IDENTITY THEFT

EFFECTIVE DATE: 7/22/01 - Except section 5, which becomes effective 4/1/04.

Passed by the Senate April 16, 2001
YEAS 46  NAYS 0

BRAD OWEN
President of the Senate

Passed by the House April 11, 2001
YEAS 97  NAYS 0

FRANK CHOPP
Speaker of the
House of Representatives

CERTIFICATE
I, Tony M. Cook, Secretary of the
Senate of the State of Washington, do
hereby certify that the attached is
ENGROSSED SUBSTITUTE SENATE BILL 5449
as passed by the Senate and the House
of Representatives on the dates hereon
set forth.

TONY M. COOK  Secretary

CLYDE BALLARD
Speaker of the
House of Representatives

Approved May 9, 2001

GARY LOCKE  Secretary of State
Governor of the State of Washington

STATE OF WASHINGTON

FILED

May 9, 2001 - 8:38 a.m.
AN ACT Relating to identity theft; amending RCW 43.43.760, 19.16.250, 19.16.250, 9.35.010, 9.35.020, 9.35.030, 9A.82.010, and 13.40.0357; reenacting and amending RCW 9.94A.320; adding new sections to chapter 9.35 RCW; adding a new section to chapter 19.182 RCW; creating a new section; prescribing penalties; providing an effective date; and providing an expiration date.

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

NEW SECTION. Sec. 1. A new section is added to chapter 9.35 RCW to read as follows:

DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Financial information" means any of the following information identifiable to the individual that concerns the amount and conditions of an individual’s assets, liabilities, or credit:

(a) Account numbers and balances;

(b) Transactional information concerning an account; and

(c) Codes, passwords, social security numbers, tax identification numbers, driver’s license or permit numbers, state identicard numbers...
issued by the department of licensing, and other information held for
the purpose of account access or transaction initiation.

(2) "Financial information repository" means a person engaged in
the business of providing services to customers who have a credit,
deposit, trust, stock, or other financial account or relationship with
the person.

(3) "Means of identification" means information or an item that is
not describing finances or credit but is personal to or identifiable
with an individual or other person, including: A current or former
name of the person, telephone number, an electronic address, or
identifier of the individual or a member of his or her family,
including the ancestor of the person; information relating to a change
in name, address, telephone number, or electronic address or identifier
of the individual or his or her family; a social security, driver’s
license, or tax identification number of the individual or a member of
his or her family; and other information that could be used to identify
the person, including unique biometric data.

(4) "Person" means a person as defined in RCW 9A.04.110.

(5) "Victim" means a person whose means of identification or
financial information has been used or transferred with the intent to
commit, or to aid or abet, any unlawful activity.

NEW SECTION. Sec. 2. A new section is added to chapter 9.35 RCW
to read as follows:

INFORMATION AVAILABLE TO VICTIM. (1) A person, financial
information repository, financial service provider, merchant,
corporation, trust, partnership, or unincorporated association
possessing information relating to an actual or potential violation of
this chapter, and who may have entered into a transaction, provided
credit, products, goods, or services, accepted payment, or otherwise
done business with a person who has used the victim’s means of
identification, must, upon written request of the victim, provide
copies of all relevant application and transaction information related
to the transaction being alleged as a potential or actual violation of
this chapter. Nothing in this section requires the information
provider to disclose information that it is otherwise prohibited from
disclosing by law, except that a law that prohibits disclosing a
person’s information to third parties shall not be used to deny
disclosure of such information to the victim under this section.
(2) Unless the information provider is otherwise willing to verify
the victim’s identification, the victim shall provide the following as
proof of positive identification:
(a) The showing of a government-issued photo identification card
or, if providing proof by mail, a copy of a government-issued photo
identification card;
(b) A copy of a filed police report evidencing the victim’s claim;
and
(c) A written statement from the state patrol showing that the
state patrol has on file documentation of the victim’s identity
pursuant to the personal identification procedures in RCW 43.43.760.
(3) The provider may require compensation for the reasonable cost
of providing the information requested.
(4) No person, financial information repository, financial service
provider, merchant, corporation, trust, partnership, or unincorporated
association may be held liable for an action taken in good faith to
provide information regarding potential or actual violations of this
chapter to other financial information repositories, financial service
providers, merchants, law enforcement authorities, victims, or any
persons alleging to be a victim who comply with subsection (2) of this
section which evidences the alleged victim’s claim for the purpose of
identification and prosecution of violators of this chapter, or to
assist a victim in recovery of fines, restitution, rehabilitation of
the victim’s credit, or such other relief as may be appropriate.
(5) A person, financial information repository, financial service
provider, merchant, corporation, trust, partnership, or unincorporated
association may decline to provide information pursuant to this section
when, in the exercise of good faith and reasonable judgment, it
believes this section does not require disclosure of the information.
(6) Nothing in this section creates an obligation on the part of a
person, financial information repository, financial services provider,
merchant, corporation, trust, partnership, or unincorporated
association to retain or maintain information or records that they are
not otherwise required to retain or maintain in the ordinary course of
its business.
(7) The legislature finds that the practices covered by this
section are matters vitally affecting the public interest for the
purpose of applying the consumer protection act, chapter 19.86 RCW.
Violations of this section are not reasonable in relation to the
development and preservation of business. It is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW. The burden of proof in an action alleging a violation of this section shall be by a preponderance of the evidence, and the applicable statute of limitation shall be as set forth in RCW 19.182.120. For purposes of a judgment awarded pursuant to an action by a consumer under chapter 19.86 RCW, the consumer shall be awarded actual damages. However, where there has been willful failure to comply with any requirement imposed under this section, the consumer shall be awarded actual damages, a monetary penalty of one thousand dollars, and the costs of the action together with reasonable attorneys’ fees as determined by the court.

Sec. 3. RCW 43.43.760 and 1985 c 201 s 15 are each amended to read as follows:

(1) Whenever a resident of this state appears before any law enforcement agency and requests an impression of his or her fingerprints to be made, such agency may comply with his or her request and make the required copies of the impressions on forms marked "Personal Identification". The required copies shall be forwarded to the section and marked "for personal identification only".

The section shall accept and file such fingerprints submitted voluntarily by such resident, for the purpose of securing a more certain and easy identification in case of death, injury, loss of memory, or other similar circumstances. Upon the request of such person, the section shall return his or her identification data.

(2) Whenever a person claiming to be a victim of identity theft appears before any law enforcement agency and requests an impression of his or her fingerprints to be made, such agency may comply with this request and make the required copies of the impressions on forms marked "Personal Identification." The required copies shall be forwarded to the section and marked "for personal identification only."

The section shall accept and file such fingerprints submitted by such resident, for the purpose of securing a more certain and easy identification in cases of identity theft. The section shall provide a statement showing that the victim’s impression of fingerprints has been accepted and filed with the section.
The statement provided to the victim shall state clearly in twelve-point print:

"The person holding this statement has claimed to be a victim of identity theft. Pursuant to chapter 9.35 RCW, a business is required by law to provide this victim with copies of all relevant application and transaction information related to the transaction being alleged as a potential or actual identity theft. A business must provide this information once the victim makes a request in writing, shows this statement, any government issued photo identification card, and a copy of a police report."

Upon the request of such person, the section shall return his or her identification data.

(3) Whenever any person is an applicant for appointment to any position or is an applicant for employment or is an applicant for a license to be issued by any governmental agency, and the law or a regulation of such governmental agency requires that the applicant be of good moral character or not have been convicted of a crime, or is an applicant for appointment to or employment with a criminal justice agency, or the department, the applicant may request any law enforcement agency to make an impression of his or her fingerprints to be submitted to the section. The law enforcement agency may comply with such request and make copies of the impressions on forms marked "applicant", and submit such copies to the section. The section shall accept such fingerprints and shall cause its files to be examined and shall promptly send to the appointing authority, employer, or licensing authority indicated on the form of application, a transcript of the record of previous crimes committed by the person described on the data submitted, or a transcript of the dependency record information regarding the person described on the data submitted, or if there is no record of his or her commission of any crimes, or if there is no dependency record information, a statement to that effect.

