
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 NEW SECTION. **Sec. 2.** MALICIOUS DETONATION OR RELEASE OF A
5 CHEMICAL, BIOLOGICAL, EXPLOSIVE, INCENDIARY, FLAMMABLE, OR RADIOLOGICAL
6 SUBSTANCE OR DEVICE. Any person who maliciously, by the detonation or
7 release of a chemical, biological, explosive, incendiary, flammable, or
8 radiological substance or device, disfigures, damages, destroys, or
9 contaminates any building, vehicle, roadway, bridge, ferry, vessel,
10 canal, train, railroad track, airplane, public or private electric,
11 water, sewer, gas, telecommunications, or other utility production or
12 transmission facility, structure or equipment, computer system or
13 network, or any other structure, utility, common carrier, or mode of
14 transportation, is guilty of:

15 (1) Malicious detonation or release of a chemical, biological,
16 explosive, incendiary, flammable, or radiological substance or device
17 in the first degree if the offense is committed with intent to commit
18 a terrorist act, or to further the commission, instigation, planning,
19 preparation, aiding, or financing of any terrorist act. Malicious
20 detonation or release of a chemical, biological, explosive, incendiary,
21 flammable, or radiological substance or device in the first degree is
22 a class A felony;

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

32 (3) Malicious detonation or release of a chemical, biological,
33 explosive, incendiary, flammable, or radiological substance or device
34 in the third degree if the offense is committed under circumstances not
35 amounting to malicious detonation or release of a chemical, biological,
36 explosive, incendiary, flammable, or radiological substance or device
37 in the first or second degree. Malicious detonation or release of a

1 chemical, biological, explosive, incendiary, flammable, or radiological
2 substance or device in the third degree is a class B felony.

3 NEW SECTION. **Sec. 3.** MALICIOUS PLACEMENT OF A CHEMICAL,
4 BIOLOGICAL, EXPLOSIVE, INCENDIARY, FLAMMABLE, OR RADIOLOGICAL SUBSTANCE
5 OR DEVICE. Any person who maliciously places a chemical, biological,
6 explosive, incendiary, flammable, or radiological substance or device
7 in, upon, under, against, or near any building, vehicle, roadway,
8 bridge, ferry, vessel, canal, train, railroad track, airplane, public
9 or private electric, water, sewer, gas, telecommunications, or other
10 utility production or transmission facility, structure or equipment,
11 computer system or network, or any other structure, utility, common
12 carrier, or mode of transportation, in such manner or under such
13 circumstances as to destroy, contaminate, damage, or injure it if
14 diffused, ignited, or exploded is guilty of:

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

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

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

1 NEW SECTION. **Sec. 4.** MALICIOUS PLACEMENT OF AN IMITATION, FAKE,
2 OR HOAX CHEMICAL, BIOLOGICAL, EXPLOSIVE, INCENDIARY, FLAMMABLE, OR
3 RADIOLOGICAL SUBSTANCE OR DEVICE. Any person who maliciously places an
4 imitation, fake, or hoax chemical, biological, explosive, incendiary,
5 flammable, or radiological substance or device in, upon, under,
6 against, or near any building, vehicle, roadway, bridge, ferry, vessel,
7 canal, train, railroad track, airplane, public or private electric,
8 water, sewer, gas, telecommunications, or other utility production or
9 transmission facility, structure or equipment, computer system or
10 network, or any other structure, utility, common carrier, or mode of
11 transportation, with the intent to give the appearance or impression
12 that the imitation, fake, or hoax substance or device is a chemical,
13 biological, explosive, incendiary, flammable, or radiological substance
14 or device, is guilty of:

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

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

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

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

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

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

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

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

33 (2) Malicious threat to use a chemical, biological, explosive,
34 incendiary, flammable, or radiological substance or device in the
35 second degree if the offense is committed under circumstances not
36 amounting to malicious threat to use a chemical, biological, explosive,
37 incendiary, flammable, or radiological substance or device in the first
38 degree and if thereby the life or safety of a human being is

1 endangered. Malicious threat to use a chemical, biological, explosive,
2 incendiary, flammable, or radiological substance or device in the
3 second degree is a class B felony;

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

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

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

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

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

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

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

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

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

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

4 (7) The murder was committed during the course of or as a result of
5 a shooting where the discharge of the firearm, as defined in RCW
6 9.41.010, is either from a motor vehicle or from the immediate area of
7 a motor vehicle that was used to transport the shooter or the firearm,
8 or both, to the scene of the discharge;

9 (8) The victim was:

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

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

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

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

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

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

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

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

27 (d) Kidnapping in the first degree; ((or))

28 (e) Arson in the first degree;

29 (f) Malicious detonation or release of a chemical, biological,
30 explosive, incendiary, flammable, or radiological substance or device
31 in the first degree;

32 (g) Malicious placement of a chemical, biological, explosive,
33 incendiary, flammable, or radiological substance or device in the first
34 degree;

35 (h) Malicious intimidation or harassment with a chemical,
36 biological, explosive, incendiary, flammable, or radiological substance
37 or device in the first degree; or

1 (i) Malicious threat to use a chemical, biological, explosive,
2 incendiary, flammable, or radiological substance or device in the first
3 degree;

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

7 (13) At the time the person committed the murder, there existed a
8 court order, issued in this or any other state, which prohibited the
9 person from either contacting the victim, molesting the victim, or
10 disturbing the peace of the victim, and the person had knowledge of the
11 existence of that order;

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

18 (a) Harassment as defined in RCW 9A.46.020; or

19 (b) Any criminal assault.

