3))
25 Identity Theft 1 (RCW 9.35.020(2)(a))
26 Indecent Exposure to Person Under Age
27 Fourteen (subsequent sex offense) (RCW
28 9A.88.010)
29 Influencing Outcome of Sporting Event (RCW
30 9A.82.070)
31 Knowingly Trafficking in Stolen Property
32 (RCW 9A.82.050(2))
33 Malicious Harassment (RCW 9A.36.080)
34 Malicious intimidation or harassment with
35 an imitation, fake, or hoax chemical,
36 biological, explosive, incendiary,
37 flammable, or radiological substance
38 or device 2 (section 6(2) of this act)

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

1 Intimidating a Public Servant (RCW
2 9A.76.180)
3 Introducing Contraband 2 (RCW 9A.76.150)
4 Maintaining a Dwelling or Place for
5 Controlled Substances (RCW
6 69.50.402(a)(6))
7 Malicious Injury to Railroad Property (RCW
8 81.60.070)
9 Manufacture, deliver, or possess with
10 intent to deliver marijuana (RCW
11 69.50.401(a)(1)(iii))
12 Manufacture, distribute, or possess with
13 intent to distribute an imitation
14 controlled substance (RCW
15 69.52.030(1))
16 Patronizing a Juvenile Prostitute (RCW
17 9.68A.100)
18 Perjury 2 (RCW 9A.72.030)
19 Possession of Incendiary Device (RCW
20 9.40.120)
21 Possession of Machine Gun or Short-Barreled
22 Shotgun or Rifle (RCW 9.41.190)
23 Promoting Prostitution 2 (RCW 9A.88.080)
24 Recklessly Trafficking in Stolen Property
25 (RCW 9A.82.050(1))
26 Securities Act violation (RCW 21.20.400)
27 Tampering with a Witness (RCW 9A.72.120)
28 Telephone Harassment (subsequent conviction
29 or threat of death) (RCW 9.61.230)
30 Theft of Livestock 2 (RCW 9A.56.080)
31 Unlawful Imprisonment (RCW 9A.40.040)
32 Unlawful possession of firearm in the
33 second degree (RCW 9.41.040(1)(b))
34 Unlawful Use of Building for Drug Purposes
35 (RCW 69.53.010)
36 Vehicular Assault, by the operation or
37 driving of a vehicle with disregard
38 for the safety of others (RCW
39 46.61.522)

1 Willful Failure to Return from Work Release
2 (RCW 72.65.070)

3 II Computer Trespass 1 (RCW 9A.52.110)
4 Counterfeiting (RCW 9.16.035(3))
5 Create, deliver, or possess a counterfeit
6 controlled substance (RCW
7 69.50.401(b))
8 Escape from Community Custody (RCW
9 72.09.310)

10 Health Care False Claims (RCW 48.80.030)
11 Identity Theft 2 (RCW 9.35.020(2)(b))
12 Improperly Obtaining Financial Information
13 (RCW 9.35.010)

14 Malicious Mischief 1 (RCW 9A.48.070)
15 Possession of controlled substance that is
16 either heroin or narcotics from
17 Schedule I or II or flunitrazepam from
18 Schedule IV (RCW 69.50.401(d))
19 Possession of phencyclidine (PCP) (RCW
20 69.50.401(d))
21 Possession of Stolen Property 1 (RCW
22 9A.56.150)

23 Theft 1 (RCW 9A.56.030)
24 Theft of Rental, Leased, or Lease-purchased
25 Property (valued at one thousand five
26 hundred dollars or more) (RCW
27 9A.56.096(4))

28 Trafficking in Insurance Claims (RCW
29 48.30A.015)

30 Unlawful Practice of Law (RCW 2.48.180)
31 Unlicensed Practice of a Profession or
32 Business (RCW 18.130.190(7))

33 I Attempting to Elude a Pursuing Police
34 Vehicle (RCW 46.61.024)
35 False Verification for Welfare (RCW
36 74.08.055)
37 Forged Prescription (RCW 69.41.020)

