State of Washington     64th Legislature     2015 Regular Session

By House General Government & Information Technology (originally sponsored by Representatives Goodman, Jinkins, Johnson, Orwall, Appleton, Lytton, and Tharinger)

READ FIRST TIME 02/27/15.

1  AN ACT Relating to vulnerable adults; amending RCW 9A.42.020, 9A.42.030, 9A.42.035, 9A.56.020, 9A.56.010, 9A.04.080, 9A.56.030, and 9A.56.040; reenacting and amending RCW 9.94A.515; adding a new section to chapter 9A.56 RCW; adding a new section to chapter 74.34 RCW; and prescribing penalties.

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

2  Sec. 1. RCW 9A.42.020 and 2006 c 228 s 2 are each amended to read as follows:

   (1) A parent of a child, the person entrusted with the physical custody of a child or dependent person, a person who has assumed the responsibility to provide to a dependent person the basic necessities of life, or a person employed to provide to the child or dependent person the basic necessities of life is guilty of criminal mistreatment in the first degree if he or she ((recklessly)) with criminal negligence, as defined in RCW 9A.08.010, causes great bodily harm to a child or dependent person by withholding any of the basic necessities of life.

   (2) Criminal mistreatment in the first degree is a class B felony.
Sec. 2. RCW 9A.42.030 and 2006 c 228 s 3 are each amended to read as follows:

(1) A parent of a child, the person entrusted with the physical custody of a child or dependent person, a person who has assumed the responsibility to provide to a dependent person the basic necessities of life, or a person employed to provide to the child or dependent person the basic necessities of life is guilty of criminal mistreatment in the second degree if he or she (recklessly) with criminal negligence, as defined in RCW 9A.08.010, either (a) creates an imminent and substantial risk of death or great bodily harm, or (b) causes substantial bodily harm by withholding any of the basic necessities of life.

(2) Criminal mistreatment in the second degree is a class C felony.

Sec. 3. RCW 9A.42.035 and 2006 c 228 s 4 are each amended to read as follows:

(1) A person is guilty of the crime of criminal mistreatment in the third degree if the person is the parent of a child, is a person entrusted with the physical custody of a child or other dependent person, is a person who has assumed the responsibility to provide to a dependent person the basic necessities of life, or is a person employed to provide to the child or dependent person the basic necessities of life, and (either:

(a) With criminal negligence, creates an imminent and substantial risk of substantial bodily harm to a child or dependent person by withholding any of the basic necessities of life;

(b) With criminal negligence, causes substantial bodily harm to a child or dependent person by withholding any of the basic necessities of life).

(2) For purposes of this section, "a person who has assumed the responsibility to provide to a dependent person the basic necessities of life" means a person other than: (a) A government agency that regularly provides assistance or services to dependent persons, including but not limited to the department of social and health services; or (b) a good samaritan as defined in RCW 9A.42.010.

(3) Criminal mistreatment in the third degree is a gross misdemeanor.
Sec. 4. RCW 9A.56.020 and 2004 c 122 s 1 are each amended to read as follows:

(1) "Theft" means:
   (a) To wrongfully obtain or exert unauthorized control over the property or services of another or the value thereof, with intent to deprive him or her of such property or services; or
   (b) By color or aid of deception to obtain control over the property or services of another or the value thereof, with intent to deprive him or her of such property or services; or
   (c) To appropriate lost or misdelivered property or services of another, or the value thereof, with intent to deprive him or her of such property or services; or
   (d) To obtain control over the property or services, or the value thereof, of a vulnerable adult using undue influence.
   (i) "Undue influence" means excessive persuasion that causes a vulnerable adult to act or refrain from acting by overcoming that vulnerable adult's free will.
   (ii) "Undue influence" does not include the normal influence that one member of a family has over another member of the family.

(2) In any prosecution for theft, it shall be a sufficient defense that:
   (a) The property or service was appropriated openly and avowedly under a claim of title made in good faith, even though the claim be untenable; or
   (b) The property was merchandise pallets that were received by a pallet recycler or repairer in the ordinary course of its business.