((3))) (4) The Washington state patrol shall charge fees for processing of noncriminal justice system requests for criminal history record information pursuant to this section which will cover, as nearly as practicable, the direct and indirect costs to the patrol of processing such requests.
Any law enforcement agency may charge a fee not to exceed five dollars for the purpose of taking fingerprint impressions or searching its files of identification for noncriminal purposes.

Sec. 4. RCW 19.16.250 and 1983 c 107 s 1 are each amended to read as follows:

No licensee or employee of a licensee shall:

(1) Directly or indirectly aid or abet any unlicensed person to engage in business as a collection agency in this state or receive compensation from such unlicensed person: PROVIDED, That nothing in this chapter shall prevent a licensee from accepting, as forwardee, claims for collection from a collection agency or attorney whose place of business is outside the state.

(2) Collect or attempt to collect a claim by the use of any means contrary to the postal laws and regulations of the United States postal department.

(3) Publish or post or cause to be published or posted, any list of debtors commonly known as "bad debt lists" or threaten to do so. For purposes of this chapter, a "bad debt list" means any list of natural persons alleged to fail to honor their lawful debts. However, nothing herein shall be construed to prohibit a licensee from communicating to its customers or clients by means of a coded list, the existence of a check dishonored because of insufficient funds, not sufficient funds or closed account by the financial institution servicing the debtor’s checking account: PROVIDED, That the debtor’s identity is not readily apparent: PROVIDED FURTHER, That the licensee complies with the requirements of subsection (9)(e) of this section.

(4) Have in his possession or make use of any badge, use a uniform of any law enforcement agency or any simulation thereof, or make any statements which might be construed as indicating an official connection with any federal, state, county, or city law enforcement agency, or any other governmental agency, while engaged in collection agency business.

(5) Perform any act or acts, either directly or indirectly, constituting the practice of law.

(6) Advertise for sale or threaten to advertise for sale any claim as a means of endeavoring to enforce payment thereof or agreeing to do so for the purpose of soliciting claims, except where the licensee has
acquired claims as an assignee for the benefit of creditors or where
the licensee is acting under court order.

(7) Use any name while engaged in the making of a demand for any
claim other than the name set forth on his or its current license
issued hereunder.

(8) Give or send to any debtor or cause to be given or sent to any
debtor, any notice, letter, message, or form which represents or
implies that a claim exists unless it shall indicate in clear and
legible type:

(a) The name of the licensee and the city, street, and number at
which he is licensed to do business;

(b) The name of the original creditor to whom the debtor owed the
claim if such name is known to the licensee or employee: PROVIDED, That
upon written request of the debtor, the licensee shall make a
reasonable effort to obtain the name of such person and provide this
name to the debtor;

(c) If the notice, letter, message, or form is the first notice to
the debtor or if the licensee is attempting to collect a different
amount than indicated in his or its first notice to the debtor, an
itemization of the claim asserted must be made including:

(i) Amount owing on the original obligation at the time it was
received by the licensee for collection or by assignment;

(ii) Interest or service charge, collection costs, or late payment
charges, if any, added to the original obligation by the original
creditor, customer or assignor before it was received by the licensee
for collection, if such information is known by the licensee or
employee: PROVIDED, That upon written request of the debtor, the
licensee shall make a reasonable effort to obtain information on such
items and provide this information to the debtor;

(iii) Interest or service charge, if any, added by the licensee or
customer or assignor after the obligation was received by the licensee
for collection;

(iv) Collection costs, if any, that the licensee is attempting to
collect;

(v) Attorneys’ fees, if any, that the licensee is attempting to
collect on his or its behalf or on the behalf of a customer or
assignor;
(vi) Any other charge or fee that the licensee is attempting to collect on his or its own behalf or on the behalf of a customer or assignor.

(9) Communicate or threaten to communicate, the existence of a claim to a person other than one who might be reasonably expected to be liable on the claim in any manner other than through proper legal action, process, or proceedings except under the following conditions:

(a) A licensee or employee of a licensee may inform a credit reporting bureau of the existence of a claim: PROVIDED, That if the licensee or employee of a licensee reports a claim to a credit reporting bureau, the licensee shall upon receipt of written notice from the debtor that any part of the claim is disputed, forward a copy of such written notice to the credit reporting bureau;

(b) A licensee or employee in collecting or attempting to collect a claim may communicate the existence of a claim to a debtor’s employer if the claim has been reduced to a judgment;

(c) A licensee or employee in collecting or attempting to collect a claim that has not been reduced to judgment, may communicate the existence of a claim to a debtor’s employer if:

(i) The licensee or employee has notified or attempted to notify the debtor in writing at his last known address or place of employment concerning the claim and the debtor after a reasonable time has failed to pay the claim or has failed to agree to make payments on the claim in a manner acceptable to the licensee, and

(ii) The debtor has not in writing to the licensee disputed any part of the claim: PROVIDED, That the licensee or employee may only communicate the existence of a claim which has not been reduced to judgment to the debtor’s employer once unless the debtor’s employer has agreed to additional communications.

(d) A licensee may for the purpose of locating the debtor or locating assets of the debtor communicate the existence of a claim to any person who might reasonably be expected to have knowledge of the whereabouts of a debtor or the location of assets of the debtor if the claim is reduced to judgment, or if not reduced to judgment, when:

(i) The licensee or employee has notified or attempted to notify the debtor in writing at his last known address or last known place of employment concerning the claim and the debtor after a reasonable time has failed to pay the claim or has failed to agree to make payments on the claim in a manner acceptable to the licensee, and
The debtor has not in writing disputed any part of the claim.

A licensee may communicate the existence of a claim to its customers or clients if the claim is reduced to judgment, or if not reduced to judgment, when:

(i) The licensee has notified or attempted to notify the debtor in writing at his last known address or last known place of employment concerning the claim and the debtor after a reasonable time has failed to pay the claim or has failed to agree to make payments on the claim in a manner acceptable to the licensee, and

(ii) The debtor has not in writing disputed any part of the claim.

Threaten the debtor with impairment of his credit rating if a claim is not paid.

Communicate with the debtor after notification in writing from an attorney representing such debtor that all further communications relative to a claim should be addressed to the attorney: PROVIDED, That if a licensee requests in writing information from an attorney regarding such claim and the attorney does not respond within a reasonable time, the licensee may communicate directly with the debtor until he or it again receives notification in writing that an attorney is representing the debtor.

Communicate with a debtor or anyone else in such a manner as to harass, intimidate, threaten, or embarrass a debtor, including but not limited to communication at an unreasonable hour, with unreasonable frequency, by threats of force or violence, by threats of criminal prosecution, and by use of offensive language. A communication shall be presumed to have been made for the purposes of harassment if:

(a) It is made with a debtor or spouse in any form, manner, or place, more than three times in a single week;

(b) It is made with a debtor at his or her place of employment more than one time in a single week;

(c) It is made with the debtor or spouse at his or her place of residence between the hours of 9:00 p.m. and 7:30 a.m.

Communicate with the debtor through use of forms or instruments that simulate the form or appearance of judicial process, the form or appearance of government documents, or the simulation of a form or appearance of a telegraphic or emergency message.

Communicate with the debtor and represent or imply that the existing obligation of the debtor may be or has been increased by the addition of attorney fees, investigation fees, service fees, or any
other fees or charges when in fact such fees or charges may not legally be added to the existing obligation of such debtor.

(15) Threaten to take any action against the debtor which the licensee cannot legally take at the time the threat is made.

(16) Send any telegram or make any telephone calls to a debtor or concerning a debt or for the purpose of demanding payment of a claim or seeking information about a debtor, for which the charges are payable by the addressee or by the person to whom the call is made.

(17) In any manner convey the impression that the licensee is vouched for, bonded to or by, or is an instrumentality of the state of Washington or any agency or department thereof.

(18) Collect or attempt to collect in addition to the principal amount of a claim any sum other than allowable interest, collection costs or handling fees expressly authorized by statute, and, in the case of suit, attorney’s fees and taxable court costs.

(19) Procure from a debtor or collect or attempt to collect on any written note, contract, stipulation, promise or acknowledgment under which a debtor may be required to pay any sum other than principal, allowable interest, and, in the case of suit, attorney’s fees and taxable court costs.