1 Forged Prescription for a Controlled
 2 Substance (RCW 69.50.403)
 3 Forgery (RCW 9A.60.020)
 4 Malicious Mischief 2 (RCW 9A.48.080)
 5 Possess Controlled Substance that is a
 6 Narcotic from Schedule III, IV, or V
 7 or Non-narcotic from Schedule I-V
 8 (except phencyclidine or
 9 flunitrazepam) (RCW 69.50.401(d))
 10 Possession of Stolen Property 2 (RCW
 11 9A.56.160)
 12 Reckless Burning 1 (RCW 9A.48.040)
 13 Taking Motor Vehicle Without Permission
 14 (RCW 9A.56.070)
 15 Theft 2 (RCW 9A.56.040)
 16 Theft of Rental, Leased, or Lease-purchased
 17 Property (valued at two hundred fifty
 18 dollars or more but less than one
 19 thousand five hundred dollars) (RCW
 20 9A.56.096(4))
 21 Unlawful Issuance of Checks or Drafts (RCW
 22 9A.56.060)
 23 Unlawful Use of Food Stamps (RCW 9.91.140
 24 (2) and (3))
 25 Vehicle Prowl 1 (RCW 9A.52.095)

26 **Sec. 11.** RCW 13.40.0357 and 2001 c 217 s 13 are each amended to
 27 read as follows:

28 **DESCRIPTION AND OFFENSE CATEGORY**

| 29 | JUVENILE | JUVENILE DISPOSITION | |
|----|-------------|----------------------------|-----------------|
| 30 | DISPOSITION | CATEGORY FOR ATTEMPT, | |
| 31 | OFFENSE | BAILJUMP, CONSPIRACY, | |
| 32 | CATEGORY | DESCRIPTION (RCW CITATION) | OR SOLICITATION |
| 33 | | | |

34 **Arson and Malicious Mischief**

| | | | |
|----|---|--------------------------------|----|
| 35 | A | Arson 1 (9A.48.020) | B+ |
| 36 | B | Arson 2 (9A.48.030) | C |
| 37 | C | Reckless Burning 1 (9A.48.040) | D |

| | | | |
|----|----|-----------------------------------|----|
| 1 | D | Reckless Burning 2 (9A.48.050) | E |
| 2 | B | Malicious Mischief 1 (9A.48.070) | C |
| 3 | C | Malicious Mischief 2 (9A.48.080) | D |
| 4 | D | Malicious Mischief 3 (<\$50 is | |
| 5 | | E class) (9A.48.090) | E |
| 6 | E | Tampering with Fire Alarm | |
| 7 | | Apparatus (9.40.100) | E |
| 8 | A | Possession of Incendiary Device | |
| 9 | | (9.40.120) | B+ |
| 10 | | Assault and Other Crimes | |
| 11 | | Involving Physical Harm | |
| 12 | A | Assault 1 (9A.36.011) | B+ |
| 13 | B+ | Assault 2 (9A.36.021) | C+ |
| 14 | C+ | Assault 3 (9A.36.031) | D+ |
| 15 | D+ | Assault 4 (9A.36.041) | E |
| 16 | B+ | Drive-By Shooting | |
| 17 | | (9A.36.045) | C+ |
| 18 | D+ | Reckless Endangerment | |
| 19 | | (9A.36.050) | E |
| 20 | C+ | Promoting Suicide Attempt | |
| 21 | | (9A.36.060) | D+ |
| 22 | D+ | Coercion (9A.36.070) | E |
| 23 | C+ | Custodial Assault (9A.36.100) | D+ |
| 24 | | Burglary and Trespass | |
| 25 | B+ | Burglary 1 (9A.52.020) | C+ |
| 26 | B | Residential Burglary | |
| 27 | | (9A.52.025) | C |
| 28 | B | Burglary 2 (9A.52.030) | C |
| 29 | D | Burglary Tools (Possession of) | |
| 30 | | (9A.52.060) | E |
| 31 | D | Criminal Trespass 1 (9A.52.070) | E |
| 32 | E | Criminal Trespass 2 (9A.52.080) | E |
| 33 | C | Vehicle Prowling 1 (9A.52.095) | D |
| 34 | D | Vehicle Prowling 2 (9A.52.100) | E |
| 35 | | Drugs | |
| 36 | E | Possession/Consumption of Alcohol | |
| 37 | | (66.44.270) | E |