NEW SECTION. Sec. 5. A new section is added to chapter 9A.56 RCW to read as follows:

(1)(a) A person is guilty of theft from a vulnerable adult in the first degree if he or she commits theft of property or services that exceed(s) five thousand dollars in value, other than a firearm as defined in RCW 9.41.010, of a vulnerable adult.
   (b) Theft from a vulnerable adult in the first degree is a class B felony.

(2)(a) A person is guilty of theft from a vulnerable adult in the second degree if he or she commits theft of property or services that exceed(s) seven hundred fifty dollars in value but does not exceed five thousand dollars in value, other than a firearm as defined in RCW 9.41.010 or a motor vehicle, of a vulnerable adult.
(b) Theft from a vulnerable adult in the second degree is a class C felony.

Sec. 6. RCW 9A.56.010 and 2011 c 164 s 2 are each amended to read as follows:

The following definitions are applicable in this chapter unless the context otherwise requires:

(1) "Access device" means any card, plate, code, account number, or other means of account access that can be used alone or in conjunction with another access device to obtain money, goods, services, or anything else of value, or that can be used to initiate a transfer of funds, other than a transfer originated solely by paper instrument;

(2) "Appropriate lost or misdelivered property or services" means obtaining or exerting control over the property or services of another which the actor knows to have been lost or mislaid, or to have been delivered under a mistake as to identity of the recipient or as to the nature or amount of the property;

(3) "Beverage crate" means a plastic or metal box-like container used by a manufacturer or distributor in the transportation or distribution of individually packaged beverages to retail outlets, and affixed with language stating "property of . . . . . .," "owned by . . . . . .," or other markings or words identifying ownership;

(4) "By color or aid of deception" means that the deception operated to bring about the obtaining of the property or services; it is not necessary that deception be the sole means of obtaining the property or services;

(5) "Deception" occurs when an actor knowingly:

(a) Creates or confirms another's false impression which the actor knows to be false; or

(b) Fails to correct another's impression which the actor previously has created or confirmed; or

(c) Prevents another from acquiring information material to the disposition of the property involved; or

(d) Transfers or encumbers property without disclosing a lien, adverse claim, or other legal impediment to the enjoyment of the property, whether that impediment is or is not valid, or is or is not a matter of official record; or

(e) Promises performance which the actor does not intend to perform or knows will not be performed;
(6) "Deprive" in addition to its common meaning means to make unauthorized use or an unauthorized copy of records, information, data, trade secrets, or computer programs;

(7) "Mail," in addition to its common meaning, means any letter, postal card, package, bag, or other item that is addressed to a specific address for delivery by the United States postal service or any commercial carrier performing the function of delivering similar items to residences or businesses, provided the mail:

(a)(i) Is addressed with a specific person's name, family name, or company, business, or corporation name on the outside of the item of mail or on the contents inside; and

(ii) Is not addressed to a generic unnamed occupant or resident of the address without an identifiable person, family, or company, business, or corporation name on the outside of the item of mail or on the contents inside; and

(b) Has been left for collection or delivery in any letter box, mailbox, mail receptacle, or other authorized depository for mail, or given to a mail carrier, or left with any private business that provides mailboxes or mail addresses for customers or when left in a similar location for collection or delivery by any commercial carrier; or

(c) Is in transit with a postal service, mail carrier, letter carrier, commercial carrier, or that is at or in a postal vehicle, postal station, mailbox, postal airplane, transit station, or similar location of a commercial carrier; or

(d) Has been delivered to the intended address, but has not been received by the intended addressee.

Mail, for purposes of chapter 164, Laws of 2011, does not include magazines, catalogs, direct mail inserts, newsletters, advertising circulars, or any mail that is considered third-class mail by the United States postal service;

(8) "Mailbox," in addition to its common meaning, means any authorized depository or receptacle of mail for the United States postal service or authorized depository for a commercial carrier that provides services to the general public, including any address to which mail is or can be addressed, or a place where the United States postal service or equivalent commercial carrier delivers mail to its addressee;

(9) "Merchandise pallet" means a wood or plastic carrier designed and manufactured as an item on which products can be placed before or
during transport to retail outlets, manufacturers, or contractors, and affixed with language stating "property of . . . .," "owned by . . . .," or other markings or words identifying ownership;

(10) "Obtain control over" in addition to its common meaning, means:

