
HOUSE BILL 2879

State of Washington**57th Legislature****2002 Regular Session**

By Representatives Hurst, Lisk, Mulliken, Woods, Buck, Kirby, Simpson, Barlean, Fromhold, Edwards, Haigh, Morris, Kessler, Jackley, O'Brien, Sullivan, Lovick, Berkey, Pflug, Ballasiotes, Campbell, Esser, Alexander, Chase and Conway; by request of Governor Locke and Attorney General

Read first time 01/31/2002. Referred to Committee on Select Committee on Community Security.

1 AN ACT Relating to terrorism offenses; amending RCW 9A.82.090,
2 9A.82.100, 9A.82.120, 10.95.040, 13.40.0357, and 9A.04.080; reenacting
3 and amending RCW 9A.82.010, 9.94A.515, and 9.94A.030; adding a new
4 section to chapter 10.95 RCW; adding a new chapter to Title 9A RCW;
5 prescribing penalties; and declaring an emergency.

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

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

1 governments and to exercise their rights under the First Amendment to
2 the United States Constitution.

3 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
4 section apply throughout this chapter unless the context clearly
5 requires otherwise.

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

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

13 (b) Deterioration of food, water equipment, supplies, or material
14 of any kind; or

15 (c) Deleterious alteration of the environment.

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

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

24 (4) "Material support or resources" means currency or other
25 financial securities, financial services, lodging, training,
26 safehouses, false documentation or identification, intelligence
27 information, communications equipment, facilities, weapons, lethal
28 substances, explosives, personnel, transportation, and other assets.

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

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

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

37 (8) "Toxin" means the toxic material of plants, animals,
38 microorganisms, viruses, fungi, or infectious substances, or a

1 recombinant molecule, whatever its origin or method of production,
2 including:

3 (a) Any poisonous substance or biological product that may be
4 engineered as a result of biotechnology produced by a living organism;
5 or

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

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

12 (10) "Weapon of mass destruction" means any device, object, or
13 substance that is designed, or that a person intends to use, to cause
14 multiple human deaths, or a biological agent, radioactive material, or
15 chemical agent that is released or disseminated without lawful
16 authority.

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

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

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

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

37 (a) Causes substantial bodily harm to more than one person; or

1 (b) Causes substantial damage to a habitable building or structure,
2 whether or not occupied, sufficient to create a substantial risk of
3 death to another person if the building or structure had been occupied
4 by any such person; or

5 (c) Causes substantial physical damage sufficient to disrupt the
6 normal functioning of a critical public or private infrastructure
7 system including, but not limited to, a public water system, or an
8 emergency, governmental, medical, fire, or law enforcement response
9 system.

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

11 NEW SECTION. **Sec. 5.** UNLAWFUL USE OR POSSESSION OF A WEAPON OF
12 MASS DESTRUCTION. (1) Any person who, with the intent to significantly
13 disrupt the conduct of government or of the general civilian population
14 of the state or the United States by engaging in conduct manifesting
15 extreme indifference to human life, uses, manufactures, transports,
16 possesses, spills, disposes of, or otherwise releases a weapon of mass
17 destruction is guilty of unlawful use or possession of a weapon of mass
18 destruction.

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

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

28 (a) Threatening acts of terrorism in the first degree if the
29 offense is committed with the intent to significantly disrupt the
30 conduct of government or of the general civilian population of the
31 state or the United States by engaging in conduct, which if carried
32 out, would manifest an extreme indifference to human life. Threatening
33 acts of terrorism in the first degree is a class B felony;

34 (b) Threatening acts of terrorism in the second degree if the
35 offense is committed under circumstances not amounting to threatening
36 acts of terrorism in the first degree. Threatening acts of terrorism
37 in the second degree is a class C felony.

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

4 NEW SECTION. **Sec. 7.** PROVIDING MATERIAL SUPPORT OR RESOURCES TO
5 TERRORISTS. (1) Any person who knowingly provides material support or
6 resources or conceals or disguises the nature, location, source, or
7 ownership of material support or resources, intending that the material
8 support or resources are to be used in planning, preparing for, or
9 carrying out a crime defined in this chapter, or in planning, preparing
10 for, or carrying out the concealment or an escape from the commission
11 of any such offense, is guilty of providing material support or
12 resources to terrorists.

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

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

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

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

26 Unless the context requires the contrary, the definitions in this
27 section apply throughout this chapter.

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

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

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

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

4 (b) "Beneficial interest" does not include the interest of a
5 stockholder in a corporation or the interest of a partner in a general
6 partnership or limited partnership.

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

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

11 (3) "Creditor" means a person making an extension of credit or a
12 person claiming by, under, or through a person making an extension of
13 credit.

14 (4) "Criminal profiteering" means any act, including any
15 anticipatory or completed offense, committed for financial gain, or any
16 offense, including any anticipatory or completed offense, which is
17 defined in chapter 9A.-- RCW (sections 1 through 8 and 19 through 25 of
18 this act), whether or not committed for financial gain, that is
19 chargeable or indictable under the laws of the state in which the act
20 occurred and, if the act occurred in a state other than this state,
21 would be chargeable or indictable under the laws of this state had the
22 act occurred in this state and punishable as a felony and by
23 imprisonment for more than one year, regardless of whether the act is
24 charged or indicted, as any of the following:

25 (a) Murder, as defined in RCW 9A.32.030 and 9A.32.050;

26 (b) Robbery, as defined in RCW 9A.56.200 and 9A.56.210;

27 (c) Kidnapping, as defined in RCW 9A.40.020 and 9A.40.030;

28 (d) Forgery, as defined in RCW 9A.60.020 and 9A.60.030;

29 (e) Theft, as defined in RCW 9A.56.030, 9A.56.040, 9A.56.060, and
30 9A.56.080;

31 (f) Unlawful sale of subscription television services, as defined
32 in RCW 9A.56.230;

33 (g) Theft of telecommunication services or unlawful manufacture of
34 a telecommunication device, as defined in RCW 9A.56.262 and 9A.56.264;

35 (h) Child selling or child buying, as defined in RCW 9A.64.030;

36 (i) Bribery, as defined in RCW 9A.68.010, 9A.68.020, 9A.68.040, and
37 9A.68.050;

38 (j) Gambling, as defined in RCW 9.46.220 and 9.46.215 and 9.46.217;

39 (k) Extortion, as defined in RCW 9A.56.120 and 9A.56.130;