| | | | |
|----|----|--------------------------------------|----|
| 1 | C | Illegally Obtaining Legend Drug | |
| 2 | | (69.41.020) | D |
| 3 | C+ | Sale, Delivery, Possession of Legend | |
| 4 | | Drug with Intent to Sell | |
| 5 | | (69.41.030) | D+ |
| 6 | E | Possession of Legend Drug | |
| 7 | | (69.41.030) | E |
| 8 | B+ | Violation of Uniform Controlled | |
| 9 | | Substances Act - Narcotic, | |
| 10 | | Methamphetamine, or Flunitrazepam | |
| 11 | | Sale (69.50.401(a)(1) (i) or (ii)) | B+ |
| 12 | C | Violation of Uniform Controlled | |
| 13 | | Substances Act - Nonnarcotic Sale | |
| 14 | | (69.50.401(a)(1)(iii)) | C |
| 15 | E | Possession of Marihuana <40 grams | |
| 16 | | (69.50.401(e)) | E |
| 17 | C | Fraudulently Obtaining Controlled | |
| 18 | | Substance (69.50.403) | C |
| 19 | C+ | Sale of Controlled Substance | |
| 20 | | for Profit (69.50.410) | C+ |
| 21 | E | Unlawful Inhalation (9.47A.020) | E |
| 22 | B | Violation of Uniform Controlled | |
| 23 | | Substances Act - Narcotic, | |
| 24 | | Methamphetamine, or Flunitrazepam | |
| 25 | | Counterfeit Substances | |
| 26 | | (69.50.401(b)(1) (i) or (ii)) | B |
| 27 | C | Violation of Uniform Controlled | |
| 28 | | Substances Act - Nonnarcotic | |
| 29 | | Counterfeit Substances | |
| 30 | | (69.50.401(b)(1) (iii), (iv), (v)) | C |
| 31 | C | Violation of Uniform Controlled | |
| 32 | | Substances Act - Possession of a | |
| 33 | | Controlled Substance | |
| 34 | | (69.50.401(d)) | C |
| 35 | C | Violation of Uniform Controlled | |
| 36 | | Substances Act - Possession of a | |
| 37 | | Controlled Substance | |
| 38 | | (69.50.401(c)) | C |

| | | | |
|----|----|---|----|
| 1 | | Firearms and Weapons | |
| 2 | B | Theft of Firearm (9A.56.300) | C |
| 3 | B | Possession of Stolen Firearm | |
| 4 | | (9A.56.310) | C |
| 5 | E | Carrying Loaded Pistol Without | |
| 6 | | Permit (9.41.050) | E |
| 7 | C | Possession of Firearms by Minor (<18) | |
| 8 | | (9.41.040(1)(b)(iii)) | C |
| 9 | D+ | Possession of Dangerous Weapon | |
| 10 | | (9.41.250) | E |
| 11 | D | Intimidating Another Person by use | |
| 12 | | of Weapon (9.41.270) | E |
| 13 | | Homicide | |
| 14 | A+ | Murder 1 (9A.32.030) | A |
| 15 | A+ | Murder 2 (9A.32.050) | B+ |
| 16 | B+ | Manslaughter 1 (9A.32.060) | C+ |
| 17 | C+ | Manslaughter 2 (9A.32.070) | D+ |
| 18 | B+ | Vehicular Homicide (46.61.520) | C+ |
| 19 | | Kidnapping | |
| 20 | A | Kidnap 1 (9A.40.020) | B+ |
| 21 | B+ | Kidnap 2 (9A.40.030) | C+ |
| 22 | C+ | Unlawful Imprisonment | |
| 23 | | (9A.40.040) | D+ |
| 24 | | Obstructing Governmental Operation | |
| 25 | D | Obstructing a Law Enforcement | |
| 26 | | Officer (9A.76.020) | E |
| 27 | E | Resisting Arrest (9A.76.040) | E |
| 28 | B | Introducing Contraband 1 | |
| 29 | | (9A.76.140) | C |
| 30 | C | Introducing Contraband 2 | |
| 31 | | (9A.76.150) | D |
| 32 | E | Introducing Contraband 3 | |
| 33 | | (9A.76.160) | E |
| 34 | B+ | Intimidating a Public Servant | |
| 35 | | (9A.76.180) | C+ |
| 36 | B+ | Intimidating a Witness | |
| 37 | | (9A.72.110) | C+ |