(a) In relation to property, to bring about a transfer or purported transfer to the obtainer or another of a legally recognized interest in the property; or

(b) In relation to labor or service, to secure performance thereof for the benefits of the obtainer or another;

(11) "Owner" means a person, other than the actor, who has possession of or any other interest in the property or services involved, and without whose consent the actor has no authority to exert control over the property or services;

(12) "Parking area" means a parking lot or other property provided by retailers for use by a customer for parking an automobile or other vehicle;

(13) "Receive" includes, but is not limited to, acquiring title, possession, control, or a security interest, or any other interest in the property;

(14) "Received by the intended addressee" means that the addressee, owner of the delivery mailbox, or authorized agent has removed the delivered mail from its delivery mailbox;

(15) "Services" includes, but is not limited to, labor, professional services, transportation services, electronic computer services, the supplying of hotel accommodations, restaurant services, entertainment, the supplying of equipment for use, and the supplying of commodities of a public utility nature such as gas, electricity, steam, and water;

(16) "Shopping cart" means a basket mounted on wheels or similar container generally used in a retail establishment by a customer for the purpose of transporting goods of any kind;

(17) "Stolen" means obtained by theft, robbery, or extortion;

(18) "Subscription television service" means cable or encrypted video and related audio and data services intended for viewing on a home television by authorized members of the public only, who have agreed to pay a fee for the service. Subscription services include but are not limited to those video services presently delivered by coaxial cable, fiber optic cable, terrestrial microwave, television broadcast, and satellite transmission;
(19) "Telecommunication device" means (a) any type of instrument, device, machine, or equipment that is capable of transmitting or receiving telephonic or electronic communications; or (b) any part of such an instrument, device, machine, or equipment, or any computer circuit, computer chip, electronic mechanism, or other component, that is capable of facilitating the transmission or reception of telephonic or electronic communications;

(20) "Telecommunication service" includes any service other than subscription television service provided for a charge or compensation to facilitate the transmission, transfer, or reception of a telephonic communication or an electronic communication;

(21) Value. (a) "Value" means the market value of the property or services at the time and in the approximate area of the criminal act. (b) Whether or not they have been issued or delivered, written instruments, except those having a readily ascertained market value, shall be evaluated as follows:

(i) The value of an instrument constituting an evidence of debt, such as a check, draft, or promissory note, shall be deemed the amount due or collectible thereon or thereby, that figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied;

(ii) The value of a ticket or equivalent instrument which evidences a right to receive transportation, entertainment, or other service shall be deemed the price stated thereon, if any; and if no price is stated thereon, the value shall be deemed the price of such ticket or equivalent instrument which the issuer charged the general public;

(iii) The value of any other instrument that creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation shall be deemed the greatest amount of economic loss which the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.

(c) Except as provided in RCW 9A.56.340(4) and 9A.56.350(4), whenever any series of transactions which constitute theft, would, when considered separately, constitute theft in the third degree because of value, and said series of transactions are a part of a criminal episode or a common scheme or plan, then the transactions may be aggregated in one count and the sum of the value of all said transactions shall be the value considered in determining the degree of theft involved.
For purposes of this subsection, "criminal episode" means a series of thefts committed by the same person from one or more mercantile establishments on three or more occasions within a five-day period.

(d) Whenever any person is charged with possessing stolen property and such person has unlawfully in his possession at the same time the stolen property of more than one person, then the stolen property possessed may be aggregated in one count and the sum of the value of all said stolen property shall be the value considered in determining the degree of theft involved. Thefts committed by the same person in different counties that have been aggregated in one county may be prosecuted in any county in which one of the thefts occurred.