(20) Upon notification by a debtor that the debtor disputes all debts arising from a series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments, initiate oral contact with a debtor more than one time in an attempt to collect from the debtor debts arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments when: (a) Within the previous one hundred eighty days, in response to the licensee’s attempt to collect the initial debt assigned to the licensee and arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments, the debtor in writing notified the licensee that the debtor’s checkbook or other series of preprinted written instruments was stolen or fraudulently created; (b) the licensee has received from the debtor a certified copy of a police report referencing the theft or fraudulent creation of the checkbook, automated clearinghouse transactions on a demand deposit account, or series of preprinted written instruments; (c) in the written notification to the licensee or
in the police report, the debtor identified the financial institution where the account was maintained, the account number, the magnetic ink character recognition number, the full bank routing and transit number, and the check numbers of the stolen checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments, which check numbers included the number of the check that is the subject of the licensee’s collection efforts; (d) the debtor provides, or within the previous one hundred eighty days provided, to the licensee a legible copy of a government-issued photo identification, which contains the debtor’s signature and which was issued prior to the date of the theft or fraud identified in the police report; (e) the debtor advised the licensee that the subject debt is disputed because the identified check, automated clearinghouse transaction on a demand deposit account, or other preprinted written instrument underlying the debt is a stolen or fraudulently created check or instrument; and (f) information on the checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments are currently in the licensee’s files that identically match the information provided by the debtor in (c) of this subsection.

The licensee is not in violation of this subsection if the licensee initiates oral contact with the debtor more than one time in an attempt to collect debts arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments when: (i) The licensee acted in good faith and relied on their established practices and procedures for batching, recording, or packeting debtor accounts, and the licensee inadvertently initiates oral contact with the debtor in an attempt to collect debts in the identified series subsequent to the initial debt assigned to the licensee; (ii) the licensee is following up on collection of a debt assigned to the licensee, and the debtor has previously requested more information from the licensee regarding the subject debt; (iii) the debtor has notified the licensee that the debtor disputes only some, but not all the debts arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments, in which case the licensee shall be allowed to initiate oral contact with the debtor one time for each debt arising from the series of identified checks, automated clearinghouse transactions on a
demand deposit account, or written instruments and initiate additional oral contact for those debts that the debtor acknowledges do not arise from stolen or fraudulently created checks or written instruments; (iv) the oral contact is in the context of a judicial, administrative, arbitration, mediation, or similar proceeding; or (v) the oral contact is made for the purpose of investigating, confirming, or authenticating the information received from the debtor, to provide additional information to the debtor, or to request additional information from the debtor needed by the licensee to accurately record the debtor’s information in the licensee’s records.

Sec. 5. RCW 19.16.250 and 1983 c 107 s 1 are each amended to read as follows:

No licensee or employee of a licensee shall:

(1) Directly or indirectly aid or abet any unlicensed person to engage in business as a collection agency in this state or receive compensation from such unlicensed person: PROVIDED, That nothing in this chapter shall prevent a licensee from accepting, as forwardee, claims for collection from a collection agency or attorney whose place of business is outside the state.

(2) Collect or attempt to collect a claim by the use of any means contrary to the postal laws and regulations of the United States postal department.

(3) Publish or post or cause to be published or posted, any list of debtors commonly known as "bad debt lists" or threaten to do so. For purposes of this chapter, a "bad debt list" means any list of natural persons alleged to fail to honor their lawful debts. However, nothing herein shall be construed to prohibit a licensee from communicating to its customers or clients by means of a coded list, the existence of a check dishonored because of insufficient funds, not sufficient funds or closed account by the financial institution servicing the debtor’s checking account: PROVIDED, That the debtor’s identity is not readily apparent: PROVIDED FURTHER, That the licensee complies with the requirements of subsection (9)(e) of this section.

(4) Have in his possession or make use of any badge, use a uniform of any law enforcement agency or any simulation thereof, or make any statements which might be construed as indicating an official connection with any federal, state, county, or city law enforcement agency.
agency, or any other governmental agency, while engaged in collection
agency business.

(5) Perform any act or acts, either directly or indirectly, constituting the practice of law.

(6) Advertise for sale or threaten to advertise for sale any claim as a means of endeavoring to enforce payment thereof or agreeing to do so for the purpose of soliciting claims, except where the licensee has acquired claims as an assignee for the benefit of creditors or where the licensee is acting under court order.

(7) Use any name while engaged in the making of a demand for any claim other than the name set forth on his or its current license issued hereunder.

(8) Give or send to any debtor or cause to be given or sent to any debtor, any notice, letter, message, or form which represents or implies that a claim exists unless it shall indicate in clear and legible type:

(a) The name of the licensee and the city, street, and number at which he is licensed to do business;

(b) The name of the original creditor to whom the debtor owed the claim if such name is known to the licensee or employee: PROVIDED, That upon written request of the debtor, the licensee shall make a reasonable effort to obtain the name of such person and provide this name to the debtor;

(c) If the notice, letter, message, or form is the first notice to the debtor or if the licensee is attempting to collect a different amount than indicated in his or its first notice to the debtor, an itemization of the claim asserted must be made including:

(i) Amount owing on the original obligation at the time it was received by the licensee for collection or by assignment;

(ii) Interest or service charge, collection costs, or late payment charges, if any, added to the original obligation by the original creditor, customer or assignor before it was received by the licensee for collection, if such information is known by the licensee or employee: PROVIDED, That upon written request of the debtor, the licensee shall make a reasonable effort to obtain information on such items and provide this information to the debtor;

(iii) Interest or service charge, if any, added by the licensee or customer or assignor after the obligation was received by the licensee for collection;
(iv) Collection costs, if any, that the licensee is attempting to collect;
(v) Attorneys’ fees, if any, that the licensee is attempting to collect on his or its behalf or on the behalf of a customer or assignor;
(vi) Any other charge or fee that the licensee is attempting to collect on his or its own behalf or on the behalf of a customer or assignor.

(9) Communicate or threaten to communicate, the existence of a claim to a person other than one who might be reasonably expected to be liable on the claim in any manner other than through proper legal action, process, or proceedings except under the following conditions:

(a) A licensee or employee of a licensee may inform a credit reporting bureau of the existence of a claim: PROVIDED, That if the licensee or employee of a licensee reports a claim to a credit reporting bureau, the licensee shall upon receipt of written notice from the debtor that any part of the claim is disputed, forward a copy of such written notice to the credit reporting bureau;

(b) A licensee or employee in collecting or attempting to collect a claim may communicate the existence of a claim to a debtor’s employer if the claim has been reduced to a judgment;

(c) A licensee or employee in collecting or attempting to collect a claim that has not been reduced to judgment, may communicate the existence of a claim to a debtor’s employer if:

(i) The licensee or employee has notified or attempted to notify the debtor in writing at his last known address or place of employment concerning the claim and the debtor after a reasonable time has failed to pay the claim or has failed to agree to make payments on the claim in a manner acceptable to the licensee, and

(ii) The debtor has not in writing to the licensee disputed any part of the claim: PROVIDED, That the licensee or employee may only communicate the existence of a claim which has not been reduced to judgment to the debtor’s employer once unless the debtor’s employer has agreed to additional communications.

(d) A licensee may for the purpose of locating the debtor or locating assets of the debtor communicate the existence of a claim to any person who might reasonably be expected to have knowledge of the whereabouts of a debtor or the location of assets of the debtor if the claim is reduced to judgment, or if not reduced to judgment, when:
(i) The licensee or employee has notified or attempted to notify the debtor in writing at his last known address or last known place of employment concerning the claim and the debtor after a reasonable time has failed to pay the claim or has failed to agree to make payments on the claim in a manner acceptable to the licensee, and

(ii) The debtor has not in writing disputed any part of the claim.

(e) A licensee may communicate the existence of a claim to its customers or clients if the claim is reduced to judgment, or if not reduced to judgment, when:

(i) The licensee has notified or attempted to notify the debtor in writing at his last known address or last known place of employment concerning the claim and the debtor after a reasonable time has failed to pay the claim or has failed to agree to make payments on the claim in a manner acceptable to the licensee, and

(ii) The debtor has not in writing disputed any part of the claim.

(10) Threaten the debtor with impairment of his credit rating if a claim is not paid.