1 (l) Extortionate extension of credit, as defined in RCW 9A.82.020;
2 (m) Advancing money for use in an extortionate extension of credit,
3 as defined in RCW 9A.82.030;
4 (n) Collection of an extortionate extension of credit, as defined
5 in RCW 9A.82.040;
6 (o) Collection of an unlawful debt, as defined in RCW 9A.82.045;
7 (p) Delivery or manufacture of controlled substances or possession
8 with intent to deliver or manufacture controlled substances under
9 chapter 69.50 RCW;
10 (q) Trafficking in stolen property, as defined in RCW 9A.82.050;
11 (r) Leading organized crime, as defined in RCW 9A.82.060;
12 (s) Money laundering, as defined in RCW 9A.83.020;
13 (t) Obstructing criminal investigations or prosecutions in
14 violation of RCW 9A.72.090, 9A.72.100, 9A.72.110, 9A.72.120, 9A.72.130,
15 9A.76.070, or 9A.76.180;
16 (u) Fraud in the purchase or sale of securities, as defined in RCW
17 21.20.010;
18 (v) Promoting pornography, as defined in RCW 9.68.140;
19 (w) Sexual exploitation of children, as defined in RCW 9.68A.040,
20 9.68A.050, and 9.68A.060;
21 (x) Promoting prostitution, as defined in RCW 9A.88.070 and
22 9A.88.080;
23 (y) Arson, as defined in RCW 9A.48.020 and 9A.48.030;
24 (z) Assault, as defined in RCW 9A.36.011 and 9A.36.021;
25 (aa) Assault of a child, as defined in RCW 9A.36.120 and 9A.36.130;
26 (bb) A pattern of equity skimming, as defined in RCW 61.34.020;
27 (cc) Commercial telephone solicitation in violation of RCW
28 19.158.040(1);
29 (dd) Trafficking in insurance claims, as defined in RCW 48.30A.015;
30 (ee) Unlawful practice of law, as defined in RCW 2.48.180;
31 (ff) Commercial bribery, as defined in RCW 9A.68.060;
32 (gg) Health care false claims, as defined in RCW 48.80.030;
33 (hh) Unlicensed practice of a profession or business, as defined in
34 RCW 18.130.190(7);
35 (ii) Improperly obtaining financial information, as defined in RCW
36 9.35.010; (~~ex~~)
37 (jj) Identity theft, as defined in RCW 9.35.020;
38 (kk) Terrorism in the first degree, as defined in section 3 of this
39 act;

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

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

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

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

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

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

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

15 (6) "Debtor" means a person to whom an extension of credit is made
16 or a person who guarantees the repayment of an extension of credit or
17 in any manner undertakes to indemnify the creditor against loss
18 resulting from the failure of a person to whom an extension is made to
19 repay the same.

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

25 (8) "Enterprise" includes any individual, sole proprietorship,
26 partnership, corporation, business trust, or other profit or nonprofit
27 legal entity, and includes any union, association, or group of
28 individuals associated in fact although not a legal entity, and both
29 illicit and licit enterprises and governmental and nongovernmental
30 entities.

31 (9) "Extortionate extension of credit" means an extension of credit
32 with respect to which it is the understanding of the creditor and the
33 debtor at the time the extension is made that delay in making repayment
34 or failure to make repayment could result in the use of violence or
35 other criminal means to cause harm to the person, reputation, or
36 property of any person.

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

1 (11) "Financial institution" means any bank, trust company, savings
2 and loan association, savings bank, mutual savings bank, credit union,
3 or loan company under the jurisdiction of the state or an agency of the
4 United States.

5 (12) "Pattern of criminal profiteering activity" means engaging in
6 at least three acts of criminal profiteering, one of which occurred
7 after July 1, 1985, and the last of which occurred within five years,
8 excluding any period of imprisonment, after the commission of the
9 earliest act of criminal profiteering. In order to constitute a
10 pattern, the three acts must have the same or similar intent, results,
11 accomplices, principals, victims, or methods of commission, or be
12 otherwise interrelated by distinguishing characteristics including a
13 nexus to the same enterprise, and must not be isolated events.
14 However, in any civil proceedings brought pursuant to RCW 9A.82.100 by
15 any person other than the attorney general or county prosecuting
16 attorney in which one or more acts of fraud in the purchase or sale of
17 securities are asserted as acts of criminal profiteering activity, it
18 is a condition to civil liability under RCW 9A.82.100 that the
19 defendant has been convicted in a criminal proceeding of fraud in the
20 purchase or sale of securities under RCW 21.20.400 or under the laws of
21 another state or of the United States requiring the same elements of
22 proof, but such conviction need not relate to any act or acts asserted
23 as acts of criminal profiteering activity in such civil action under
24 RCW 9A.82.100.

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

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

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

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

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

38 (18) "To extend credit" means to make or renew a loan or to enter
39 into an agreement, tacit or express, whereby the repayment or

1 satisfaction of a debt or claim, whether acknowledged or disputed,
2 valid or invalid, and however arising, may or shall be deferred.

3 (19) "Traffic" means to sell, transfer, distribute, dispense, or
4 otherwise dispose of stolen property to another person, or to buy,
5 receive, possess, or obtain control of stolen property, with intent to
6 sell, transfer, distribute, dispense, or otherwise dispose of the
7 property to another person.

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

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

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

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

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

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

18 (ii) A trustee of any testamentary trust;

19 (iii) A trustee of any indenture of trust under which a bond is
20 issued; or

21 (iv) A trustee under a deed of trust.

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

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

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

28 (ii) Chapter 9.46 RCW relating to gambling;

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

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

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

35 During the pendency of any criminal case charging a violation of
36 RCW 9A.82.060 or (~~(a violation of RCW)~~) 9A.82.080, or of an offense
37 defined in chapter 9A.-- RCW (sections 1 through 8 and 19 through 25 of
38 this act) whether or not committed for financial gain, the superior

1 court may, in addition to its other powers, issue an order pursuant to
2 RCW 9A.82.100 (2) or (3). Upon conviction of a person for a violation
3 of RCW 9A.82.060 or (~~a violation of RCW~~) 9A.82.080, or of an offense
4 defined in chapter 9A.-- RCW (sections 1 through 8 and 19 through 25 of
5 this act) whether or not committed for financial gain, the superior
6 court may, in addition to its other powers of disposition, issue an
7 order pursuant to RCW 9A.82.100.

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

10 (1)(a) A person who sustains injury to his or her person, business,
11 or property by an act of criminal profiteering that is part of a
12 pattern of criminal profiteering activity, or by an offense defined in
13 chapter 9A.-- RCW (sections 1 through 8 and 19 through 25 of this act)
14 whether or not committed for financial gain, or by a violation of RCW
15 9A.82.060 or 9A.82.080 may file an action in superior court for the
16 recovery of damages and the costs of the suit, including reasonable
17 investigative and attorney's fees.

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

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

29 (d) In an action filed to prevent, restrain, or remedy a pattern of
30 criminal profiteering activity, or an offense defined in chapter 9A.--
31 RCW (sections 1 through 8 and 19 through 25 of this act) whether or not
32 committed for financial gain, or a violation of RCW 9A.82.060 or
33 9A.82.080, the court, upon proof of the violation, may impose a civil
34 penalty not exceeding two hundred fifty thousand dollars, in addition
35 to awarding the cost of the suit, including reasonable investigative
36 and attorney's fees.

37 (2) The superior court has jurisdiction to prevent, restrain, and
38 remedy a pattern of criminal profiteering, or an offense defined in

1 chapter 9A.-- RCW (sections 1 through 8 and 19 through 25 of this act)
2 whether or not committed for financial gain, or a violation of RCW
3 9A.82.060 or 9A.82.080 after making provision for the rights of all
4 innocent persons affected by the violation and after hearing or trial,
5 as appropriate, by issuing appropriate orders.

6 (3) Prior to a determination of liability, orders issued under
7 subsection (2) of this section may include, but are not limited to,
8 entering restraining orders or prohibitions or taking such other
9 actions, including the acceptance of satisfactory performance bonds, in
10 connection with any property or other interest subject to damages,
11 forfeiture, or other restraints pursuant to this section as the court
12 deems proper. The orders may also include attachment, receivership, or
13 injunctive relief in regard to personal or real property pursuant to
14 Title 7 RCW. In shaping the reach or scope of receivership,
15 attachment, or injunctive relief, the superior court shall provide for
16 the protection of bona fide interests in property, including community
17 property, of persons who were not involved in the violation of this
18 chapter, except to the extent that such interests or property were
19 acquired or used in such a way as to be subject to forfeiture under RCW
20 9A.82.100(4)(f).