20 **Sec. 9.** RCW 9.94A.030 and 2001 2nd sp.s. c 12 s 301, 2001 c 300 s
21 3, and 2001 c 7 s 2 are each reenacted and amended to read as follows:

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

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

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

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

35 (4) "Community corrections officer" means an employee of the
36 department who is responsible for carrying out specific duties in
37 supervision of sentenced offenders and monitoring of sentence
38 conditions.

1 (5) "Community custody" means that portion of an offender's
2 sentence of confinement in lieu of earned release time or imposed
3 pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670,
4 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545, served in the
5 community subject to controls placed on the offender's movement and
6 activities by the department. For offenders placed on community
7 custody for crimes committed on or after July 1, 2000, the department
8 shall assess the offender's risk of reoffense and may establish and
9 modify conditions of community custody, in addition to those imposed by
10 the court, based upon the risk to community safety.

11 (6) "Community custody range" means the minimum and maximum period
12 of community custody included as part of a sentence under RCW
13 9.94A.715, as established by the commission or the legislature under
14 RCW 9.94A.850, for crimes committed on or after July 1, 2000.

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

22 (8) "Community service" means compulsory service, without
23 compensation, performed for the benefit of the community by the
24 offender.

25 (9) "Community supervision" means a period of time during which a
26 convicted offender is subject to crime-related prohibitions and other
27 sentence conditions imposed by a court pursuant to this chapter or RCW
28 16.52.200(6) or 46.61.524. Where the court finds that any offender has
29 a chemical dependency that has contributed to his or her offense, the
30 conditions of supervision may, subject to available resources, include
31 treatment. For purposes of the interstate compact for out-of-state
32 supervision of parolees and probationers, RCW 9.95.270, community
33 supervision is the functional equivalent of probation and should be
34 considered the same as probation by other states.

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

36 (11) "Conviction" means an adjudication of guilt pursuant to Titles
37 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
38 acceptance of a plea of guilty.

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

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

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

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

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

24 (17) "Determinate sentence" means a sentence that states with
25 exactitude the number of actual years, months, or days of total
26 confinement, of partial confinement, of community supervision, the
27 number of actual hours or days of community service work, or dollars or
28 terms of a legal financial obligation. The fact that an offender
29 through earned release can reduce the actual period of confinement
30 shall not affect the classification of the sentence as a determinate
31 sentence.

32 (18) "Disposable earnings" means that part of the earnings of an
33 offender remaining after the deduction from those earnings of any
34 amount required by law to be withheld. For the purposes of this
35 definition, "earnings" means compensation paid or payable for personal
36 services, whether denominated as wages, salary, commission, bonuses, or
37 otherwise, and, notwithstanding any other provision of law making the
38 payments exempt from garnishment, attachment, or other process to
39 satisfy a court-ordered legal financial obligation, specifically

1 includes periodic payments pursuant to pension or retirement programs,
2 or insurance policies of any type, but does not include payments made
3 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
4 or Title 74 RCW.

5 (19) "Drug offender sentencing alternative" is a sentencing option
6 available to persons convicted of a felony offense other than a violent
7 offense or a sex offense and who are eligible for the option under RCW
8 9.94A.660.

9 (20) "Drug offense" means:

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

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

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

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

21 (22) "Escape" means:

22 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the
23 first degree (RCW 9A.76.110), escape in the second degree (RCW
24 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
25 willful failure to return from work release (RCW 72.65.070), or willful
26 failure to be available for supervision by the department while in
27 community custody (RCW 72.09.310); or

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

31 (23) "Felony traffic offense" means:

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

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

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

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

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

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

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

26 (a) Any felony defined under any law as a class A felony or
27 criminal solicitation of or criminal conspiracy to commit a class A
28 felony;

29 (b) Assault in the second degree;

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

31 (d) Child molestation in the second degree;

32 (e) Controlled substance homicide;

33 (f) Extortion in the first degree;

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

35 (h) Indecent liberties;

36 (i) Kidnapping in the second degree;

37 (j) Leading organized crime;

38 (k) Manslaughter in the first degree;

39 (l) Manslaughter in the second degree;

1 (m) Promoting prostitution in the first degree;

2 (n) Rape in the third degree;

3 (o) Robbery in the second degree;

4 (p) Sexual exploitation;

5 (q) Vehicular assault, when caused by the operation or driving of
6 a vehicle by a person while under the influence of intoxicating liquor
7 or any drug or by the operation or driving of a vehicle in a reckless
8 manner;

9 (r) Vehicular homicide, when proximately caused by the driving of
10 any vehicle by any person while under the influence of intoxicating
11 liquor or any drug as defined by RCW 46.61.502, or by the operation of
12 any vehicle in a reckless manner;

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

15 (t) Any other felony with a deadly weapon verdict under RCW
16 9.94A.602;

17 (u) Any felony offense in effect at any time prior to December 2,
18 1993, that is comparable to a most serious offense under this
19 subsection, or any federal or out-of-state conviction for an offense
20 that under the laws of this state would be a felony classified as a
21 most serious offense under this subsection;

22 (v)(i) A prior conviction for indecent liberties under RCW
23 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
24 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
25 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
26 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

27 (ii) A prior conviction for indecent liberties under RCW
28 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
29 if: (A) The crime was committed against a child under the age of
30 fourteen; or (B) the relationship between the victim and perpetrator is
31 included in the definition of indecent liberties under RCW
32 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
33 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
34 through July 27, 1997;

35 (w) Malicious placement of an imitation, hoax, or fake chemical,
36 biological, explosive, incendiary, flammable, or radiological substance
37 or device in the first degree;

1 (x) Malicious intimidation or harassment with an imitation, hoax,
2 or fake chemical, biological, explosive, incendiary, flammable, or
3 radiological substance or device in the second degree.