| | | | |
|----|----|---|----|
| 1 | | Public Disturbance | |
| 2 | C+ | Riot with Weapon (9A.84.010) | D+ |
| 3 | D+ | Riot Without Weapon | |
| 4 | | (9A.84.010) | E |
| 5 | E | Failure to Disperse (9A.84.020) | E |
| 6 | E | Disorderly Conduct (9A.84.030) | E |
| 7 | | Sex Crimes | |
| 8 | A | Rape 1 (9A.44.040) | B+ |
| 9 | A- | Rape 2 (9A.44.050) | B+ |
| 10 | C+ | Rape 3 (9A.44.060) | D+ |
| 11 | A- | Rape of a Child 1 (9A.44.073) | B+ |
| 12 | B+ | Rape of a Child 2 (9A.44.076) | C+ |
| 13 | B | Incest 1 (9A.64.020(1)) | C |
| 14 | C | Incest 2 (9A.64.020(2)) | D |
| 15 | D+ | Indecent Exposure | |
| 16 | | (Victim <14) (9A.88.010) | E |
| 17 | E | Indecent Exposure | |
| 18 | | (Victim 14 or over) (9A.88.010) | E |
| 19 | B+ | Promoting Prostitution 1 | |
| 20 | | (9A.88.070) | C+ |
| 21 | C+ | Promoting Prostitution 2 | |
| 22 | | (9A.88.080) | D+ |
| 23 | E | O & A (Prostitution) (9A.88.030) | E |
| 24 | B+ | Indecent Liberties (9A.44.100) | C+ |
| 25 | A- | Child Molestation 1 (9A.44.083) | B+ |
| 26 | B | Child Molestation 2 (9A.44.086) | C+ |
| 27 | | Theft, Robbery, Extortion, and Forgery | |
| 28 | B | Theft 1 (9A.56.030) | C |
| 29 | C | Theft 2 (9A.56.040) | D |
| 30 | D | Theft 3 (9A.56.050) | E |
| 31 | B | Theft of Livestock (9A.56.080) | C |
| 32 | C | Forgery (9A.60.020) | D |
| 33 | A | Robbery 1 (9A.56.200) | B+ |
| 34 | B+ | Robbery 2 (9A.56.210) | C+ |
| 35 | B+ | Extortion 1 (9A.56.120) | C+ |
| 36 | C+ | Extortion 2 (9A.56.130) | D+ |
| 37 | C | Identity Theft 1 (9.35.020(2)(a)) | D |
| 38 | D | Identity Theft 2 (9.35.020(2)(b)) | E |

| | | | |
|----|----|---|----|
| 1 | D | Improperly Obtaining Financial | |
| 2 | | Information (((9.35.010))) | |
| 3 | | <u>(9.35.010)</u> | E |
| 4 | B | Possession of Stolen Property 1 | |
| 5 | | (9A.56.150) | C |
| 6 | C | Possession of Stolen Property 2 | |
| 7 | | (9A.56.160) | D |
| 8 | D | Possession of Stolen Property 3 | |
| 9 | | (9A.56.170) | E |
| 10 | C | Taking Motor Vehicle Without | |
| 11 | | Owner's Permission (9A.56.070) | D |
| 12 | | Motor Vehicle Related Crimes | |
| 13 | E | Driving Without a License | |
| 14 | | (46.20.005) | E |
| 15 | B+ | Hit and Run - Death | |
| 16 | | (46.52.020(4)(a)) | C+ |
| 17 | C | Hit and Run - Injury | |
| 18 | | (46.52.020(4)(b)) | D |
| 19 | D | Hit and Run-Attended | |
| 20 | | (46.52.020(5)) | E |
| 21 | E | Hit and Run-Unattended | |
| 22 | | (46.52.010) | E |
| 23 | C | Vehicular Assault (46.61.522) | D |
| 24 | C | Attempting to Elude Pursuing | |
| 25 | | Police Vehicle (46.61.024) | D |
| 26 | E | Reckless Driving (46.61.500) | E |
| 27 | D | Driving While Under the Influence | |
| 28 | | (46.61.502 and 46.61.504) | E |
| 29 | | Other | |
| 30 | B | ((Bomb Threat (9.61.160))) | |
| 31 | | <u>Threat to use device (section</u> | |
| 32 | | <u>7 of this act)</u> | C |
| 33 | C | Escape 1 (9A.76.110) | C |
| 34 | C | Escape 2 (9A.76.120) | C |
| 35 | D | Escape 3 (9A.76.130) | E |
| 36 | E | Obscene, Harassing, Etc., | |
| 37 | | Phone Calls (9.61.230) | E |