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

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

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

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

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

38 (e) Ordering the payment of all costs and expenses of the
39 prosecution and investigation of a pattern of criminal profiteering

1 activity, or an offense defined in chapter 9A.-- RCW (sections 1
2 through 8 and 19 through 25 of this act) whether or not committed for
3 financial gain, or a violation of RCW 9A.82.060 or 9A.82.080, civil and
4 criminal, incurred by the state or county, including any costs of
5 defense provided at public expense, as appropriate to the state general
6 fund or the antiprofitereing revolving fund of the county.

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

15 (i) Any property or other interest acquired or maintained in
16 violation of RCW 9A.82.060 or 9A.82.080 to the extent of the investment
17 of funds, and any appreciation or income attributable to the
18 investment, from a violation of RCW 9A.82.060 or 9A.82.080.

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

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

30 (g) Ordering payment to the state general fund or antiprofitereing
31 revolving fund of the county, as appropriate, of an amount equal to the
32 gain a person has acquired or maintained through an offense included in
33 the definition of criminal profiteering.

34 (5) In addition to or in lieu of an action under this section, the
35 attorney general or county prosecuting attorney may file an action for
36 forfeiture to the state general fund or antiprofitereing revolving fund
37 of the county, as appropriate, to the extent not already ordered paid
38 pursuant to this section, of the following:

1 (a) Any interest acquired or maintained by a person in violation of
2 RCW 9A.82.060 or 9A.82.080 to the extent of the investment of funds
3 obtained from a violation of RCW 9A.82.060 or 9A.82.080 and any
4 appreciation or income attributable to the investment.

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

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

16 (6) A defendant convicted in any criminal proceeding is precluded
17 in any civil proceeding from denying the essential allegations of the
18 criminal offense proven in the criminal trial in which the defendant
19 was convicted. For the purposes of this subsection, a conviction shall
20 be deemed to have occurred upon a verdict, finding, or plea of guilty,
21 notwithstanding the fact that appellate review of the conviction and
22 sentence has been or may be sought. If a subsequent reversal of the
23 conviction occurs, any judgment that was based upon that conviction may
24 be reopened upon motion of the defendant.

25 (7) The initiation of civil proceedings under this section shall be
26 commenced within three years after discovery of the pattern of criminal
27 profiteering activity or after the pattern should reasonably have been
28 discovered or, in the case of an offense which is defined in chapter
29 9A.-- RCW (sections 1 through 8 and 19 through 25 of this act), within
30 three years after the final disposition of any criminal charges
31 relating to the offense, whichever is later.

32 (8) The attorney general or county prosecuting attorney may, in a
33 civil action brought pursuant to this section, file with the clerk of
34 the superior court a certificate stating that the case is of special
35 public importance. A copy of that certificate shall be furnished
36 immediately by the clerk to the presiding chief judge of the superior
37 court in which the action is pending and, upon receipt of the copy, the
38 judge shall immediately designate a judge to hear and determine the
39 action. The judge so designated shall promptly assign the action for

1 hearing, participate in the hearings and determination, and cause the
2 action to be expedited.

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

5 (10) A person other than the attorney general or county prosecuting
6 attorney who files an action under this section shall serve notice and
7 one copy of the pleading on the attorney general within thirty days
8 after the action is filed with the superior court. The notice shall
9 identify the action, the person, and the person's attorney. Service of
10 the notice does not limit or otherwise affect the right of the state to
11 maintain an action under this section or intervene in a pending action
12 nor does it authorize the person to name the state or the attorney
13 general as a party to the action.

14 (11) Except in cases filed by a county prosecuting attorney, the
15 attorney general may, upon timely application, intervene in any civil
16 action or proceeding brought under this section if the attorney general
17 certifies that in the attorney general's opinion the action is of
18 special public importance. Upon intervention, the attorney general may
19 assert any available claim and is entitled to the same relief as if the
20 attorney general had instituted a separate action.

21 (12) In addition to the attorney general's right to intervene as a
22 party in any action under this section, the attorney general may appear
23 as amicus curiae in any proceeding in which a claim under this section
24 has been asserted or in which a court is interpreting RCW 9A.82.010,
25 9A.82.080, 9A.82.090, 9A.82.110, or 9A.82.120, or this section.

26 (13) A private civil action under this section does not limit any
27 other civil or criminal action under this chapter or any other
28 provision. Private civil remedies provided under this section are
29 supplemental and not mutually exclusive.

30 (14) Upon motion by the defendant, the court may authorize the sale
31 or transfer of assets subject to an order or lien authorized by this
32 chapter for the purpose of paying actual attorney's fees and costs of
33 defense. The motion shall specify the assets for which sale or
34 transfer is sought and shall be accompanied by the defendant's sworn
35 statement that the defendant has no other assets available for such
36 purposes. No order authorizing such sale or transfer may be entered
37 unless the court finds that the assets involved are not subject to
38 possible forfeiture under RCW 9A.82.100(4)(f). Prior to disposition of
39 the motion, the court shall notify the state of the assets sought to be

1 sold or transferred and shall hear argument on the issue of whether the
2 assets are subject to forfeiture under RCW 9A.82.100(4)(f). Such a
3 motion may be made from time to time and shall be heard by the court on
4 an expedited basis.

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

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

9 (1) The state, upon filing a criminal action under RCW 9A.82.060 or
10 9A.82.080 or for an offense defined in chapter 9A.-- RCW (sections 1
11 through 8 and 19 through 25 of this act) whether or not committed for
12 financial gain, or a civil action under RCW 9A.82.100, may file in
13 accordance with this section a criminal profiteering lien. A filing
14 fee or other charge is not required for filing a criminal profiteering
15 lien.

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

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

21 (b) In the discretion of the attorney general or county prosecuting
22 attorney filing the lien, any aliases or fictitious names of the
23 defendant named in the lien;

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

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

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

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

34 (g) The amount that the state claims in the action or, with respect
35 to property or other interests that the state has requested forfeiture
36 to the state or county, a description of the property or interests
37 sought to be paid or forfeited;

1 (h) If known to the attorney general or county prosecuting attorney
2 filing the lien, a description of property that is subject to
3 forfeiture to the state or property in which the defendant has an
4 interest that is available to satisfy a judgment entered in favor of
5 the state; and

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

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

12 (4) The attorney general or the county prosecuting attorney filing
13 the lien shall, as soon as practical after filing a criminal
14 profiteering lien, furnish to any person named in the lien a notice of
15 the filing of the lien. Failure to furnish notice under this
16 subsection does not invalidate or otherwise affect a criminal
17 profiteering lien filed in accordance with this section.

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

26 NOTICE OF LIEN

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

29 Name:
30 Address:
31
32
33

34 State of Washington
35
36 By (authorized signature)

37 On receipt of such a notice from the state, a filing officer shall,
38 without payment of filing fee, file and index the notice as if it were

1 a financing statement naming the state as secured party and the
2 defendant as debtor.

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

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

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

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

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

18 (7) The lien created in favor of the state in accordance with this
19 section, when filed or otherwise perfected as provided in subsection
20 (5) of this section, has, with respect to any of the property described
21 in subsection (6) of this section, the same priority determined
22 pursuant to the laws of this state as a mortgage or security interest
23 given for value (but not a purchase money security interest) and
24 perfected in the same manner with respect to such property; except that
25 any lien perfected pursuant to Title 60 RCW by any person who, in the
26 ordinary course of his business, furnishes labor, services, or
27 materials, or rents, leases, or otherwise supplies equipment, without
28 knowledge of the criminal profiteering lien, is superior to the
29 criminal profiteering lien.