(11) Communicate with the debtor after notification in writing from an attorney representing such debtor that all further communications relative to a claim should be addressed to the attorney: PROVIDED, That if a licensee requests in writing information from an attorney regarding such claim and the attorney does not respond within a reasonable time, the licensee may communicate directly with the debtor until he or it again receives notification in writing that an attorney is representing the debtor.

(12) Communicate with a debtor or anyone else in such a manner as to harass, intimidate, threaten, or embarrass a debtor, including but not limited to communication at an unreasonable hour, with unreasonable frequency, by threats of force or violence, by threats of criminal prosecution, and by use of offensive language. A communication shall be presumed to have been made for the purposes of harassment if:

(a) It is made with a debtor or spouse in any form, manner, or place, more than three times in a single week;

(b) It is made with a debtor at his or her place of employment more than one time in a single week;

(c) It is made with the debtor or spouse at his or her place of residence between the hours of 9:00 p.m. and 7:30 a.m.

(13) Communicate with the debtor through use of forms or instruments that simulate the form or appearance of judicial process,
the form or appearance of government documents, or the simulation of a form or appearance of a telegraphic or emergency message.

(14) Communicate with the debtor and represent or imply that the existing obligation of the debtor may be or has been increased by the addition of attorney fees, investigation fees, service fees, or any other fees or charges when in fact such fees or charges may not legally be added to the existing obligation of such debtor.

(15) Threaten to take any action against the debtor which the licensee cannot legally take at the time the threat is made.

(16) Send any telegram or make any telephone calls to a debtor or concerning a debt or for the purpose of demanding payment of a claim or seeking information about a debtor, for which the charges are payable by the addressee or by the person to whom the call is made.

(17) In any manner convey the impression that the licensee is vouched for, bonded to or by, or is an instrumentality of the state of Washington or any agency or department thereof.

(18) Collect or attempt to collect in addition to the principal amount of a claim any sum other than allowable interest, collection costs or handling fees expressly authorized by statute, and, in the case of suit, attorney’s fees and taxable court costs.

(19) Procure from a debtor or collect or attempt to collect on any written note, contract, stipulation, promise or acknowledgment under which a debtor may be required to pay any sum other than principal, allowable interest, and, in the case of suit, attorney’s fees and taxable court costs.

(20) Upon notification by a debtor that the debtor disputes all debts arising from a series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments, initiate oral contact with a debtor more than one time in an attempt to collect from the debtor debts arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments when: (a) Within the previous one hundred eighty days, in response to the licensee’s attempt to collect the initial debt assigned to the licensee and arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments, the debtor in writing notified the licensee that the debtor’s checkbook or other series of preprinted written instruments
was stolen or fraudulently created; (b) the licensee has received from the debtor a certified copy of a police report referencing the theft or fraudulent creation of the checkbook, automated clearinghouse transactions on a demand deposit account, or series of preprinted written instruments; (c) in the written notification to the licensee or in the police report, the debtor identified the financial institution where the account was maintained, the account number, the magnetic ink character recognition number, the full bank routing and transit number, and the check numbers of the stolen checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments, which check numbers included the number of the check that is the subject of the licensee’s collection efforts; (d) the debtor provides, or within the previous one hundred eighty days provided, to the licensee a legible copy of a government-issued photo identification, which contains the debtor’s signature and which was issued prior to the date of the theft or fraud identified in the police report; and (e) the debtor advised the licensee that the subject debt is disputed because the identified check, automated clearinghouse transaction on a demand deposit account, or other preprinted written instrument underlying the debt is a stolen or fraudulently created check or instrument.

The licensee is not in violation of this subsection if the licensee initiates oral contact with the debtor more than one time in an attempt to collect debts arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments when: (i) The licensee acted in good faith and relied on their established practices and procedures for batching, recording, or packeting debtor accounts, and the licensee inadvertently initiates oral contact with the debtor in an attempt to collect debts in the identified series subsequent to the initial debt assigned to the licensee; (ii) the licensee is following up on collection of a debt assigned to the licensee, and the debtor has previously requested more information from the licensee regarding the subject debt; (iii) the debtor has notified the licensee that the debtor disputes only some, but not all the debts arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments, in which case the licensee shall be allowed to initiate oral contact with the debtor one time for each debt arising from the
series of identified checks, automated clearinghouse transactions on a
demand deposit account, or written instruments and initiate additional
oral contact for those debts that the debtor acknowledges do not arise
from stolen or fraudulently created checks or written instruments; (iv)
the oral contact is in the context of a judicial, administrative,
arbitration, mediation, or similar proceeding; or (v) the oral contact
is made for the purpose of investigating, confirming, or authenticating
the information received from the debtor, to provide additional
information to the debtor, or to request additional information from
the debtor needed by the licensee to accurately record the debtor’s
information in the licensee’s records.

NEW SECTION. Sec. 6. A new section is added to chapter 19.182 RCW
to read as follows:

BLOCK OF INFORMATION APPEARING AS A RESULT OF IDENTITY THEFT. (1)
Within thirty days of receipt of proof of the consumer’s identification
and a copy of a filed police report evidencing the consumer’s claim to
be a victim of a violation of RCW 9.35.020, a consumer reporting agency
shall permanently block reporting any information the consumer
identifies on his or her consumer report is a result of a violation of
RCW 9.35.020, so that the information cannot be reported, except as
provided in subsection (2) of this section. The consumer reporting
agency shall promptly notify the furnisher of the information that a
police report has been filed, that a block has been requested, and the
effective date of the block.

(2) A consumer reporting agency may decline to block or may rescind
any block of consumer information if, in the exercise of good faith and
reasonable judgment, the consumer reporting agency believes:

(a) The information was blocked due to a misrepresentation of fact
by the consumer relevant to the request to block under this section;

(b) The consumer agrees that the blocked information or portions of
the blocked information were blocked in error; or

(c) The consumer knowingly obtained possession of goods, services,
or moneys as a result of the blocked transaction or transactions or the
consumer should have known that he or she obtained possession of goods,
services, or moneys as a result of the blocked transaction or
transactions.

(3) If the block of information is declined or rescinded under this
section, the consumer shall be notified promptly in the same manner as
consumers are notified of the reinsertion of information pursuant to section 611 of the fair credit reporting act, 15 U.S.C. Sec. 1681I, as amended. The prior presence of the blocked information in the consumer reporting agency’s file on the consumer is not evidence of whether the consumer knew or should have known that he or she obtained possession of any goods, services, or moneys.

NEW SECTION. Sec. 7. A new section is added to chapter 9.35 RCW to read as follows:

The legislature finds that the practices covered by RCW 9.35.010 and 9.35.020 are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. Violations of RCW 9.35.010 or 9.35.020 are not reasonable in relation to the development and preservation of business. A violation of RCW 9.35.010 or 9.35.020 is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

Nothing in RCW 9.35.010 or 9.35.020 limits a victim’s ability to receive treble damages under RCW 19.86.090.

Sec. 8. RCW 9.35.010 and 1999 c 368 s 2 are each amended to read as follows:

(1) No person may obtain or attempt to obtain, or cause to be disclosed or attempt to cause to be disclosed to any person, financial information from a financial information repository, financial services provider, merchant, corporation, trust, partnership, or unincorporated association:

   (a) By knowingly making a false, fictitious, or fraudulent statement or representation to an officer, employee, or agent of a financial information repository with the intent to deceive the officer, employee, or agent into relying on that statement or representation for purposes of releasing the financial information;

   (b) By knowingly making a false, fictitious, or fraudulent statement or representation to a customer of a financial information repository, financial services provider, merchant, corporation, trust, partnership, or unincorporated association with the intent to deceive the customer into releasing financial information or authorizing the release of such information;
(c) By knowingly providing any document to an officer, employee, or agent of a financial information repository, financial services provider, merchant, corporation, trust, partnership, or unincorporated association, knowing that the document is forged, counterfeit, lost, or stolen; was fraudulently obtained; or contains a false, fictitious, or fraudulent statement or representation, if the document is provided with the intent to deceive the officer, employee, or agent to release the financial information.