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

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

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

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

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

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

32 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
33 of a child in the first degree, child molestation in the first degree,
34 rape in the second degree, rape of a child in the second degree, or
35 indecent liberties by forcible compulsion; (B) any of the following
36 offenses with a finding of sexual motivation: Murder in the first
37 degree, murder in the second degree, homicide by abuse, kidnapping in
38 the first degree, kidnapping in the second degree, assault in the first
39 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) An attempt, criminal solicitation, or criminal conspiracy to
10 commit one of these felonies; or

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

14 (38) "Sex offense" means:

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

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

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

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

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

25 (c) A felony with a finding of sexual motivation under RCW
26 9.94A.835 or 13.40.135; or

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

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

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

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

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

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

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

14 (45) "Violent offense" means:

15 (a) Any of the following felonies:

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

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

20 (iii) Manslaughter in the first degree;

21 (iv) Manslaughter in the second degree;

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

23 (vi) Kidnapping in the second degree;

24 (vii) Arson in the second degree;

25 (viii) Assault in the second degree;

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

27 (x) Extortion in the first degree;

28 (xi) Robbery in the second degree;

29 (xii) Drive-by shooting;

30 (xiii) Vehicular assault, when caused by the operation or driving
31 of a vehicle by a person while under the influence of intoxicating
32 liquor or any drug or by the operation or driving of a vehicle in a
33 reckless manner; and

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

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

4 (c) 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 violent
6 offense under (a) or (b) of this subsection.

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

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

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

20 **Sec. 10.** RCW 9.94A.515 and 2001 2nd sp.s. c 12 s 361, 2001 c 300
21 s 4, 2001 c 217 s 12, and 2001 c 17 s 1 are each reenacted and amended
22 to read as follows:

23 TABLE 2

24 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

| | | |
|----|-----|---|
| 25 | XVI | Aggravated Murder 1 (RCW 10.95.020) |
| 26 | XV | Homicide by abuse (RCW 9A.32.055) |
| 27 | | ((Malicious explosion 1 (RCW |
| 28 | | 70.74.280(1))) |
| 29 | | <u>Malicious detonation or release of a</u> |
| 30 | | <u>chemical, biological, explosive,</u> |
| 31 | | <u>incendiary, flammable, or radiological</u> |
| 32 | | <u>substance or device 1 (section 2(1) of</u> |
| 33 | | <u>this act)</u> |
| 34 | | Murder 1 (RCW 9A.32.030) |
| 35 | XIV | <u>Malicious detonation or release of a</u> |
| 36 | | <u>chemical, biological, explosive,</u> |

1 incendiary, flammable, or radiological
2 substance or device 2 (section 2(2) of
3 this act)
4 Malicious placement of a chemical,
5 biological, explosive, incendiary,
6 flammable, or radiological substance
7 or device 1 (section 3(1) of this act)
8 Murder 2 (RCW 9A.32.050)

9 XIII ~~((Malicious explosion 2 (RCW 70.74.280(2))~~
10 ~~Malicious placement of an explosive 1 (RCW~~
11 ~~70.74.270(1)))~~)
12 Malicious placement of an imitation, fake,
13 or hoax chemical, biological,
14 explosive, incendiary, flammable, or
15 radiological substance or device 1
16 (section 4(1) of this act)

17 XII Assault 1 (RCW 9A.36.011)
18 Assault of a Child 1 (RCW 9A.36.120)
19 ~~((Malicious placement of an imitation~~
20 ~~device 1 (RCW 70.74.272(1)(a)))~~)
21 Rape 1 (RCW 9A.44.040)
22 Rape of a Child 1 (RCW 9A.44.073)

23 XI Malicious detonation or release of a
24 chemical, biological, explosive,
25 incendiary, flammable, or radiological
26 substance or device 3 (section 2(3) of
27 this act)
28 Manslaughter 1 (RCW 9A.32.060)
29 Rape 2 (RCW 9A.44.050)
30 Rape of a Child 2 (RCW 9A.44.076)

31 X Child Molestation 1 (RCW 9A.44.083)
32 Indecent Liberties (with forcible
33 compulsion) (RCW 9A.44.100(1)(a))
34 Kidnapping 1 (RCW 9A.40.020)
35 Leading Organized Crime (RCW
36 9A.82.060(1)(a))

1 ((Malicious explosion 3 (RCW
2 70.74.280(3))))
3 Malicious placement of a chemical,
4 biological, explosive, incendiary,
5 flammable, or radiological substance
6 or device 2 (section 3(2) of this act)
7 Manufacture of methamphetamine (RCW
8 69.50.401(a)(1)(ii))
9 Over 18 and deliver heroin,
10 methamphetamine, a narcotic from
11 Schedule I or II, or flunitrazepam
12 from Schedule IV to someone under 18
13 (RCW 69.50.406)
14 Sexually Violent Predator Escape (RCW
15 9A.76.115)

16 IX Assault of a Child 2 (RCW 9A.36.130)
17 Controlled Substance Homicide (RCW
18 69.50.415)
19 Explosive devices prohibited (RCW
20 70.74.180)
21 Hit and Run--Death (RCW 46.52.020(4)(a))
22 Homicide by Watercraft, by being under the
23 influence of intoxicating liquor or
24 any drug (RCW 79A.60.050)
25 Inciting Criminal Profiteering (RCW
26 9A.82.060(1)(b))
27 ~~((Malicious placement of an explosive 2~~
28 ~~(RCW 70.74.270(2))))~~
29 Over 18 and deliver narcotic from Schedule
30 III, IV, or V or a nonnarcotic, except
31 flunitrazepam or methamphetamine, from
32 Schedule I-V to someone under 18 and 3
33 years junior (RCW 69.50.406)
34 Robbery 1 (RCW 9A.56.200)
35 Sexual Exploitation (RCW 9.68A.040)
36 Vehicular Homicide, by being under the
37 influence of intoxicating liquor or
38 any drug (RCW 46.61.520)