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

37 (9) Upon the entry of a final judgment in favor of the state
38 providing for forfeiture of property to the state, the title of the
39 state to the property:

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

5 (b) In the case of personal property or a beneficial interest in
6 personal property, relates back to the date the personal property was
7 seized by the state, or the date of filing of a criminal profiteering
8 lien in accordance with this section, whichever is earlier, but if the
9 property was not seized and no criminal profiteering lien was filed
10 then to the date the final judgment was filed with the department of
11 licensing and, if the personal property is an aircraft, with the
12 federal aviation administration.

13 (10) This section does not limit the right of the state to obtain
14 any order or injunction, receivership, writ, attachment, garnishment,
15 or other remedy authorized under RCW 9A.82.100 or appropriate to
16 protect the interests of the state or available under other applicable
17 law.

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

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

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

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

33 (1) If a person is charged with aggravated first degree murder as
34 defined by RCW 10.95.020 or section 13 of this act, the prosecuting
35 attorney shall file written notice of a special sentencing proceeding
36 to determine whether or not the death penalty should be imposed when

1 there is reason to believe that there are not sufficient mitigating
2 circumstances to merit leniency.

3 (2) The notice of special sentencing proceeding shall be filed and
4 served on the defendant or the defendant's attorney within thirty days
5 after the defendant's arraignment upon the charge of aggravated first
6 degree murder unless the court, for good cause shown, extends or
7 reopens the period for filing and service of the notice. Except with
8 the consent of the prosecuting attorney, during the period in which the
9 prosecuting attorney may file the notice of special sentencing
10 proceeding, the defendant may not tender a plea of guilty to the charge
11 of aggravated first degree murder nor may the court accept a plea of
12 guilty to the charge of aggravated first degree murder or any lesser
13 included offense.

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

17 **Sec. 15.** RCW 9.94A.515 and 2001 2nd sp.s. c 12 s 361, 2001 c 300
18 s 4, 2001 c 217 s 12, and 2001 c 17 s 1 are each reenacted and amended
19 to read as follows:

20 TABLE 2

21 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

22 XVI	Aggravated Murder 1 (RCW 10.95.020)
23	<u>Terrorism 1 (RCW 9A.--.--- (section 3 of</u>
24	<u>this act))</u>
25 XV	Homicide by abuse (RCW 9A.32.055)
26	Malicious explosion 1 (RCW 70.74.280(1))
27	Murder 1 (RCW 9A.32.030)
28	<u>Terrorism 2 (RCW 9A.--.--- (section 4 of</u>
29	<u>this act))</u>
30 XIV	Murder 2 (RCW 9A.32.050)
31	<u>Unlawful Use or Possession of a Weapon of</u>
32	<u>Mass Destruction (RCW 9A.--.---</u>
33	<u>(section 5 of this act))</u>
34 XIII	Malicious explosion 2 (RCW 70.74.280(2))

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

3 XII Assault 1 (RCW 9A.36.011)
4 Assault of a Child 1 (RCW 9A.36.120)
5 Malicious placement of an imitation device
6 1 (RCW 70.74.272(1)(a))
7 Rape 1 (RCW 9A.44.040)
8 Rape of a Child 1 (RCW 9A.44.073)
9 Threatening Acts of Terrorism 1
10 (RCW 9A.--.--- (section 6(1)(a) of this act))

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

14 X Child Molestation 1 (RCW 9A.44.083)
15 Indecent Liberties (with forcible
16 compulsion) (RCW 9A.44.100(1)(a))
17 Kidnapping 1 (RCW 9A.40.020)
18 Leading Organized Crime (RCW
19 9A.82.060(1)(a))
20 Malicious explosion 3 (RCW 70.74.280(3))
21 Manufacture of methamphetamine (RCW
22 69.50.401(a)(1)(ii))
23 Over 18 and deliver heroin,
24 methamphetamine, a narcotic from
25 Schedule I or II, or flunitrazepam
26 from Schedule IV to someone under 18
27 (RCW 69.50.406)
28 Providing Material Support or Resources to
29 Terrorists (RCW 9A.--.--- (section 7
30 of this act))
31 Sexually Violent Predator Escape (RCW
32 9A.76.115)
33 Unlawful Possession of False Identification
34 for Terrorist Purposes (RCW 9A.--.---
35 (section 8 of this act))

36 IX Assault of a Child 2 (RCW 9A.36.130)

1 Controlled Substance Homicide (RCW
2 69.50.415)
3 Explosive devices prohibited (RCW
4 70.74.180)
5 Hit and Run--Death (RCW 46.52.020(4)(a))
6 Homicide by Watercraft, by being under the
7 influence of intoxicating liquor or
8 any drug (RCW 79A.60.050)
9 Inciting Criminal Profiteering (RCW
10 9A.82.060(1)(b))
11 Malicious placement of an explosive 2 (RCW
12 70.74.270(2))
13 Over 18 and deliver narcotic from Schedule
14 III, IV, or V or a nonnarcotic, except
15 flunitrazepam or methamphetamine, from
16 Schedule I-V to someone under 18 and 3
17 years junior (RCW 69.50.406)
18 Robbery 1 (RCW 9A.56.200)
19 Sexual Exploitation (RCW 9.68A.040)
20 Vehicular Homicide, by being under the
21 influence of intoxicating liquor or
22 any drug (RCW 46.61.520)

23 VIII Arson 1 (RCW 9A.48.020)
24 Deliver or possess with intent to deliver
25 m e t h a m p h e t a m i n e (R C W
26 69.50.401(a)(1)(ii))
27 Homicide by Watercraft, by the operation of
28 any vessel in a reckless manner (RCW
29 79A.60.050)
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 (RCW
26 70.74.270(3))
27 Sending, bringing into state depictions of
28 minor engaged in sexually explicit
29 conduct (RCW 9.68A.060)
30 Unlawful Possession of a Firearm in the
31 first degree (RCW 9.41.040(1)(a))
32 Use of a Machine Gun in Commission of a
33 Felony (RCW 9.41.225)
34 Vehicular Homicide, by disregard for the
35 safety of others (RCW 46.61.520)

36 VI Bail Jumping with Murder 1 (RCW
37 9A.76.170(3)(a))
38 Bribery (RCW 9A.68.010)

1 Incest 1 (RCW 9A.64.020(1))
2 Intimidating a Judge (RCW 9A.72.160)
3 Intimidating a Juror/Witness (RCW
4 9A.72.110, 9A.72.130)
5 Malicious placement of an imitation device
6 2 (RCW 70.74.272(1)(b))
7 Manufacture, deliver, or possess with
8 intent to deliver narcotics from
9 Schedule I or II (except heroin or
10 cocaine) or flunitrazepam from
11 Schedule IV (RCW 69.50.401(a)(1)(i))
12 Rape of a Child 3 (RCW 9A.44.079)
13 Theft of a Firearm (RCW 9A.56.300)
14 Unlawful Storage of Anhydrous Ammonia (RCW
15 69.55.020)
16 V Abandonment of dependent person 1 (RCW
17 9A.42.060)
18 Advancing money or property for
19 extortionate extension of credit (RCW
20 9A.82.030)
21 Bail Jumping with class A Felony (RCW
22 9A.76.170(3)(b))
23 Child Molestation 3 (RCW 9A.44.089)
24 Criminal Mistreatment 1 (RCW 9A.42.020)
25 Custodial Sexual Misconduct 1 (RCW
26 9A.44.160)
27 Delivery of imitation controlled substance
28 by person eighteen or over to person
29 under eighteen (RCW 69.52.030(2))
30 Domestic Violence Court Order Violation
31 (RCW 10.99.040, 10.99.050, 26.09.300,
32 26.10.220, 26.26.138, 26.50.110,
33 26.52.070, or 74.34.145)
34 Extortion 1 (RCW 9A.56.120)
35 Extortionate Extension of Credit (RCW
36 9A.82.020)
37 Extortionate Means to Collect Extensions of
38 Credit (RCW 9A.82.040)
39 Incest 2 (RCW 9A.64.020(2))