(2) No person may request another person to obtain financial information from a financial information repository, financial services provider, merchant, corporation, trust, partnership, or unincorporated association and knows or should have known that the person will obtain or attempt to obtain the information from the financial institution repository, financial services provider, merchant, corporation, trust, partnership, or unincorporated association in any manner described in subsection (1) of this section.

(3) (As used in this section, unless the context clearly requires otherwise:

(a) "Financial information" means, to the extent it is nonpublic, any of the following information identifiable to the individual that concerns the amount and conditions of an individual’s assets, liabilities, or credit:

(i) Account numbers and balances;

(ii) Transactional information concerning any account; and

(iii) Codes, passwords, social security numbers, tax identification numbers, driver’s license or permit numbers, state identicard numbers issued by the department of licensing, and other information held for the purpose of account access or transaction initiation.

(b) "Financial information repository" means any person engaged in the business of providing services to customers who have a credit, deposit, trust, stock, or other financial account or relationship with the person.

(c) "Person" means an individual, partnership, corporation, or association.

(4)) No provision of this section shall be construed so as to prevent any action by a law enforcement agency, or any officer, employee, or agent of such agency, or any action of an agent of the financial information repository, financial services provider,
merchants, corporations, trusts, partnerships, or unincorporated associations when working in conjunction with a law enforcement agency. This section does not apply to:

(a) Efforts by the financial information repository to test security procedures or systems of the financial institution repository for maintaining the confidentiality of customer information;
(b) Investigation of alleged employee misconduct or negligence; or
(c) Efforts to recover financial or personal information of the financial institution obtained or received by another person in any manner described in subsection (1) or (2) of this section.

Violation of this section is a class C felony.

A person who violates this section is liable for five hundred dollars or actual damages, whichever is greater, and reasonable attorneys’ fees. (If the person violating this section is a business that repeatedly violates this section, that person also violates the Consumer Protection Act, chapter 19.86 RCW.)

Sec. 9. RCW 9.35.020 and 1999 c 368 s 3 are each amended to read as follows:

(1) No person may knowingly obtain, possess, use, or transfer a means of identification or financial information of another person, living or dead, with the intent to commit, or to aid or abet, any unlawful activity harming or intending to harm the person whose identity is used, or for committing any felony.

(2) For purposes of this section, "means of identification" means any information or item that is not describing finances or credit but is personal to or identifiable with any individual or other person, including any current or former name of the person, telephone number, and electronic address or identifier of the individual or any member of his or her family, including the ancestor of such person; any information relating to a change in name, address, telephone number, or electronic address or identifier of the individual or his or her family; any social security, driver’s license, or tax identification number of the individual or any member of his or her family; and other information which could be used to identify the person, including unique biometric data) crime.

Violation of this section when the accused or an accomplice uses the victim’s means of identification or financial information and obtains an aggregate total of credit, money, goods,
services, or anything else of value in excess of one thousand five
hundred dollars in value shall constitute identity theft in the first
degree. Identity theft in the first degree is a class B felony.

(b) Violation of this section when the accused or an accomplice
uses the victim’s means of identification or financial information and
obtains an aggregate total of credit, money, goods, services, or
anything else of value that is less than one thousand five hundred
dollars in value, or when no credit, money, goods, services, or
anything of value is obtained shall constitute identity theft in the
second degree. Identity theft in the second degree is a class C
felony.

((4))) (3) A person ((that [who])) who violates this section is
liable for civil damages of five hundred dollars or actual damages,
whichever is greater, including costs to repair the ((person’s))
victim’s credit record, ((whichever is greater,)) and reasonable
attorneys’ fees((. If the person violating this section is a business
that repeatedly violates this section, that person also violates the
Consumer Protection Act, chapter 19.86 RCW)) as determined by the
court.

(4) In a proceeding under this section, the crime will be
considered to have been committed in any locality where the person
whose means of identification or financial information was appropriated
resides, or in which any part of the offense took place, regardless of
whether the defendant was ever actually in that locality.

(5) The provisions of this section do not apply to any person who
obtains another person’s driver’s license or other form of
identification for the sole purpose of misrepresenting his or her age.

(6) In a proceeding under this section in which a person’s means of
identification or financial information was used without that person’s
authorization, and when there has been a conviction, the sentencing
court may issue such orders as are necessary to correct a public record
that contains false information resulting from a violation of this
section.

Sec. 10. RCW 9.35.030 and 2000 c 77 s 1 are each amended to read
as follows:

(1) It is unlawful for any person to knowingly use a means of
identification or financial information of another person to solicit
undesired mail with the intent to annoy, harass, intimidate, torment, or embarrass that person.

(2) (For purposes of this section, "means of identification" has the meaning provided in RCW 9.35.020. Violation of this section is a misdemeanor.

Additionally, a person who violates this section is liable for civil damages of five hundred dollars or actual damages, including costs to repair the person’s credit record, whichever is greater, and reasonable attorneys’ fees as determined by the court.

Sec. 11. RCW 9A.82.010 and 1999 c 143 s 40 are each amended to read as follows:

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

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

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

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

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

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

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

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

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

(4) "Criminal profiteering" means any act, including any anticipatory or completed offense, committed for financial gain, that is chargeable or indictable under the laws of the state in which the act occurred and, if the act occurred in a state other than this state, would be chargeable or indictable under the laws of this state had the
act occurred in this state and punishable as a felony and by imprisonment for more than one year, regardless of whether the act is charged or indicted, as any of the following:

(a) Murder, as defined in RCW 9A.32.030 and 9A.32.050;
(b) Robbery, as defined in RCW 9A.56.200 and 9A.56.210;
(c) Kidnapping, as defined in RCW 9A.40.020 and 9A.40.030;
(d) Forgery, as defined in RCW 9A.60.020 and 9A.60.030;
(e) Theft, as defined in RCW 9A.56.030, 9A.56.040, 9A.56.060, and 9A.56.080;
(f) Unlawful sale of subscription television services, as defined in RCW 9A.56.230;
(g) Theft of telecommunication services or unlawful manufacture of a telecommunication device, as defined in RCW 9A.56.262 and 9A.56.264;
(h) Child selling or child buying, as defined in RCW 9A.64.030;
(i) Bribery, as defined in RCW 9A.68.010, 9A.68.020, 9A.68.040, and 9A.68.050;
(j) Gambling, as defined in RCW 9.46.220 and 9.46.215 and 9.46.217;
(k) Extortion, as defined in RCW 9A.56.120 and 9A.56.130;
(l) Extortionate extension of credit, as defined in RCW 9A.82.020;
(m) Advancing money for use in an extortionate extension of credit, as defined in RCW 9A.82.030;
(n) Collection of an extortionate extension of credit, as defined in RCW 9A.82.040;
(o) Collection of an unlawful debt, as defined in RCW 9A.82.045;
(p) Delivery or manufacture of controlled substances or possession with intent to deliver or manufacture controlled substances under chapter 69.50 RCW;
(q) Trafficking in stolen property, as defined in RCW 9A.82.050;
(r) Leading organized crime, as defined in RCW 9A.82.060;
(s) Money laundering, as defined in RCW 9A.83.020;
(t) Obstructing criminal investigations or prosecutions in violation of RCW 9A.72.090, 9A.72.100, 9A.72.110, 9A.72.120, 9A.72.130, 9A.76.070, or 9A.76.180;
(u) Fraud in the purchase or sale of securities, as defined in RCW 21.20.010;
(v) Promoting pornography, as defined in RCW 9.68.140;
(w) Sexual exploitation of children, as defined in RCW 9.68A.040, 9.68A.050, and 9.68A.060;
(x) Promoting prostitution, as defined in RCW 9A.88.070 and 9A.88.080;
(y) Arson, as defined in RCW 9A.48.020 and 9A.48.030;
(z) Assault, as defined in RCW 9A.36.011 and 9A.36.021;
(aa) Assault of a child, as defined in RCW 9A.36.120 and 9A.36.130;
(bb) A pattern of equity skimming, as defined in RCW 61.34.020;
(cc) Commercial telephone solicitation in violation of RCW 19.158.040(1);
(dd) Trafficking in insurance claims, as defined in RCW 48.30A.015;
(ee) Unlawful practice of law, as defined in RCW 2.48.180;
(ff) Commercial bribery, as defined in RCW 9A.68.060;
(gg) Health care false claims, as defined in RCW 48.80.030; ((ee))
(hh) Unlicensed practice of a profession or business, as defined in RCW 18.130.190(7);
(ii) Improperly obtaining financial information, as defined in RCW 9.35.010; or
(jj) Identity theft, as defined in RCW 9.35.020.
(5) "Dealer in property" means a person who buys and sells property as a business.
(6) "Debtor" means a person to whom an extension of credit is made or a person who guarantees the repayment of an extension of credit or in any manner undertakes to indemnify the creditor against loss resulting from the failure of a person to whom an extension is made to repay the same.
(7) "Documentary material" means any book, paper, document, writing, drawing, graph, chart, photograph, phonograph record, magnetic tape, computer printout, other data compilation from which information can be obtained or from which information can be translated into usable form, or other tangible item.
(8) "Enterprise" includes any individual, sole proprietorship, partnership, corporation, business trust, or other profit or nonprofit legal entity, and includes any union, association, or group of individuals associated in fact although not a legal entity, and both illicit and licit enterprises and governmental and nongovernmental entities.
(9) "Extortionate extension of credit" means an extension of credit with respect to which it is the understanding of the creditor and the debtor at the time the extension is made that delay in making repayment or failure to make repayment could result in the use of violence or
other criminal means to cause harm to the person, reputation, or property of any person.