(e) Property or services having value that cannot be ascertained pursuant to the standards set forth above shall be deemed to be of a value not exceeding two hundred and fifty dollars;

(22) "Vulnerable adult" means a person eighteen years or older who is particularly vulnerable or incapable of resistance. A person is particularly vulnerable if he or she is more vulnerable to the commission of a crime than the typical victim of that same crime. The defendant must have known or should have known that the victim was a vulnerable adult;

(23) "Wrongfully obtains" or "exerts unauthorized control" means:

(a) To take the property or services of another;

(b) Having any property or services in one's possession, custody or control as bailee, factor, lessee, pledgee, renter, servant, attorney, agent, employee, trustee, executor, administrator, guardian, or officer of any person, estate, association, or corporation, or as a public officer, or person authorized by agreement or competent authority to take or hold such possession, custody, or control, to secrete, withhold, or appropriate the same to his or her own use or to the use of any person other than the true owner or person entitled thereto; or

(c) Having any property or services in one's possession, custody, or control as partner, to secrete, withhold, or appropriate the same to his or her use or to the use of any person other than the true owner or person entitled thereto, where the use is unauthorized by the partnership agreement.
Table 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

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X
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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)

Retail Theft with Special Circumstances 1 (RCW 9A.56.360(2))

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(2))

Theft of Livestock 2 (RCW 9A.56.083)

Theft with the Intent to Resell 1 (RCW 9A.56.340(2))

Trafficking in Stolen Property 2 (RCW 9A.82.055)

Unlawful Hunting of Big Game 1

Unlawful Misbranding of Food Fish or Shellfish 1 (RCW 69.04.938(3))
Unlawful possession of firearm in the second degree (RCW 9.41.040(2))

Unlawful Taking of Endangered Fish or Wildlife 1 (RCW 77.15.120(3)(b))

Unlawful Trafficking in Fish, Shellfish, or Wildlife 1 (RCW 77.15.260(3)(b))

Unlawful Use of a Nondesignated Vessel (RCW 77.15.530(4))

Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)

Willful Failure to Return from Work Release (RCW 72.65.070)

II Commercial Fishing Without a License 1 (RCW 77.15.500(3)(b))

Computer Trespass 1 (RCW 9A.52.110)

Counterfeiting (RCW 9.16.035(3))

Engaging in Fish Dealing Activity Unlicensed 1 (RCW 77.15.620(3))

Escape from Community Custody (RCW 72.09.310)

Failure to Register as a Sex Offender (second or subsequent offense) (RCW 9A.44.132)

Health Care False Claims (RCW 48.80.030)

Identity Theft 2 (RCW 9.35.020(3))

Improperly Obtaining Financial Information (RCW 9.35.010)

Malicious Mischief 1 (RCW 9A.48.070)
Organized Retail Theft 2 (RCW 9A.56.350(3))
Possession of Stolen Property 1 (RCW 9A.56.150)
Possession of a Stolen Vehicle (RCW 9A.56.068)
Retail Theft with Special Circumstances 2 (RCW 9A.56.360(3))
Scrap Processing, Recycling, or Supplying Without a License (second or subsequent offense) (RCW 19.290.100)
Theft 1 (RCW 9A.56.030)
Theft from a Vulnerable Adult 1 (section 5(1) of this act)
Theft of a Motor Vehicle (RCW 9A.56.065)
Theft of Rental, Leased, or Lease-purchased Property (valued at one thousand five hundred dollars or more) (RCW 9A.56.096(5)(a))
Theft with the Intent to Resell 2 (RCW 9A.56.340(3))
Trafficking in Insurance Claims (RCW 48.30A.015)
Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(a))
Unlawful Participation of Non-Indians in Indian Fishery (RCW 77.15.570(2))
Unlawful Practice of Law (RCW 2.48.180)
Unlawful Purchase or Use of a License (RCW 77.15.650(3)(b))
Unlawful Trafficking in Fish, Shellfish, or Wildlife 2 (RCW 77.15.260(3)(a))

Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))

Voyeurism (RCW 9A.44.115)

I. Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)

False Verification for Welfare (RCW 74.08.055)

Forgery (RCW 9A.60.020)

Fraudulent Creation or Revocation of a Mental Health Advance Directive (RCW 9A.60.060)

Malicious Mischief 2 (RCW 9A.48.080)

Mineral Trespass (RCW 78.44.330)

Possession of Stolen Property 2 (RCW 9A.56.160)

Reckless Burning 1 (RCW 9A.48.040)

Spotlighting Big Game 1 (RCW 77.15.450(3)(b))

Suspension of Department Privileges 1 (RCW 77.15.670(3)(b))

Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075)

Theft 2 (RCW 9A.56.040)