1 VIII Arson 1 (RCW 9A.48.020)
2 Deliver or possess with intent to deliver
3 methamphetamine (RCW
4 69.50.401(a)(1)(ii))
5 Homicide by Watercraft, by the operation of
6 any vessel in a reckless manner (RCW
7 79A.60.050)
8 Malicious placement of a chemical,
9 biological, explosive, incendiary,
10 flammable, or radiological substance
11 or device 3 (section 3(3) of this act)
12 Manslaughter 2 (RCW 9A.32.070)
13 Manufacture, deliver, or possess with
14 intent to deliver amphetamine (RCW
15 69.50.401(a)(1)(ii))
16 Manufacture, deliver, or possess with
17 intent to deliver heroin or cocaine
18 (RCW 69.50.401(a)(1)(i))
19 Possession of Ephedrine, Pseudoephedrine,
20 or Anhydrous Ammonia with intent to
21 manufacture methamphetamine (RCW
22 69.50.440)
23 Promoting Prostitution 1 (RCW 9A.88.070)
24 Selling for profit (controlled or
25 counterfeit) any controlled substance
26 (RCW 69.50.410)
27 Theft of Anhydrous Ammonia (RCW 69.55.010)
28 Vehicular Homicide, by the operation of any
29 vehicle in a reckless manner (RCW
30 46.61.520)

31 VII Burglary 1 (RCW 9A.52.020)
32 Child Molestation 2 (RCW 9A.44.086)
33 Dealing in depictions of minor engaged in
34 sexually explicit conduct (RCW
35 9.68A.050)
36 Drive-by Shooting (RCW 9A.36.045)
37 Homicide by Watercraft, by disregard for
38 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
8 ~~(RCW 70.74.270(3))~~))~~
9 Malicious intimidation or harassment with a
10 chemical, biological, explosive,
11 incendiary, flammable, or radiological
12 substance or device 1 (section 5(1) of
13 this act)
14 Malicious placement of an imitation, fake,
15 or hoax chemical, biological,
16 explosive, incendiary, flammable, or
17 radiological substance or device 2
18 (section 4(2) of this act)
19 Malicious threat to use a chemical,
20 biological, explosive, incendiary,
21 flammable, or radiological substance
22 or device 1 (section 7(1) of this act)
23 Sending, bringing into state depictions of
24 minor engaged in sexually explicit
25 conduct (RCW 9.68A.060)
26 Unlawful Possession of a Firearm in the
27 first degree (RCW 9.41.040(1)(a))
28 Use of a Machine Gun in Commission of a
29 Felony (RCW 9.41.225)
30 Vehicular Homicide, by disregard for the
31 safety of others (RCW 46.61.520)
32 VI Bail Jumping with Murder 1 (RCW
33 9A.76.170(3)(a))
34 Bribery (RCW 9A.68.010)
35 Incest 1 (RCW 9A.64.020(1))
36 Intimidating a Judge (RCW 9A.72.160)
37 Intimidating a Juror/Witness (RCW
38 9A.72.110, 9A.72.130)

1 ((Malicious placement of an imitation
2 device 2 (RCW 70.74.272(1)(b))))
3 Malicious intimidation or harassment with a
4 chemical, biological, explosive,
5 incendiary, flammable, or radiological
6 substance or device 2 (section 5(2) of
7 this act)
8 Malicious threat to use a chemical,
9 biological, explosive, incendiary,
10 flammable, or radiological substance
11 or device 2 (section 7(2) of this act)
12 Manufacture, deliver, or possess with
13 intent to deliver narcotics from
14 Schedule I or II (except heroin or
15 cocaine) or flunitrazepam from
16 Schedule IV (RCW 69.50.401(a)(1)(i))
17 Rape of a Child 3 (RCW 9A.44.079)
18 Theft of a Firearm (RCW 9A.56.300)
19 Unlawful Storage of Anhydrous Ammonia (RCW
20 69.55.020)

21 V Abandonment of dependent person 1 (RCW
22 9A.42.060)

23 Advancing money or property for
24 extortionate extension of credit (RCW
25 9A.82.030)

26 Bail Jumping with class A Felony (RCW
27 9A.76.170(3)(b))

28 Child Molestation 3 (RCW 9A.44.089)
29 Criminal Mistreatment 1 (RCW 9A.42.020)
30 Custodial Sexual Misconduct 1 (RCW
31 9A.44.160)

32 Delivery of imitation controlled substance
33 by person eighteen or over to person
34 under eighteen (RCW 69.52.030(2))

35 Domestic Violence Court Order Violation
36 (RCW 10.99.040, 10.99.050, 26.09.300,
37 26.10.220, 26.26.138, 26.50.110,
38 26.52.070, or 74.34.145)