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

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

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

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

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

(15) "Repayment of an extension of credit" means the repayment, satisfaction, or discharge in whole or in part of a debt or claim, acknowledged or disputed, valid or invalid, resulting from or in connection with that extension of credit.
(16) "Stolen property" means property that has been obtained by theft, robbery, or extortion.

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

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

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

(20)(a) "Trustee" means:

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

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

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

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

(i) A personal representative under Title 11 RCW;

(ii) A trustee of any testamentary trust;

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

(iv) A trustee under a deed of trust.

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

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

(i) Chapter 67.16 RCW relating to horse racing;

(ii) Chapter 9.46 RCW relating to gambling;

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

(c) In connection with the business of lending money or a thing of value at a rate that is at least twice the permitted rate under the applicable state or federal law relating to usury.
Sec. 12. RCW 9.94A.320 and 2000 c 225 s 5, 2000 c 119 s 17, and 2000 c 66 s 2 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

| XVII | Aggravated Murder 1 (RCW 10.95.020) |
| XV   | Homicide by abuse (RCW 9A.32.055)   |
|      | Malicious explosion 1 (RCW 70.74.280(1)) |
|      | Murder 1 (RCW 9A.32.030)            |
| XIV  | Murder 2 (RCW 9A.32.050)            |
| XIII | Malicious explosion 2 (RCW 70.74.280(2)) |
|      | Malicious placement of an explosive 1 (RCW 70.74.270(1)) |
| XII  | Assault 1 (RCW 9A.36.011)           |
|      | Assault of a Child 1 (RCW 9A.36.120) |
|      | Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a)) |
|      | Rape 1 (RCW 9A.44.040)              |
|      | Rape of a Child 1 (RCW 9A.44.073)   |
| XI   | Manslaughter 1 (RCW 9A.32.060)      |
|      | Rape 2 (RCW 9A.44.050)              |
|      | Rape of a Child 2 (RCW 9A.44.076)   |
| X    | Child Molestation 1 (RCW 9A.44.083) |
|      | Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a)) |
|      | Kidnapping 1 (RCW 9A.40.020)        |
|      | Leading Organized Crime (RCW 9A.82.060(1)(a)) |
|      | Malicious explosion 3 (RCW 70.74.280(3)) |
|      | Manufacture of methamphetamine (RCW 69.50.401(a)(1)(ii)) |
|      | Over 18 and deliver heroin, methamphetamine, a narcotic from Schedule I or II, or flunitrazepam from Schedule IV to someone under 18 (RCW 69.50.406) |

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

Controlled Substance Homicide (RCW 69.50.415)

Explosive devices prohibited (RCW 70.74.180)

Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)

Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))

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

Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic, except flunitrazepam or methamphetamine, from Schedule I-V to someone under 18 and 3 years junior (RCW 69.50.406)

Robbery 1 (RCW 9A.56.200)

Sexual Exploitation (RCW 9.68A.040)

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

VIII Arson 1 (RCW 9A.48.020)

Deliver or possess with intent to deliver methamphetamine (RCW 69.50.401(a)(1)(ii))

Hit and Run--Death (RCW 46.52.020(4)(a))

Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)

Manslaughter 2 (RCW 9A.32.070)

Manufacture, deliver, or possess with intent to deliver amphetamine (RCW 69.50.401(a)(1)(ii))

Manufacture, deliver, or possess with intent to deliver heroin or cocaine (RCW 69.50.401(a)(1)(i))

Possession of Ephedrine, Pseudoephedrine, or Anhydrous Ammonia with intent to
manufacture methamphetamine (RCW 69.50.440)

Promoting Prostitution 1 (RCW 9A.88.070)
Selling for profit (controlled or counterfeit) any controlled substance (RCW 69.50.410)
Theft of Anhydrous Ammonia (RCW 69.55.010)
Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)

VII Burglary 1 (RCW 9A.52.020)
Child Molestation 2 (RCW 9A.44.086)
Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)
Drive-by Shooting (RCW 9A.36.045)
Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)
Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))
Introducing Contraband 1 (RCW 9A.76.140)
Involving a minor in drug dealing (RCW 69.50.401(f))
Malicious placement of an explosive 3 (RCW 70.74.270(3))
Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060)
Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1)(a))
Use of a Machine Gun in Commission of a Felony (RCW 9.41.225)
Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)

VI Bail Jumping with Murder 1 (RCW 9A.76.170(2)(a))
Bribery (RCW 9A.68.010)

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Incest 1 (RCW 9A.64.020(1))
Intimidating a Judge (RCW 9A.72.160)
Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
Malicious placement of an imitation device (RCW 70.74.272(1)(b))
Manufacture, deliver, or possess with intent to deliver narcotics from Schedule I or II (except heroin or cocaine) or flunitrazepam from Schedule IV (RCW 69.50.401(a)(1)(i))
Rape of a Child 3 (RCW 9A.44.079)
Theft of a Firearm (RCW 9A.56.300)
Unlawful Storage of Anhydrous Ammonia (RCW 69.55.020)
Abandonment of dependent person 1 (RCW 9A.42.060)
Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
Bail Jumping with class A Felony (RCW 9A.76.170(2)(b))
Child Molestation 3 (RCW 9A.44.089)
Criminal Mistreatment 1 (RCW 9A.42.020)
Custodial Sexual Misconduct 1 (RCW 9A.44.160)
Delivery of imitation controlled substance by person eighteen or over to person under eighteen (RCW 69.52.030(2))
Domestic Violence Court Order Violation (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145)
Extortion 1 (RCW 9A.56.120)
Extortionate Extension of Credit (RCW 9A.82.020)
Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
Incest 2 (RCW 9A.64.020(2))
Kidnapping 2 (RCW 9A.40.030)
Perjury 1 (RCW 9A.72.020)
Persistent prison misbehavior (RCW 9.94.070)
Possession of a Stolen Firearm (RCW 9A.56.310)
Rape 3 (RCW 9A.44.060)
Rendering Criminal Assistance 1 (RCW 9A.76.070)
Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
Sexually Violating Human Remains (RCW 9A.44.105)
Stalking (RCW 9A.46.110)

IV Arson 2 (RCW 9A.48.030)
Assault 2 (RCW 9A.36.021)
Assault by Watercraft (RCW 79A.60.060)
Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
Commercial Bribery (RCW 9A.68.060)
Counterfeiting (RCW 9A.68.060)
Escape 1 (RCW 9A.76.110)
Hit and Run--Injury (RCW 46.52.020(4)(b))
Hit and Run with Vessel--Injury Accident (RCW 79A.60.200(3))
Identity Theft 1 (RCW 9A.35.020(2)(a))
Indecent Exposure to Person Under Age Fourteen (subsequent sex offense) (RCW 9A.88.010)
Influencing Outcome of Sporting Event (RCW 9A.82.070)
Knowingly Trafficking in Stolen Property (RCW 9A.82.050(2))
Malicious Harassment (RCW 9A.36.080)
Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or nonnarcotics from Schedule I-V (except marijuana, amphetamine, methamphetamines, or
flunitrazepam) (RCW 69.50.401(a)(1)
(iii) through (v))
Residential Burglary (RCW 9A.52.025)
Robbery 2 (RCW 9A.56.210)
Theft of Livestock 1 (RCW 9A.56.080)
Threats to Bomb (RCW 9.61.160)
Use of Proceeds of Criminal Profiteering
(RCW 9A.82.080 (1) and (2))
Vehicular Assault (RCW 46.61.522)
Willful Failure to Return from Furlough
(RCW 72.66.060)