1 Kidnapping 2 (RCW 9A.40.030)
2 Perjury 1 (RCW 9A.72.020)
3 Persistent prison misbehavior (RCW
4 9.94.070)
5 Possession of a Stolen Firearm (RCW
6 9A.56.310)
7 Rape 3 (RCW 9A.44.060)
8 Rendering Criminal Assistance 1 (RCW
9 9A.76.070)
10 Sexual Misconduct with a Minor 1 (RCW
11 9A.44.093)
12 Sexually Violating Human Remains (RCW
13 9A.44.105)
14 Stalking (RCW 9A.46.110)
15 IV Arson 2 (RCW 9A.48.030)
16 Assault 2 (RCW 9A.36.021)
17 Assault by Watercraft (RCW 79A.60.060)
18 Bribing a Witness/Bribe Received by Witness
19 (RCW 9A.72.090, 9A.72.100)
20 Commercial Bribery (RCW 9A.68.060)
21 Counterfeiting (RCW 9.16.035(4))
22 Escape 1 (RCW 9A.76.110)
23 Hit and Run--Injury (RCW 46.52.020(4)(b))
24 Hit and Run with Vessel--Injury Accident
25 (RCW 79A.60.200(3))
26 Identity Theft 1 (RCW 9.35.020(2)(a))
27 Indecent Exposure to Person Under Age
28 Fourteen (subsequent sex offense) (RCW
29 9A.88.010)
30 Influencing Outcome of Sporting Event (RCW
31 9A.82.070)
32 Knowingly Trafficking in Stolen Property
33 (RCW 9A.82.050(2))
34 Malicious Harassment (RCW 9A.36.080)
35 Manufacture, deliver, or possess with
36 intent to deliver narcotics from
37 Schedule III, IV, or V or nonnarcotics
38 from Schedule I-V (except marijuana,
39 amphetamine, methamphetamines, or

1 flunitrazepam) (RCW 69.50.401(a)(1)
2 (iii) through (v))
3 Residential Burglary (RCW 9A.52.025)
4 Robbery 2 (RCW 9A.56.210)
5 Theft of Livestock 1 (RCW 9A.56.080)
6 Threats to Bomb (RCW 9.61.160)
7 Use of Proceeds of Criminal Profiteering
8 (RCW 9A.82.080 (1) and (2))
9 Vehicular Assault, by being under the
10 influence of intoxicating liquor or
11 any drug, or by the operation or
12 driving of a vehicle in a reckless
13 manner (RCW 46.61.522)
14 Willful Failure to Return from Furlough
15 (RCW 72.66.060)

16 III Abandonment of dependent person 2 (RCW
17 9A.42.070)
18 Assault 3 (RCW 9A.36.031)
19 Assault of a Child 3 (RCW 9A.36.140)
20 Bail Jumping with class B or C Felony (RCW
21 9A.76.170(3)(c))
22 Burglary 2 (RCW 9A.52.030)
23 Communication with a Minor for Immoral
24 Purposes (RCW 9.68A.090)
25 Criminal Gang Intimidation (RCW 9A.46.120)
26 Criminal Mistreatment 2 (RCW 9A.42.030)
27 Custodial Assault (RCW 9A.36.100)
28 Delivery of a material in lieu of a
29 controlled substance (RCW
30 69.50.401(c))
31 Escape 2 (RCW 9A.76.120)
32 Extortion 2 (RCW 9A.56.130)
33 Harassment (RCW 9A.46.020)
34 Intimidating a Public Servant (RCW
35 9A.76.180)
36 Introducing Contraband 2 (RCW 9A.76.150)
37 Maintaining a Dwelling or Place for
38 Controlled Substances (RCW
39 69.50.402(a)(6))

1 Malicious Injury to Railroad Property (RCW
2 81.60.070)
3 Manufacture, deliver, or possess with
4 intent to deliver marijuana (RCW
5 69.50.401(a)(1)(iii))
6 Manufacture, distribute, or possess with
7 intent to distribute an imitation
8 controlled substance (RCW
9 69.52.030(1))
10 Patronizing a Juvenile Prostitute (RCW
11 9.68A.100)
12 Perjury 2 (RCW 9A.72.030)
13 Possession of Incendiary Device (RCW
14 9.40.120)
15 Possession of Machine Gun or Short-Barreled
16 Shotgun or Rifle (RCW 9.41.190)
17 Promoting Prostitution 2 (RCW 9A.88.080)
18 Recklessly Trafficking in Stolen Property
19 (RCW 9A.82.050(1))
20 Securities Act violation (RCW 21.20.400)
21 Tampering with a Witness (RCW 9A.72.120)
22 Telephone Harassment (subsequent conviction
23 or threat of death) (RCW 9.61.230)
24 Theft of Livestock 2 (RCW 9A.56.080)
25 Unlawful Imprisonment (RCW 9A.40.040)
26 Unlawful possession of firearm in the
27 second degree (RCW 9.41.040(1)(b))
28 Unlawful Use of Building for Drug Purposes
29 (RCW 69.53.010)
30 Vehicular Assault, by the operation or
31 driving of a vehicle with disregard
32 for the safety of others (RCW
33 46.61.522)
34 Willful Failure to Return from Work Release
35 (RCW 72.65.070)
36 II Computer Trespass 1 (RCW 9A.52.110)
37 Counterfeiting (RCW 9.16.035(3))

1 Create, deliver, or possess a counterfeit
2 controlled substance (RCW
3 69.50.401(b))
4 Escape from Community Custody (RCW
5 72.09.310)
6 Health Care False Claims (RCW 48.80.030)
7 Identity Theft 2 (RCW 9.35.020(2)(b))
8 Improperly Obtaining Financial Information
9 (RCW 9.35.010)
10 Malicious Mischief 1 (RCW 9A.48.070)
11 Possession of controlled substance that is
12 either heroin or narcotics from
13 Schedule I or II or flunitrazepam from
14 Schedule IV (RCW 69.50.401(d))
15 Possession of phencyclidine (PCP) (RCW
16 69.50.401(d))
17 Possession of Stolen Property 1 (RCW
18 9A.56.150)
19 Theft 1 (RCW 9A.56.030)
20 Theft of Rental, Leased, or Lease-purchased
21 Property (valued at one thousand five
22 hundred dollars or more) (RCW
23 9A.56.096(4))
24 Trafficking in Insurance Claims (RCW
25 48.30A.015)
26 Unlawful Practice of Law (RCW 2.48.180)
27 Unlicensed Practice of a Profession or
28 Business (RCW 18.130.190(7))
29 I Attempting to Elude a Pursuing Police
30 Vehicle (RCW 46.61.024)
31 False Verification for Welfare (RCW
32 74.08.055)
33 Forged Prescription (RCW 69.41.020)
34 Forged Prescription for a Controlled
35 Substance (RCW 69.50.403)
36 Forgery (RCW 9A.60.020)
37 Malicious Mischief 2 (RCW 9A.48.080)
38 Possess Controlled Substance that is a
39 Narcotic from Schedule III, IV, or V