39 Extortion 1 (RCW 9A.56.120)

1 Extortionate Extension of Credit (RCW
2 9A.82.020)
3 Extortionate Means to Collect Extensions of
4 Credit (RCW 9A.82.040)
5 Incest 2 (RCW 9A.64.020(2))
6 Kidnapping 2 (RCW 9A.40.030)
7 Malicious intimidation or harassment with a
8 chemical, biological, explosive,
9 incendiary, flammable, or radiological
10 substance or device 3 (section 5(3) of
11 this act)
12 Malicious intimidation or harassment with
13 an imitation, fake, or hoax chemical,
14 biological, explosive, incendiary,
15 flammable, or radiological substance
16 or device 1 (section 6(1) of this act)
17 Malicious threat to use a chemical,
18 biological, explosive, incendiary,
19 flammable, or radiological substance
20 or device 3 (section 7(3) of this act)
21 Perjury 1 (RCW 9A.72.020)
22 Persistent prison misbehavior (RCW
23 9.94.070)
24 Possession of a Stolen Firearm (RCW
25 9A.56.310)
26 Rape 3 (RCW 9A.44.060)
27 Rendering Criminal Assistance 1 (RCW
28 9A.76.070)
29 Sexual Misconduct with a Minor 1 (RCW
30 9A.44.093)
31 Sexually Violating Human Remains (RCW
32 9A.44.105)
33 Stalking (RCW 9A.46.110)
34 IV Arson 2 (RCW 9A.48.030)
35 Assault 2 (RCW 9A.36.021)
36 Assault by Watercraft (RCW 79A.60.060)
37 Bribing a Witness/Bribe Received by Witness
38 (RCW 9A.72.090, 9A.72.100)
39 Commercial Bribery (RCW 9A.68.060)

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

1 III Abandonment of dependent person 2 (RCW
2 9A.42.070)
3 Assault 3 (RCW 9A.36.031)
4 Assault of a Child 3 (RCW 9A.36.140)
5 Bail Jumping with class B or C Felony (RCW
6 9A.76.170(3)(c))
7 Burglary 2 (RCW 9A.52.030)
8 Communication with a Minor for Immoral
9 Purposes (RCW 9.68A.090)
10 Criminal Gang Intimidation (RCW 9A.46.120)
11 Criminal Mistreatment 2 (RCW 9A.42.030)
12 Custodial Assault (RCW 9A.36.100)
13 Delivery of a material in lieu of a
14 controlled substance (RCW
15 69.50.401(c))
16 Escape 2 (RCW 9A.76.120)
17 Extortion 2 (RCW 9A.56.130)
18 Harassment (RCW 9A.46.020)
19 Intimidating a Public Servant (RCW
20 9A.76.180)
21 Introducing Contraband 2 (RCW 9A.76.150)
22 Maintaining a Dwelling or Place for
23 Controlled Substances (RCW
24 69.50.402(a)(6))
25 Malicious Injury to Railroad Property (RCW
26 81.60.070)
27 Manufacture, deliver, or possess with
28 intent to deliver marijuana (RCW
29 69.50.401(a)(1)(iii))
30 Manufacture, distribute, or possess with
31 intent to distribute an imitation
32 controlled substance (RCW
33 69.52.030(1))
34 Patronizing a Juvenile Prostitute (RCW
35 9.68A.100)
36 Perjury 2 (RCW 9A.72.030)
37 Possession of Incendiary Device (RCW
38 9.40.120)

1 Possession of Machine Gun or Short-Barreled
2 Shotgun or Rifle (RCW 9.41.190)
3 Promoting Prostitution 2 (RCW 9A.88.080)
4 Recklessly Trafficking in Stolen Property
5 (RCW 9A.82.050(1))
6 Securities Act violation (RCW 21.20.400)
7 Tampering with a Witness (RCW 9A.72.120)
8 Telephone Harassment (subsequent conviction
9 or threat of death) (RCW 9.61.230)
10 Theft of Livestock 2 (RCW 9A.56.080)
11 Unlawful Imprisonment (RCW 9A.40.040)
12 Unlawful possession of firearm in the
13 second degree (RCW 9.41.040(1)(b))
14 Unlawful Use of Building for Drug Purposes
15 (RCW 69.53.010)
16 Vehicular Assault, by the operation or
17 driving of a vehicle with disregard
18 for the safety of others (RCW
19 46.61.522)
20 Willful Failure to Return from Work Release
21 (RCW 72.65.070)
22 II Computer Trespass 1 (RCW 9A.52.110)
23 Counterfeiting (RCW 9.16.035(3))
24 Create, deliver, or possess a counterfeit
25 controlled substance (RCW
26 69.50.401(b))
27 Escape from Community Custody (RCW
28 72.09.310)
29 Health Care False Claims (RCW 48.80.030)
30 Identity Theft 2 (RCW 9.35.020(2)(b))
31 Improperly Obtaining Financial Information
32 (RCW 9.35.010)
33 Malicious Mischief 1 (RCW 9A.48.070)
34 Possession of controlled substance that is
35 either heroin or narcotics from
36 Schedule I or II or flunitrazepam from
37 Schedule IV (RCW 69.50.401(d))
38 Possession of phencyclidine (PCP) (RCW
39 69.50.401(d))

1 Possession of Stolen Property 1 (RCW
2 9A.56.150)
3 Theft 1 (RCW 9A.56.030)
4 Theft of Rental, Leased, or Lease-purchased
5 Property (valued at one thousand five
6 hundred dollars or more) (RCW
7 9A.56.096(4))
8 Trafficking in Insurance Claims (RCW
9 48.30A.015)
10 Unlawful Practice of Law (RCW 2.48.180)
11 Unlicensed Practice of a Profession or
12 Business (RCW 18.130.190(7))
13 I Attempting to Elude a Pursuing Police
14 Vehicle (RCW 46.61.024)
15 False Verification for Welfare (RCW
16 74.08.055)
17 Forged Prescription (RCW 69.41.020)
18 Forged Prescription for a Controlled
19 Substance (RCW 69.50.403)
20 Forgery (RCW 9A.60.020)
21 Malicious Mischief 2 (RCW 9A.48.080)
22 Possess Controlled Substance that is a
23 Narcotic from Schedule III, IV, or V
24 or Non-narcotic from Schedule I-V
25 (except phencyclidine or
26 flunitrazepam) (RCW 69.50.401(d))
27 Possession of Stolen Property 2 (RCW
28 9A.56.160)
29 Reckless Burning 1 (RCW 9A.48.040)
30 Taking Motor Vehicle Without Permission
31 (RCW 9A.56.070)
32 Theft 2 (RCW 9A.56.040)
33 Theft of Rental, Leased, or Lease-purchased
34 Property (valued at two hundred fifty
35 dollars or more but less than one
36 thousand five hundred dollars) (RCW
37 9A.56.096(4))
38 Unlawful Issuance of Checks or Drafts (RCW
39 9A.56.060)