III Abandonment of dependent person 2 (RCW
9A.42.070)
Assault 3 (RCW 9A.36.031)
Assault of a Child 3 (RCW 9A.36.140)
Bail Jumping with class B or C Felony (RCW
9A.76.170(2)(c))
Burglary 2 (RCW 9A.52.030)
Communication with a Minor for Immoral
Purposes (RCW 9.68A.090)
Criminal Gang Intimidation (RCW 9A.46.120)
Criminal Mistreatment 2 (RCW 9A.42.030)
Custodial Assault (RCW 9A.36.100)
Delivery of a material in lieu of a
controlled substance (RCW
69.50.401(c))
Escape 2 (RCW 9A.76.120)
Extortion 2 (RCW 9A.56.130)
Harassment (RCW 9A.46.020)
Intimidating a Public Servant (RCW
9A.76.180)
Introducing Contraband 2 (RCW 9A.76.150)
Maintaining a Dwelling or Place for
Controlled Substances (RCW
69.50.402(a)(6))
Malicious Injury to Railroad Property (RCW
81.60.070)
Manufacture, deliver, or possess with intent to deliver marijuana (RCW 69.50.401(a)(1)(iii))

Manufacture, distribute, or possess with intent to distribute an imitation controlled substance (RCW 69.52.030(1))

Patronizing a Juvenile Prostitute (RCW 9.68A.100)

Perjury 2 (RCW 9A.72.030)

Possession of Incendiary Device (RCW 9.40.120)

Possession of Machine Gun or Short-Barreled Shotgun or Rifle (RCW 9.41.190)

Promoting Prostitution 2 (RCW 9A.88.080)

Recklessly Trafficking in Stolen Property (RCW 9A.82.050(1))

Securities Act violation (RCW 21.20.400)

Tampering with a Witness (RCW 9A.72.120)

Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230)

Theft of Livestock 2 (RCW 9A.56.080)

Unlawful Imprisonment (RCW 9A.40.040)

Unlawful possession of firearm in the second degree (RCW 9.41.040(1)(b))

Unlawful Use of Building for Drug Purposes (RCW 69.53.010)

Willful Failure to Return from Work Release (RCW 72.65.070)

II Computer Trespass 1 (RCW 9A.52.110)

Counterfeiting (RCW 9.16.035(3))

Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.401(b))

Escape from Community Custody (RCW 72.09.310)

Health Care False Claims (RCW 48.80.030)

Identity Theft 2 (RCW 9.35.020(2)(b))
Improperly Obtaining Financial Information  
(RCW 9.35.010)
Malicious Mischief 1 (RCW 9A.48.070)
Possession of controlled substance that is 
either heroin or narcotics from 
Schedule I or II or flunitrazepam from 
Schedule IV (RCW 69.50.401(d))
Possession of phencyclidine (PCP) (RCW  
69.50.401(d))
Possession of Stolen Property 1 (RCW  
9A.56.150)
Theft 1 (RCW 9A.56.030)
Theft of Rental, Leased, or Lease-purchased 
Property (valued at one thousand five 
hundred dollars or more) (RCW  
9A.56.096(4))
Trafficking in Insurance Claims (RCW  
48.30A.015)
Unlawful Practice of Law (RCW 2.48.180)
Unlicensed Practice of a Profession or 
Business (RCW 18.130.190(7))
I Attempting to Elude a Pursuing Police 
Vehicle (RCW 46.61.024)
False Verification for Welfare (RCW  
74.08.055)
Forged Prescription (RCW 69.41.020)
Forged Prescription for a Controlled 
Substance (RCW 69.50.403)
Forgery (RCW 9A.60.020)
Malicious Mischief 2 (RCW 9A.48.080)
Possess Controlled Substance that is a 
Narcotic from Schedule III, IV, or V 
or Non-narcotic from Schedule I-V 
(except phencyclidine or 
flunitrazepam) (RCW 69.50.401(d))
Possession of Stolen Property 2 (RCW  
9A.56.160)
Reckless Burning 1 (RCW 9A.48.040)
Taking Motor Vehicle Without Permission (RCW 9A.56.070)
Theft 2 (RCW 9A.56.040)
Theft of Rental, Leased, or Lease-purchased Property (valued at two hundred fifty dollars or more but less than one thousand five hundred dollars) (RCW 9A.56.096(4))
Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)
Unlawful Use of Food Stamps (RCW 9.91.140 (2) and (3))
Vehicle Prowl 1 (RCW 9A.52.095)

Sec. 13. RCW 13.40.0357 and 2000 c 66 s 3 are each amended to read as follows:

<table>
<thead>
<tr>
<th>DESCRIPTION AND OFFENSE CATEGORY</th>
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<tbody>
<tr>
<td>JUVENILE DISPOSITION</td>
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<td>DISPOSITION</td>
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<table>
<thead>
<tr>
<th>DESCRIPTION (RCW CITATION)</th>
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<tr>
<th>Arson and Malicious Mischief</th>
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<tr>
<td>A Arson 1 (9A.48.020) B+</td>
</tr>
<tr>
<td>B Arson 2 (9A.48.030) C</td>
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<tr>
<td>C Reckless Burning 1 (9A.48.040) D</td>
</tr>
<tr>
<td>D Reckless Burning 2 (9A.48.050) E</td>
</tr>
<tr>
<td>B Malicious Mischief 1 (9A.48.070) C</td>
</tr>
<tr>
<td>C Malicious Mischief 2 (9A.48.080) D</td>
</tr>
<tr>
<td>D Malicious Mischief 3 (&lt;$50 is E class) (9A.48.090) E</td>
</tr>
<tr>
<td>E Tampering with Fire Alarm Apparatus (9.40.100) E</td>
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<tr>
<td>A Possession of Incendiary Device (9.40.120) B+</td>
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<table>
<thead>
<tr>
<th>Assault and Other Crimes Involving Physical Harm</th>
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<tbody>
<tr>
<td>A Assault 1 (9A.36.011) B+</td>
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ESSB 5449.SL
C Violation of Uniform Controlled Substances Act - Nonnarcotic Sale (69.50.401(a)(1)(iii)) C
E Possession of Marihuana <40 grams (69.50.401(e)) E
C Fraudulently Obtaining Controlled Substance (69.50.403) C
C+ Sale of Controlled Substance for Profit (69.50.410) C+
E Unlawful Inhalation (9.47A.020) E

B Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam
Counterfeit Substances (69.50.401(b)(1) (i) or (ii)) B
C Violation of Uniform Controlled Substances Act - Nonnarcotic Counterfeit Substances (69.50.401(b)(1) (iii), (iv), (v)) C
C Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.401(d)) C
C Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.401(c)) C

**Firearms and Weapons**
B Theft of Firearm (9A.56.300) C
B Possession of Stolen Firearm (9A.56.310) C
E Carrying Loaded Pistol Without Permit (9.41.050) E
C Possession of Firearms by Minor (<18) (9.41.040(1)(b)(iii)) C
D+ Possession of Dangerous Weapon (9.41.250) E
<table>
<thead>
<tr>
<th></th>
<th>Description</th>
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<tbody>
<tr>
<td>D</td>
<td>Intimidating Another Person by use of Weapon (9.41.270)</td>
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<tr>
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**Homicide**

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<tbody>
<tr>
<td>A+</td>
<td>Murder 1 (9A.32.030)</td>
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<tr>
<td>B+</td>
<td>Murder 2 (9A.32.050)</td>
</tr>
<tr>
<td>C+</td>
<td>Manslaughter 1 (9A.32.060)</td>
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<tr>
<td>D+</td>
<td>Manslaughter 2 (9A.32.070)</td>
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<tr>
<td>E</td>
<td>Vehicular Homicide (46.61.520)</td>
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**Kidnapping**