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

20 **Sec. 16.** RCW 13.40.0357 and 2001 c 217 s 13 are each amended to
 21 read as follows:

22 **DESCRIPTION AND OFFENSE CATEGORY**

23	JUVENILE		JUVENILE DISPOSITION
24	DISPOSITION		CATEGORY FOR ATTEMPT,
25	OFFENSE		BAILJUMP, CONSPIRACY,
26	CATEGORY	DESCRIPTION (RCW CITATION)	OR SOLICITATION
27		

28 **Arson and Malicious Mischief**

29	A	Arson 1 (9A.48.020)	B+
30	B	Arson 2 (9A.48.030)	C
31	C	Reckless Burning 1 (9A.48.040)	D
32	D	Reckless Burning 2 (9A.48.050)	E
33	B	Malicious Mischief 1 (9A.48.070)	C
34	C	Malicious Mischief 2 (9A.48.080)	D
35	D	Malicious Mischief 3 (<\$50 is	
36		E class) (9A.48.090)	E

1	E	Tampering with Fire Alarm	
2		Apparatus (9.40.100)	E
3	A	Possession of Incendiary Device	
4		(9.40.120)	B+
5		Assault and Other Crimes	
6		Involving Physical Harm	
7	A	Assault 1 (9A.36.011)	B+
8	B+	Assault 2 (9A.36.021)	C+
9	C+	Assault 3 (9A.36.031)	D+
10	D+	Assault 4 (9A.36.041)	E
11	B+	Drive-By Shooting	
12		(9A.36.045)	C+
13	D+	Reckless Endangerment	
14		(9A.36.050)	E
15	C+	Promoting Suicide Attempt	
16		(9A.36.060)	D+
17	D+	Coercion (9A.36.070)	E
18	C+	Custodial Assault (9A.36.100)	D+
19		Burglary and Trespass	
20	B+	Burglary 1 (9A.52.020)	C+
21	B	Residential Burglary	
22		(9A.52.025)	C
23	B	Burglary 2 (9A.52.030)	C
24	D	Burglary Tools (Possession of)	
25		(9A.52.060)	E
26	D	Criminal Trespass 1 (9A.52.070)	E
27	E	Criminal Trespass 2 (9A.52.080)	E
28	C	Vehicle Prowling 1 (9A.52.095)	D
29	D	Vehicle Prowling 2 (9A.52.100)	E
30		Drugs	
31	E	Possession/Consumption of Alcohol	
32		(66.44.270)	E
33	C	Illegally Obtaining Legend Drug	
34		(69.41.020)	D
35	C+	Sale, Delivery, Possession of Legend	
36		Drug with Intent to Sell	
37		(69.41.030)	D+

1	E	Possession of Legend Drug	
2		(69.41.030)	E
3	B+	Violation of Uniform Controlled	
4		Substances Act - Narcotic,	
5		Methamphetamine, or Flunitrazepam	
6		Sale (69.50.401(a)(1) (i) or (ii))	B+
7	C	Violation of Uniform Controlled	
8		Substances Act - Nonnarcotic Sale	
9		(69.50.401(a)(1)(iii))	C
10	E	Possession of Marihuana <40 grams	
11		(69.50.401(e))	E
12	C	Fraudulently Obtaining Controlled	
13		Substance (69.50.403)	C
14	C+	Sale of Controlled Substance	
15		for Profit (69.50.410)	C+
16	E	Unlawful Inhalation (9.47A.020)	E
17	B	Violation of Uniform Controlled	
18		Substances Act - Narcotic,	
19		Methamphetamine, or Flunitrazepam	
20		Counterfeit Substances	
21		(69.50.401(b)(1) (i) or (ii))	B
22	C	Violation of Uniform Controlled	
23		Substances Act - Nonnarcotic	
24		Counterfeit Substances	
25		(69.50.401(b)(1) (iii), (iv), (v))	C
26	C	Violation of Uniform Controlled	
27		Substances Act - Possession of a	
28		Controlled Substance	
29		(69.50.401(d))	C
30	C	Violation of Uniform Controlled	
31		Substances Act - Possession of a	
32		Controlled Substance	
33		(69.50.401(c))	C
34		Firearms and Weapons	
35	B	Theft of Firearm (9A.56.300)	C
36	B	Possession of Stolen Firearm	
37		(9A.56.310)	C

1	E	Carrying Loaded Pistol Without	
2		Permit (9.41.050)	E
3	C	Possession of Firearms by Minor (<18)	
4		(9.41.040(1)(b)(iii))	C
5	D+	Possession of Dangerous Weapon	
6		(9.41.250)	E
7	D	Intimidating Another Person by use	
8		of Weapon (9.41.270)	E
9		Homicide	
10	A+	Murder 1 (9A.32.030)	A
11	A+	Murder 2 (9A.32.050)	B+
12	B+	Manslaughter 1 (9A.32.060)	C+
13	C+	Manslaughter 2 (9A.32.070)	D+
14	B+	Vehicular Homicide (46.61.520)	C+
15		Kidnapping	
16	A	Kidnap 1 (9A.40.020)	B+
17	B+	Kidnap 2 (9A.40.030)	C+
18	C+	Unlawful Imprisonment	
19		(9A.40.040)	D+
20		Obstructing Governmental Operation	
21	D	Obstructing a Law Enforcement	
22		Officer (9A.76.020)	E
23	E	Resisting Arrest (9A.76.040)	E
24	B	Introducing Contraband 1	
25		(9A.76.140)	C
26	C	Introducing Contraband 2	
27		(9A.76.150)	D
28	E	Introducing Contraband 3	
29		(9A.76.160)	E
30	B+	Intimidating a Public Servant	
31		(9A.76.180)	C+
32	B+	Intimidating a Witness	
33		(9A.72.110)	C+
34		Public Disturbance	
35	C+	Riot with Weapon (9A.84.010)	D+
36	D+	Riot Without Weapon	
37		(9A.84.010)	E

1	E	Failure to Disperse (9A.84.020)	E
2	E	Disorderly Conduct (9A.84.030)	E
3		Sex Crimes	
4	A	Rape 1 (9A.44.040)	B+
5	A-	Rape 2 (9A.44.050)	B+
6	C+	Rape 3 (9A.44.060)	D+
7	A-	Rape of a Child 1 (9A.44.073)	B+
8	B+	Rape of a Child 2 (9A.44.076)	C+
9	B	Incest 1 (9A.64.020(1))	C
10	C	Incest 2 (9A.64.020(2))	D
11	D+	Indecent Exposure	
12		(Victim <14) (9A.88.010)	E
13	E	Indecent Exposure	
14		(Victim 14 or over) (9A.88.010)	E
15	B+	Promoting Prostitution 1	
16		(9A.88.070)	C+
17	C+	Promoting Prostitution 2	
18		(9A.88.080)	D+
19	E	O & A (Prostitution) (9A.88.030)	E
20	B+	Indecent Liberties (9A.44.100)	C+
21	A-	Child Molestation 1 (9A.44.083)	B+
22	B	Child Molestation 2 (9A.44.086)	C+
23		<u>Terrorism</u>	
24	<u>A+</u>	<u>Terrorism in the First</u>	
25		<u>Degree (section 3 of this act)</u>	<u>A</u>
26	<u>A</u>	<u>Terrorism in the Second Degree</u>	
27		<u>(section 4 of this act)</u>	<u>B+</u>
28	<u>B+</u>	<u>Unlawful Use or Possession</u>	
29		<u>of Weapon of Mass Destruction</u>	
30		<u>(section 5 of this act)</u>	<u>C+</u>
31	<u>B</u>	<u>Threatening Acts of Terrorism 1</u>	
32		<u>(section 6(1)(a) of this act)</u>	<u>C</u>
33	<u>C+</u>	<u>Providing Material Support or</u>	
34		<u>Resources to Terrorists (section</u>	
35		<u>7 of this act)</u>	<u>D+</u>
36	<u>C</u>	<u>Unlawful Possession of False</u>	
37		<u>Identification for Terrorist Purposes</u>	
38		<u>(section 8 of this act)</u>	<u>D</u>