1 Unlawful Use of Food Stamps (RCW 9.91.140
 2 (2) and (3))
 3 Vehicle Prowl 1 (RCW 9A.52.095)

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

6 **DESCRIPTION AND OFFENSE CATEGORY**

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

7 **Arson and Malicious Mischief**

| | | |
|---|--|----|
| A | Arson 1 (9A.48.020) | B+ |
| B | Arson 2 (9A.48.030) | C |
| C | Reckless Burning 1 (9A.48.040) | D |
| D | Reckless Burning 2 (9A.48.050) | E |
| B | Malicious Mischief 1 (9A.48.070) | C |
| C | Malicious Mischief 2 (9A.48.080) | D |
| D | Malicious Mischief 3 (<\$50 is E class) (9A.48.090) | E |
| E | Tampering with Fire Alarm Apparatus (9.40.100) | E |
| A | Possession of Incendiary Device (9.40.120) | B+ |

8 **Assault and Other Crimes**

9 **Involving Physical Harm**

| | | |
|----|--|----|
| A | Assault 1 (9A.36.011) | B+ |
| B+ | Assault 2 (9A.36.021) | C+ |
| C+ | Assault 3 (9A.36.031) | D+ |
| D+ | Assault 4 (9A.36.041) | E |
| B+ | Drive-By Shooting (9A.36.045) | C+ |
| D+ | Reckless Endangerment (9A.36.050) | E |
| C+ | Promoting Suicide Attempt (9A.36.060) | D+ |
| D+ | Coercion (9A.36.070) | E |

| | | | |
|----|----|--------------------------------------|----|
| 1 | C+ | Custodial Assault (9A.36.100) | D+ |
| 2 | | Burglary and Trespass | |
| 3 | B+ | Burglary 1 (9A.52.020) | C+ |
| 4 | B | Residential Burglary | |
| 5 | | (9A.52.025) | C |
| 6 | B | Burglary 2 (9A.52.030) | C |
| 7 | D | Burglary Tools (Possession of) | |
| 8 | | (9A.52.060) | E |
| 9 | D | Criminal Trespass 1 (9A.52.070) | E |
| 10 | E | Criminal Trespass 2 (9A.52.080) | E |
| 11 | C | Vehicle Prowling 1 (9A.52.095) | D |
| 12 | D | Vehicle Prowling 2 (9A.52.100) | E |
| 13 | | Drugs | |
| 14 | E | Possession/Consumption of Alcohol | |
| 15 | | (66.44.270) | E |
| 16 | C | Illegally Obtaining Legend Drug | |
| 17 | | (69.41.020) | D |
| 18 | C+ | Sale, Delivery, Possession of Legend | |
| 19 | | Drug with Intent to Sell | |
| 20 | | (69.41.030) | D+ |
| 21 | E | Possession of Legend Drug | |
| 22 | | (69.41.030) | E |
| 23 | B+ | Violation of Uniform Controlled | |
| 24 | | Substances Act - Narcotic, | |
| 25 | | Methamphetamine, or Flunitrazepam | |
| 26 | | Sale (69.50.401(a)(1) (i) or (ii)) | B+ |
| 27 | C | Violation of Uniform Controlled | |
| 28 | | Substances Act - Nonnarcotic Sale | |
| 29 | | (69.50.401(a)(1)(iii)) | C |
| 30 | E | Possession of Marihuana <40 grams | |
| 31 | | (69.50.401(e)) | E |
| 32 | C | Fraudulently Obtaining Controlled | |
| 33 | | Substance (69.50.403) | C |
| 34 | C+ | Sale of Controlled Substance | |
| 35 | | for Profit (69.50.410) | C+ |
| 36 | E | Unlawful Inhalation (9.47A.020) | E |

| | | | |
|----|----|---------------------------------------|----|
| 1 | B | Violation of Uniform Controlled | |
| 2 | | Substances Act - Narcotic, | |
| 3 | | Methamphetamine, or Flunitrazepam | |
| 4 | | Counterfeit Substances | |
| 5 | | (69.50.401(b)(1) (i) or (ii)) | B |
| 6 | C | Violation of Uniform Controlled | |
| 7 | | Substances Act - Nonnarcotic | |
| 8 | | Counterfeit Substances | |
| 9 | | (69.50.401(b)(1) (iii), (iv), (v)) | C |
| 10 | C | Violation of Uniform Controlled | |
| 11 | | Substances Act - Possession of a | |
| 12 | | Controlled Substance | |
| 13 | | (69.50.401(d)) | C |
| 14 | C | Violation of Uniform Controlled | |
| 15 | | Substances Act - Possession of a | |
| 16 | | Controlled Substance | |
| 17 | | (69.50.401(c)) | C |
| 18 | | Firearms and Weapons | |
| 19 | B | Theft of Firearm (9A.56.300) | C |
| 20 | B | Possession of Stolen Firearm | |
| 21 | | (9A.56.310) | C |
| 22 | E | Carrying Loaded Pistol Without | |
| 23 | | Permit (9.41.050) | E |
| 24 | C | Possession of Firearms by Minor (<18) | |
| 25 | | (9.41.040(1)(b)(iii)) | C |
| 26 | D+ | Possession of Dangerous Weapon | |
| 27 | | (9.41.250) | E |
| 28 | D | Intimidating Another Person by use | |
| 29 | | of Weapon (9.41.270) | E |
| 30 | | Homicide | |
| 31 | A+ | Murder 1 (9A.32.030) | A |
| 32 | A+ | Murder 2 (9A.32.050) | B+ |
| 33 | B+ | Manslaughter 1 (9A.32.060) | C+ |
| 34 | C+ | Manslaughter 2 (9A.32.070) | D+ |
| 35 | B+ | Vehicular Homicide (46.61.520) | C+ |
| 36 | | Kidnapping | |
| 37 | A | Kidnap 1 (9A.40.020) | B+ |
| 38 | B+ | Kidnap 2 (9A.40.030) | C+ |