| | | | |
|----|---|------------------------------------|----|
| 1 | A | Other Offense Equivalent to an | |
| 2 | | Adult Class A Felony | B+ |
| 3 | B | Other Offense Equivalent to an | |
| 4 | | Adult Class B Felony | C |
| 5 | C | Other Offense Equivalent to an | |
| 6 | | Adult Class C Felony | D |
| 7 | D | Other Offense Equivalent to an | |
| 8 | | Adult Gross Misdemeanor | E |
| 9 | E | Other Offense Equivalent to an | |
| 10 | | Adult Misdemeanor | E |
| 11 | V | Violation of Order of Restitution, | |
| 12 | | Community Supervision, or | |
| 13 | | Confinement (13.40.200) | V |

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

16 1st escape or attempted escape during 12-month period - 4 weeks
17 confinement

18 2nd escape or attempted escape during 12-month period - 8 weeks
19 confinement

20 3rd and subsequent escape or attempted escape during 12-month
21 period - 12 weeks confinement

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

24 **JUVENILE SENTENCING STANDARDS**

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

OPTION A
JUVENILE OFFENDER SENTENCING GRID
STANDARD RANGE

1
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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 NEW SECTION. **Sec. 12.** Sections 1 through 7, 13, 14, and 16 of
25 this act constitute a new chapter in Title 9A RCW.

26 NEW SECTION. **Sec. 13.** PROVISIONS CUMULATIVE. This chapter shall
27 not be construed to repeal or amend any existing penal statute.

28 NEW SECTION. **Sec. 14.** CONSTITUTIONAL RIGHTS--CENSORSHIP OR
29 INFRINGEMENT. Nothing in this chapter shall be construed to authorize,
30 require, or establish censorship or in any way limit or infringe upon
31 freedom of the press or freedom of speech within the meaning and the
32 manner as guaranteed by the Constitution of the United States or of the

1 state of Washington and no rule shall be adopted hereunder having that
2 effect.

3 NEW SECTION. **Sec. 15.** The following acts or parts of acts are
4 each repealed:

5 (1) RCW 9.61.160 (Threats to bomb or injure property) and 1977
6 ex.s. c 231 s 1 & 1959 c 141 s 1;

7 (2) RCW 9.61.170 (Threats to bomb or injure property--Hoax no
8 defense) and 1959 c 141 s 2;

9 (3) RCW 9.61.180 (Threats to bomb or injure property--Penalty) and
10 1977 ex.s. c 231 s 2 & 1959 c 141 s 3;

11 (4) RCW 70.74.270 (Malicious placement of an explosive--Penalties)
12 and 1997 c 120 s 1, 1993 c 293 s 6, 1992 c 7 s 49, 1984 c 55 s 2, 1971
13 ex.s. c 302 s 8, 1969 ex.s. c 137 s 23, & 1909 c 249 s 400;

14 (5) RCW 70.74.272 (Malicious placement of an imitation device--
15 Penalties) and 1997 c 120 s 2;

16 (6) RCW 70.74.275 (Intimidation or harassment with an explosive--
17 Class C felony) and 1993 c 293 s 4; and

18 (7) RCW 70.74.280 (Malicious explosion of a substance--Penalties)
19 and 1997 c 120 s 3, 1992 c 7 s 50, 1971 ex.s. c 302 s 9, 1969 ex.s. c
20 137 s 24, & 1909 c 249 s 401.

21 NEW SECTION. **Sec. 16.** CAPTIONS NOT LAW. Captions used in this
22 chapter are not any part of the law.

23 NEW SECTION. **Sec. 17.** If any provision of this act or its
24 application to any person or circumstance is held invalid, the
25 remainder of the act or the application of the provision to other
26 persons or circumstances is not affected.

27 NEW SECTION. **Sec. 18.** This act is necessary for the immediate
28 preservation of the public peace, health, or safety, or support of the
29 state government and its existing public institutions, and takes effect
30 immediately.

--- END ---