1	D+	<u>Threatening Acts of Terrorism 2</u>	
2		<u>(section 6(1)(b) of this act)</u>	<u>E</u>
3		Theft, Robbery, Extortion, and Forgery	
4	B	Theft 1 (9A.56.030)	C
5	C	Theft 2 (9A.56.040)	D
6	D	Theft 3 (9A.56.050)	E
7	B	Theft of Livestock (9A.56.080)	C
8	C	Forgery (9A.60.020)	D
9	A	Robbery 1 (9A.56.200)	B+
10	B+	Robbery 2 (9A.56.210)	C+
11	B+	Extortion 1 (9A.56.120)	C+
12	C+	Extortion 2 (9A.56.130)	D+
13	C	Identity Theft 1 (9.35.020(2)(a))	D
14	D	Identity Theft 2 (9.35.020(2)(b))	E
15	D	Improperly Obtaining Financial	
16		Information (((9.35.010)))	
17		<u>(9.35.010)</u>	E
18	B	Possession of Stolen Property 1	
19		(9A.56.150)	C
20	C	Possession of Stolen Property 2	
21		(9A.56.160)	D
22	D	Possession of Stolen Property 3	
23		(9A.56.170)	E
24	C	Taking Motor Vehicle Without	
25		Owner's Permission (9A.56.070)	D
26		Motor Vehicle Related Crimes	
27	E	Driving Without a License	
28		(46.20.005)	E
29	B+	Hit and Run - Death	
30		(46.52.020(4)(a))	C+
31	C	Hit and Run - Injury	
32		(46.52.020(4)(b))	D
33	D	Hit and Run-Attended	
34		(46.52.020(5))	E
35	E	Hit and Run-Unattended	
36		(46.52.010)	E
37	C	Vehicular Assault (46.61.522)	D

1	C	Attempting to Elude Pursuing	
2		Police Vehicle (46.61.024)	D
3	E	Reckless Driving (46.61.500)	E
4	D	Driving While Under the Influence	
5		(46.61.502 and 46.61.504)	E
6		Other	
7	B	Bomb Threat (9.61.160)	C
8	C	Escape 1 (9A.76.110)	C
9	C	Escape 2 (9A.76.120)	C
10	D	Escape 3 (9A.76.130)	E
11	E	Obscene, Harassing, Etc.,	
12		Phone Calls (9.61.230)	E
13	A	Other Offense Equivalent to an	
14		Adult Class A Felony	B+
15	B	Other Offense Equivalent to an	
16		Adult Class B Felony	C
17	C	Other Offense Equivalent to an	
18		Adult Class C Felony	D
19	D	Other Offense Equivalent to an	
20		Adult Gross Misdemeanor	E
21	E	Other Offense Equivalent to an	
22		Adult Misdemeanor	E
23	V	Violation of Order of Restitution,	
24		Community Supervision, or	
25		Confinement (13.40.200)	V

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

28 1st escape or attempted escape during 12-month period - 4 weeks
29 confinement

30 2nd escape or attempted escape during 12-month period - 8 weeks
31 confinement

32 3rd and subsequent escape or attempted escape during 12-month
33 period - 12 weeks confinement

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

JUVENILE SENTENCING STANDARDS

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

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

		<hr/>				
	A+	180 WEEKS TO AGE 21 YEARS				
		<hr/>				
	A	103 WEEKS TO 129 WEEKS				
		<hr/>				
	A-	15-36	52-65	80-100	103-129	
		WEEKS	WEEKS	WEEKS	WEEKS	
		EXCEPT				
		30-40				
		WEEKS FOR				
		15-17				
		YEAR OLDS				
		<hr/>				
Current	B+	15-36	52-65	80-100	103-129	
Offense		WEEKS	WEEKS	WEEKS	WEEKS	
Category		<hr/>				
	B	LOCAL		52-65		
		SANCTIONS (LS)	15-36 WEEKS	WEEKS	WEEKS	
		<hr/>				
	C+	LS	15-36 WEEKS			
		<hr/>				
	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				
		<hr/>				
		0	1	2	3	4 or more
		<hr/>				
		PRIOR ADJUDICATIONS				

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

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

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

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

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

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

17 OR

18 OPTION B

19 CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE

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

24 OR

25 OPTION C

26 MANIFEST INJUSTICE

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

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

33 Unless the context clearly requires otherwise, the definitions in
34 this section apply throughout this chapter.

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

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

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

12 (4) "Community corrections officer" means an employee of the
13 department who is responsible for carrying out specific duties in
14 supervision of sentenced offenders and monitoring of sentence
15 conditions.

16 (5) "Community custody" means that portion of an offender's
17 sentence of confinement in lieu of earned release time or imposed
18 pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670,
19 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545, served in the
20 community subject to controls placed on the offender's movement and
21 activities by the department. For offenders placed on community
22 custody for crimes committed on or after July 1, 2000, the department
23 shall assess the offender's risk of reoffense and may establish and
24 modify conditions of community custody, in addition to those imposed by
25 the court, based upon the risk to community safety.

26 (6) "Community custody range" means the minimum and maximum period
27 of community custody included as part of a sentence under RCW
28 9.94A.715, as established by the commission or the legislature under
29 RCW 9.94A.850, for crimes committed on or after July 1, 2000.

30 (7) "Community placement" means that period during which the
31 offender is subject to the conditions of community custody and/or
32 postrelease supervision, which begins either upon completion of the
33 term of confinement (postrelease supervision) or at such time as the
34 offender is transferred to community custody in lieu of earned release.
35 Community placement may consist of entirely community custody, entirely
36 postrelease supervision, or a combination of the two.

37 (8) "Community service" means compulsory service, without
38 compensation, performed for the benefit of the community by the
39 offender.

1 (9) "Community supervision" means a period of time during which a
2 convicted offender is subject to crime-related prohibitions and other
3 sentence conditions imposed by a court pursuant to this chapter or RCW
4 16.52.200(6) or 46.61.524. Where the court finds that any offender has
5 a chemical dependency that has contributed to his or her offense, the
6 conditions of supervision may, subject to available resources, include
7 treatment. For purposes of the interstate compact for out-of-state
8 supervision of parolees and probationers, RCW 9.95.270, community
9 supervision is the functional equivalent of probation and should be
10 considered the same as probation by other states.

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

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

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

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

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

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

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

38 (17) "Determinate sentence" means a sentence that states with
39 exactitude the number of actual years, months, or days of total

1 confinement, of partial confinement, of community supervision, the
2 number of actual hours or days of community service work, or dollars or
3 terms of a legal financial obligation. The fact that an offender
4 through earned release can reduce the actual period of confinement
5 shall not affect the classification of the sentence as a determinate
6 sentence.