| | | | |
|----|----|---|----|
| 1 | C+ | Unlawful Imprisonment | |
| 2 | | (9A.40.040) | D+ |
| 3 | | Obstructing Governmental Operation | |
| 4 | D | Obstructing a Law Enforcement | |
| 5 | | Officer (9A.76.020) | E |
| 6 | E | Resisting Arrest (9A.76.040) | E |
| 7 | B | Introducing Contraband 1 | |
| 8 | | (9A.76.140) | C |
| 9 | C | Introducing Contraband 2 | |
| 10 | | (9A.76.150) | D |
| 11 | E | Introducing Contraband 3 | |
| 12 | | (9A.76.160) | E |
| 13 | B+ | Intimidating a Public Servant | |
| 14 | | (9A.76.180) | C+ |
| 15 | B+ | Intimidating a Witness | |
| 16 | | (9A.72.110) | C+ |
| 17 | | Public Disturbance | |
| 18 | C+ | Riot with Weapon (9A.84.010) | D+ |
| 19 | D+ | Riot Without Weapon | |
| 20 | | (9A.84.010) | E |
| 21 | E | Failure to Disperse (9A.84.020) | E |
| 22 | E | Disorderly Conduct (9A.84.030) | E |
| 23 | | Sex Crimes | |
| 24 | A | Rape 1 (9A.44.040) | B+ |
| 25 | A- | Rape 2 (9A.44.050) | B+ |
| 26 | C+ | Rape 3 (9A.44.060) | D+ |
| 27 | A- | Rape of a Child 1 (9A.44.073) | B+ |
| 28 | B+ | Rape of a Child 2 (9A.44.076) | C+ |
| 29 | B | Incest 1 (9A.64.020(1)) | C |
| 30 | C | Incest 2 (9A.64.020(2)) | D |
| 31 | D+ | Indecent Exposure | |
| 32 | | (Victim <14) (9A.88.010) | E |
| 33 | E | Indecent Exposure | |
| 34 | | (Victim 14 or over) (9A.88.010) | E |
| 35 | B+ | Promoting Prostitution 1 | |
| 36 | | (9A.88.070) | C+ |

| | | | |
|----|----|---|----|
| 1 | C+ | Promoting Prostitution 2 | |
| 2 | | (9A.88.080) | D+ |
| 3 | E | O & A (Prostitution) (9A.88.030) | E |
| 4 | B+ | Indecent Liberties (9A.44.100) | C+ |
| 5 | A- | Child Molestation 1 (9A.44.083) | B+ |
| 6 | B | Child Molestation 2 (9A.44.086) | C+ |
| 7 | | Theft, Robbery, Extortion, and Forgery | |
| 8 | B | Theft 1 (9A.56.030) | C |
| 9 | C | Theft 2 (9A.56.040) | D |
| 10 | D | Theft 3 (9A.56.050) | E |
| 11 | B | Theft of Livestock (9A.56.080) | C |
| 12 | C | Forgery (9A.60.020) | D |
| 13 | A | Robbery 1 (9A.56.200) | B+ |
| 14 | B+ | Robbery 2 (9A.56.210) | C+ |
| 15 | B+ | Extortion 1 (9A.56.120) | C+ |
| 16 | C+ | Extortion 2 (9A.56.130) | D+ |
| 17 | C | Identity Theft 1 (9.35.020(2)(a)) | D |
| 18 | D | Identity Theft 2 (9.35.020(2)(b)) | E |
| 19 | D | Improperly Obtaining Financial | |
| 20 | | Information (((9.35.010))) | |
| 21 | | <u>(9.35.010)</u> | E |
| 22 | B | Possession of Stolen Property 1 | |
| 23 | | (9A.56.150) | C |
| 24 | C | Possession of Stolen Property 2 | |
| 25 | | (9A.56.160) | D |
| 26 | D | Possession of Stolen Property 3 | |
| 27 | | (9A.56.170) | E |
| 28 | C | Taking Motor Vehicle Without | |
| 29 | | Owner's Permission (9A.56.070) | D |
| 30 | | Motor Vehicle Related Crimes | |
| 31 | E | Driving Without a License | |
| 32 | | (46.20.005) | E |
| 33 | B+ | Hit and Run - Death | |
| 34 | | (46.52.020(4)(a)) | C+ |
| 35 | C | Hit and Run - Injury | |
| 36 | | (46.52.020(4)(b)) | D |
| 37 | D | Hit and Run-Attended | |
| 38 | | (46.52.020(5)) | E |