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<tbody>
<tr>
<td>A</td>
<td>Kidnap 1 (9A.40.020)</td>
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<tr>
<td>B+</td>
<td>Kidnap 2 (9A.40.030)</td>
</tr>
<tr>
<td>C+</td>
<td>Unlawful Imprisonment (9A.40.040)</td>
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**Obstructing Governmental Operation**

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<thead>
<tr>
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<tbody>
<tr>
<td>D</td>
<td>Obstructing a Law Enforcement Officer (9A.76.020)</td>
</tr>
<tr>
<td>E</td>
<td>Resisting Arrest (9A.76.040)</td>
</tr>
<tr>
<td>B</td>
<td>Introducing Contraband 1 (9A.76.140)</td>
</tr>
<tr>
<td>C</td>
<td>Introducing Contraband 2 (9A.76.150)</td>
</tr>
<tr>
<td>E</td>
<td>Introducing Contraband 3 (9A.76.160)</td>
</tr>
<tr>
<td>B+</td>
<td>Intimidating a Public Servant (9A.72.110)</td>
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<tr>
<td>C+</td>
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**Public Disturbance**

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<th>Description</th>
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<tbody>
<tr>
<td>C+</td>
<td>Riot with Weapon (9A.84.010)</td>
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<tr>
<td>D+</td>
<td>Riot Without Weapon (9A.84.010)</td>
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<tr>
<td>E</td>
<td>Failure to Disperse (9A.84.020)</td>
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<tr>
<td>E</td>
<td>Disorderly Conduct (9A.84.030)</td>
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**Sex Crimes**

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<tr>
<td>A</td>
<td>Rape 1 (9A.44.040)</td>
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<tr>
<td>A-</td>
<td>Rape 2 (9A.44.050)</td>
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<tr>
<td>C+</td>
<td>Rape 3 (9A.44.060)</td>
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<tbody>
<tr>
<td>1</td>
<td>A-</td>
<td>Rape of a Child 1 (9A.44.073)</td>
<td>B+</td>
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<td>2</td>
<td>B+</td>
<td>Rape of a Child 2 (9A.44.076)</td>
<td>C+</td>
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<td>3</td>
<td>B</td>
<td>Incest 1 (9A.64.020(1))</td>
<td>C</td>
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<tr>
<td>4</td>
<td>C</td>
<td>Incest 2 (9A.64.020(2))</td>
<td>D</td>
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<tr>
<td>5</td>
<td>D+</td>
<td>Indecent Exposure (Victim &lt;14) (9A.88.010)</td>
<td>E</td>
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<tr>
<td>6</td>
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<td>Indecent Exposure (Victim 14 or over) (9A.88.010)</td>
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<tr>
<td>7</td>
<td>B+</td>
<td>Promoting Prostitution 1 (9A.88.070)</td>
<td>C+</td>
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<td>8</td>
<td>C+</td>
<td>Promoting Prostitution 2 (9A.88.080)</td>
<td>D+</td>
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<tr>
<td>9</td>
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<td>O &amp; A (Prostitution) (9A.88.030)</td>
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<td>10</td>
<td>B+</td>
<td>Indecent Liberties (9A.44.100)</td>
<td>C+</td>
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<td>11</td>
<td>A-</td>
<td>Child Molestation 1 (9A.44.083)</td>
<td>B+</td>
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<td>12</td>
<td>B</td>
<td>Child Molestation 2 (9A.44.086)</td>
<td>C+</td>
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<td><strong>Theft, Robbery, Extortion, and Forgery</strong></td>
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<td>13</td>
<td>B</td>
<td>Theft 1 (9A.56.030)</td>
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<td>14</td>
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<td>Theft 2 (9A.56.040)</td>
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<td>15</td>
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<td>Theft 3 (9A.56.050)</td>
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<td>16</td>
<td>B</td>
<td>Theft of Livestock (9A.56.080)</td>
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<td>Forgery (9A.60.020)</td>
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<td>18</td>
<td>A</td>
<td>Robbery 1 (9A.56.200)</td>
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<td>19</td>
<td>B+</td>
<td>Robbery 2 (9A.56.210)</td>
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<td>B+</td>
<td>Extortion 1 (9A.56.120)</td>
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<td>Extortion 2 (9A.56.130)</td>
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<td>Identity Theft 1 (9.35.020(2)(a))</td>
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<td>23</td>
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<td>Identity Theft 2 (9.35.020(2)(b))</td>
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<td>24</td>
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<td>Improperly Obtaining Financial Information</td>
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<td>25</td>
<td>B</td>
<td>Possession of Stolen Property 1 (9A.56.150)</td>
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<td>26</td>
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<td>Possession of Stolen Property 2 (9A.56.160)</td>
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<td>Possession of Stolen Property 3 (9A.56.170)</td>
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<td>28</td>
<td>C</td>
<td>Taking Motor Vehicle Without Owner’s Permission (9A.56.070)</td>
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## Motor Vehicle Related Crimes

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<tr>
<td>E</td>
<td>Driving Without a License</td>
<td>(46.20.005)</td>
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<tr>
<td>B+</td>
<td>Hit and Run - Death</td>
<td>(46.52.020(4)(a))</td>
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<tr>
<td>C</td>
<td>Hit and Run - Injury</td>
<td>(46.52.020(4)(b))</td>
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<td>Hit and Run-Attended</td>
<td>(46.52.020(5))</td>
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<td>Hit and Run-Unattended</td>
<td>(46.52.010)</td>
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<td>C</td>
<td>Vehicular Assault (46.61.522)</td>
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<td>C</td>
<td>Attempting to Elude Pursuing Police Vehicle (46.61.024)</td>
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<td>E</td>
<td>Reckless Driving (46.61.500)</td>
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<tr>
<td>D</td>
<td>Driving While Under the Influence</td>
<td>(46.61.502 and 46.61.504)</td>
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## Other

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<td>Bomb Threat (9.61.160)</td>
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<td>Escape 1 (9A.76.110)</td>
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<td>Escape 3 (9A.76.130)</td>
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<td>Obscene, Harassing, Etc., Phone Calls (9.61.230)</td>
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<tr>
<td>V</td>
<td>Violation of Order of Restitution, Community Supervision, or Confinement (13.40.200)</td>
<td></td>
<td>V</td>
</tr>
</tbody>
</table>
Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses and the standard range is established as follows:

1st escape or attempted escape during 12-month period - 4 weeks confinement
2nd escape or attempted escape during 12-month period - 8 weeks confinement
3rd and subsequent escape or attempted escape during 12-month period - 12 weeks confinement

If the court finds that a respondent has violated terms of an order, 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**

<table>
<thead>
<tr>
<th>Category</th>
<th>Standard Range</th>
</tr>
</thead>
<tbody>
<tr>
<td>A+</td>
<td>180 WEEKS TO AGE 21 YEARS</td>
</tr>
<tr>
<td>A</td>
<td>103 WEEKS TO 129 WEEKS</td>
</tr>
<tr>
<td>A-</td>
<td>15-36</td>
</tr>
</tbody>
</table>

*EXCEPT 30-40 WEEKS FOR 15-17 YEAR OLDS*

<table>
<thead>
<tr>
<th>Current Offense Category</th>
<th>Standard Range</th>
</tr>
</thead>
<tbody>
<tr>
<td>B+.Local</td>
<td>15-36</td>
</tr>
<tr>
<td>B.Local Sanctions (LS)</td>
<td>15-36 WEEKS</td>
</tr>
<tr>
<td>C+ LS</td>
<td>15-36 WEEKS</td>
</tr>
<tr>
<td>C LS</td>
<td>15-36 WEEKS</td>
</tr>
</tbody>
</table>

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

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

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

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

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

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

OR

OPTION B

CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE

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

OR

OPTION C

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

NEW SECTION. Sec. 14. Captions used in this act are not any part of the law.

NEW SECTION. Sec. 15. Section 4 of this act expires April 1, 2004.

NEW SECTION. Sec. 16. Section 5 of this act takes effect April 1, 2004.

Approved by the Governor May 9, 2001.
Filed in Office of Secretary of State May 9, 2001.