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

19 (19) "Drug offender sentencing alternative" is a sentencing option
20 available to persons convicted of a felony offense other than a violent
21 offense or a sex offense and who are eligible for the option under RCW
22 9.94A.660.

23 (20) "Drug offense" means:

24 (a) Any felony violation of chapter 69.50 RCW except possession of
25 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
26 controlled substance (RCW 69.50.403);

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

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

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

35 (22) "Escape" means:

36 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the
37 first degree (RCW 9A.76.110), escape in the second degree (RCW
38 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
39 willful failure to return from work release (RCW 72.65.070), or willful

1 failure to be available for supervision by the department while in
2 community custody (RCW 72.09.310); or

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

6 (23) "Felony traffic offense" means:

7 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
8 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
9 and-run injury-accident (RCW 46.52.020(4)); or

10 (b) 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 felony
12 traffic offense under (a) of this subsection.

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

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

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

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

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

1 (a) Any felony defined under any law as a class A felony or
2 criminal solicitation of or criminal conspiracy to commit a class A
3 felony;

4 (b) Assault in the second degree;

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

6 (d) Child molestation in the second degree;

7 (e) Controlled substance homicide;

8 (f) Extortion in the first degree;

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

10 (h) Indecent liberties;

11 (i) Kidnapping in the second degree;

12 (j) Leading organized crime;

13 (k) Manslaughter in the first degree;

14 (l) Manslaughter in the second degree;

15 (m) Promoting prostitution in the first degree;

16 (n) Rape in the third degree;

17 (o) Robbery in the second degree;

18 (p) Sexual exploitation;

19 (q) Vehicular assault, when caused by the operation or driving of
20 a vehicle by a person while under the influence of intoxicating liquor
21 or any drug or by the operation or driving of a vehicle in a reckless
22 manner;

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

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

29 (t) Any other felony with a deadly weapon verdict under RCW
30 9.94A.602;

31 (u) Any felony offense in effect at any time prior to December 2,
32 1993, that is comparable to a most serious offense under this
33 subsection, or any federal or out-of-state conviction for an offense
34 that under the laws of this state would be a felony classified as a
35 most serious offense under this subsection;

36 (v)(i) A prior conviction for indecent liberties under RCW
37 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
38 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as

1 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
2 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;
3 (ii) A prior conviction for indecent liberties under RCW
4 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
5 if: (A) The crime was committed against a child under the age of
6 fourteen; or (B) the relationship between the victim and perpetrator is
7 included in the definition of indecent liberties under RCW
8 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
9 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
10 through July 27, 1997.

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

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

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

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

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

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

1 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
2 of a child in the first degree, child molestation in the first degree,
3 rape in the second degree, rape of a child in the second degree, or
4 indecent liberties by forcible compulsion; (B) any of the following
5 offenses with a finding of sexual motivation: Murder in the first
6 degree, murder in the second degree, homicide by abuse, kidnapping in
7 the first degree, kidnapping in the second degree, assault in the first
8 degree, assault in the second degree, assault of a child in the first
9 degree, or burglary in the first degree; or (C) an attempt to commit
10 any crime listed in this subsection (32)(b)(i); and

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

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

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

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

37 (36) "Serious traffic offense" means:

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

1 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving
2 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));
3 or

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

7 (37) "Serious violent offense" is a subcategory of violent offense
8 and means:

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

10 (ii) Homicide by abuse;

11 (iii) Murder in the second degree;

12 (iv) Manslaughter in the first degree;

13 (v) Assault in the first degree;

14 (vi) Kidnapping in the first degree;

15 (vii) Rape in the first degree;

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

17 (ix) Terrorism in the first degree (RCW 9A.---.--- (section 3 of
18 this act));

19 (x) Terrorism in the second degree (RCW 9A.---.--- (section 4 of
20 this act));

21 (xi) Unlawful use or possession of a weapon of mass destruction
22 (RCW 9A.---.--- (section 5 of this act)); or

23 (xii) An attempt, criminal solicitation, or criminal conspiracy to
24 commit one of these felonies; or

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

28 (38) "Sex offense" means:

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

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

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

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

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

1 (c) A felony with a finding of sexual motivation under RCW
2 9.94A.835 or 13.40.135; or

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

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

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

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

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

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

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

28 (45) "Violent offense" means:

29 (a) Any of the following felonies:

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

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

34 (iii) Manslaughter in the first degree;

35 (iv) Manslaughter in the second degree;

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

37 (vi) Kidnapping in the second degree;

38 (vii) Arson in the second degree;

39 (viii) Assault in the second degree;

1 (ix) Assault of a child in the second degree;
2 (x) Extortion in the first degree;
3 (xi) Robbery in the second degree;
4 (xii) Drive-by shooting;
5 (xiii) Vehicular assault, when caused by the operation or driving
6 of a vehicle by a person while under the influence of intoxicating
7 liquor or any drug or by the operation or driving of a vehicle in a
8 reckless manner; and

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

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

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

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

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

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

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

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

38 (i) Murder;

1 (ii) Any offense defined in chapter 9A.-- RCW (sections 1 through
2 8 and 19 through 25 of this act);
3 (iii) Homicide by abuse;
4 (~~(iii)~~) (iv) Arson if a death results;
5 (~~(iv)~~) (v) Vehicular homicide;
6 (~~(v)~~) (vi) Vehicular assault if a death results;
7 (~~(vi)~~) (vii) Hit-and-run injury-accident if a death results (RCW
8 46.52.020(4)).

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

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

14 (ii) Arson if no death results; or

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

29 (c) Violations of the following statutes shall not be prosecuted
30 more than three years after the victim's eighteenth birthday or more
31 than seven years after their commission, whichever is later: RCW
32 9A.44.073, 9A.44.076, 9A.44.083, 9A.44.086, 9A.44.070, 9A.44.080,
33 9A.44.100(1)(b), or 9A.64.020.

34 (d) The following offenses shall not be prosecuted more than six
35 years after their commission: Violations of RCW 9A.82.060 or
36 9A.82.080.

37 (e) The following offenses shall not be prosecuted more than five
38 years after their commission: Any class C felony under chapter 74.09,
39 82.36, or 82.38 RCW.

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

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

6 (h) No other felony may be prosecuted more than three years after
7 its commission; except that in a prosecution under RCW 9A.44.115, if
8 the person who was viewed, photographed, or filmed did not realize at
9 the time that he or she was being viewed, photographed, or filmed, the
10 prosecution must be commenced within two years of the time the person
11 who was viewed or in the photograph or film first learns that he or she
12 was viewed, photographed, or filmed.

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

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

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

20 (3) If, before the end of a period of limitation prescribed in
21 subsection (1) of this section, an indictment has been found or a
22 complaint or an information has been filed, and the indictment,
23 complaint, or information is set aside, then the period of limitation
24 is extended by a period equal to the length of time from the finding or
25 filing to the setting aside.

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

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

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

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

7 NEW SECTION. **Sec. 21.** ANTIMERGER PROVISION. Every person who, in
8 the commission of an offense defined by this chapter, commits any other
9 crime may be punished therefor, as well as for the violation of this
10 chapter, and may be prosecuted for each crime separately.

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

13 NEW SECTION. **Sec. 23.** SEVERABILITY. If any provision of this act
14 or its application to any person or circumstance is held invalid, the
15 remainder of the act or the application of the provision to other
16 persons or circumstances is not affected.

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

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

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

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