| | | | |
|----|---|---------------------------------------|----|
| 1 | E | Hit and Run-Unattended | |
| 2 | | (46.52.010) | E |
| 3 | C | Vehicular Assault (46.61.522) | D |
| 4 | C | Attempting to Elude Pursuing | |
| 5 | | Police Vehicle (46.61.024) | D |
| 6 | E | Reckless Driving (46.61.500) | E |
| 7 | D | Driving While Under the Influence | |
| 8 | | (46.61.502 and 46.61.504) | E |
| 9 | | Other | |
| 10 | B | ((Bomb Threat (9.61.160))) | |
| 11 | | <u>Threat to use device (section</u> | |
| 12 | | <u>7 of this act)</u> | C |
| 13 | C | Escape 1 (9A.76.110) | C |
| 14 | C | Escape 2 (9A.76.120) | C |
| 15 | D | Escape 3 (9A.76.130) | E |
| 16 | E | Obscene, Harassing, Etc., | |
| 17 | | Phone Calls (9.61.230) | E |
| 18 | A | Other Offense Equivalent to an | |
| 19 | | Adult Class A Felony | B+ |
| 20 | B | Other Offense Equivalent to an | |
| 21 | | Adult Class B Felony | C |
| 22 | C | Other Offense Equivalent to an | |
| 23 | | Adult Class C Felony | D |
| 24 | D | Other Offense Equivalent to an | |
| 25 | | Adult Gross Misdemeanor | E |
| 26 | E | Other Offense Equivalent to an | |
| 27 | | Adult Misdemeanor | E |
| 28 | V | Violation of Order of Restitution, | |
| 29 | | Community Supervision, or | |
| 30 | | Confinement (13.40.200) | V |

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

33 1st escape or attempted escape during 12-month period - 4 weeks
34 confinement

35 2nd escape or attempted escape during 12-month period - 8 weeks
36 confinement

37 3rd and subsequent escape or attempted escape during 12-month
38 period - 12 weeks confinement

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

3 **JUVENILE SENTENCING STANDARDS**

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

6 **OPTION A**
 7 **JUVENILE OFFENDER SENTENCING GRID**
 8 **STANDARD RANGE**

| | | | | | | |
|----|----------|---------------------------|---------------------|--------------------------------------|-------------|-----------|
| 9 | | <hr/> | | | | |
| 10 | A+ | 180 WEEKS TO AGE 21 YEARS | | | | |
| 11 | | <hr/> | | | | |
| 12 | A | 103 WEEKS TO 129 WEEKS | | | | |
| 13 | | <hr/> | | | | |
| 14 | A- | 15-36 | 52-65 | 80-100 | 103-129 | |
| 15 | | WEEKS | WEEKS | WEEKS | WEEKS | |
| 16 | | EXCEPT | | | | |
| 17 | | 30-40 | | | | |
| 18 | | WEEKS FOR | | | | |
| 19 | | 15-17 | | | | |
| 20 | | YEAR OLDS | | | | |
| 21 | | <hr/> | | | | |
| 22 | Current | B+ | 15-36 | 52-65 | 80-100 | 103-129 |
| 23 | Offense | | WEEKS | WEEKS | WEEKS | WEEKS |
| 24 | Category | | <hr/> | | | |
| 25 | | B | LOCAL | | 52-65 | |
| 26 | | | SANCTIONS (LS) | 15-36 WEEKS | WEEKS | |
| 27 | | | <hr/> | | <hr/> | |
| 28 | | C+ | LS | | | |
| 29 | | | | 15-36 WEEKS | | |
| 30 | | | <hr/> | | | |
| 31 | | C | LS | | 15-36 WEEKS | |
| 32 | | | Local Sanctions: | | | |
| 33 | | | 0 to 30 Days | | | |
| 34 | | D+ | LS | 0 to 12 Months Community Supervision | | |
| 35 | | | | 0 to 150 Hours Community Service | | |
| 36 | | D | LS | \$0 to \$500 Fine | | |
| 37 | | E | LS | | | |
| 38 | | | <hr/> | | | |
| 39 | | | 0 | 1 | 2 | 3 |
| 40 | | | | | | 4 or more |
| | | | PRIOR ADJUDICATIONS | | | |

1 NOTE: References in the grid to days or weeks mean periods of
2 confinement.

3 (1) The vertical axis of the grid is the current offense category.
4 The current offense category is determined by the offense of
5 adjudication.

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

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

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

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

19 OR

20 OPTION B

21 CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE

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

26 OR

27 OPTION C

28 MANIFEST INJUSTICE

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

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

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

3 NEW SECTION. **Sec. 14.** CONSTITUTIONAL RIGHTS--CENSORSHIP OR
4 INFRINGEMENT. Nothing in this chapter shall be construed to authorize,
5 require, or establish censorship or in any way limit or infringe upon
6 freedom of the press or freedom of speech within the meaning and the
7 manner as guaranteed by the Constitution of the United States or of the
8 state of Washington and no rule shall be adopted hereunder having that
9 effect.

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

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

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

16 (3) RCW 9.61.180 (Threats to bomb or injure property--Penalty) and
17 1977 ex.s. c 231 s 2 & 1959 c 141 s 3;

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

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

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

25 (7) RCW 70.74.280 (Malicious explosion of a substance--Penalties)
26 and 1997 c 120 s 3, 1992 c 7 s 50, 1971 ex.s. c 302 s 9, 1969 ex.s. c
27 137 s 24, & 1909 c 249 s 401.

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

30 NEW SECTION. **Sec. 17.** If any provision of this act or its
31 application to any person or circumstance is held invalid, the
32 remainder of the act or the application of the provision to other
33 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 18.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and takes effect
4 immediately.

--- END ---