Theft from a Vulnerable Adult 2 (section 5(2) of this act)

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(5)(b))
Transaction of insurance business beyond the scope of licensure (RCW 48.17.063)

Unlawful Fish and Shellfish Catch Accounting (RCW 77.15.630(3)(b))

Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)

Unlawful Possession of Fictitious Identification (RCW 9A.56.320)

Unlawful Possession of Instruments of Financial Fraud (RCW 9A.56.320)

Unlawful Possession of Payment Instruments (RCW 9A.56.320)

Unlawful Possession of a Personal Identification Device (RCW 9A.56.320)

Unlawful Production of Payment Instruments (RCW 9A.56.320)

((Unlawful Release of)) Unlawfully Releasing, Planting, Possessing, or Placing Deleterious Exotic Wildlife (RCW 77.15.250(2)(b))

Unlawful Trafficking in Food Stamps (RCW 9.91.142)

Unlawful Use of Food Stamps (RCW 9.91.144)

Unlawful Use of Net to Take Fish 1 (RCW 77.15.580(3)(b))

Unlawful Use of Prohibited Aquatic Animal Species (RCW 77.15.253(3))

Vehicle Prowl 1 (RCW 9A.52.095)

Violating Commercial Fishing Area or Time 1 (RCW 77.15.550(3)(b))
NEW SECTION.  Sec. 8. A new section is added to chapter 74.34 RCW to read as follows:

(1) Notwithstanding any provision of law governing the disclosure of information and records, persons who are trained and qualified to serve on multidisciplinary personnel teams may disclose to each other information and records that are relevant to the prevention, identification, or treatment of abuse, neglect, or exploitation of vulnerable adults, as defined in RCW 74.34.020.

(2) Except as provided in subsection (1) of this section, any personnel of the multidisciplinary teams who receives information pursuant to this chapter are under the same obligations and subject to the same confidentiality penalties as the person disclosing or providing that information. The information obtained must be maintained in a manner that ensures the maximum protection of privacy and confidentiality rights.

(3) For the purposes of this section, a "multidisciplinary personnel team" means any team of two or more persons who are trained in the prevention, identification, management, investigation, prosecution, or treatment of abuse, neglect, or exploitation of vulnerable adults and who are qualified to provide a broad range of services related to abuse, neglect, or exploitation of vulnerable adults. A multidisciplinary personnel team may include, but is not limited to, any of the following:

(a) Representatives of the department;
(b) Law enforcement officers or other law enforcement agents;
(c) Medical personnel with sufficient training to provide health services;
(d) Social workers with experience or training in response to or prevention of abuse of vulnerable adults;
(e) Public guardians;
(f) Long-term care ombuds employees or volunteers;
(g) Prosecutors;
(h) Medical examiners or coroners; and
(i) Financial analysts or forensic accountants.

Sec. 9. RCW 9A.04.080 and 2013 c 17 s 1 are each amended to read as follows:

(1) Prosecutions for criminal offenses shall not be commenced after the periods prescribed in this section.
(a) The following offenses may be prosecuted at any time after
their commission:
   (i) Murder;
   (ii) Homicide by abuse;
   (iii) Arson if a death results;
   (iv) Vehicular homicide;
   (v) Vehicular assault if a death results;
   (vi) Hit-and-run injury-accident if a death results (RCW
       46.52.020(4)).
(b) Except as provided in (c) of this subsection, the following
offenses shall not be prosecuted more than ten years after their
commission:
   (i) Any felony committed by a public officer if the commission is
       in connection with the duties of his or her office or constitutes a
       breach of his or her public duty or a violation of the oath of
       office;
   (ii) Arson if no death results;
   (iii)(A) Violations of RCW 9A.44.040 or 9A.44.050 if the rape is
       reported to a law enforcement agency within one year of its
       commission.
       (B) If a violation of RCW 9A.44.040 or 9A.44.050 is not reported
           within one year, the rape may not be prosecuted more than three years
           after its commission; or
   (iv) Indecent liberties under RCW 9A.44.100(1)(b).
(c) Violations of the following statutes, when committed against
a victim under the age of eighteen, may be prosecuted up to the
victim's thirtieth birthday: RCW 9A.44.040 (rape in the first
degree), 9A.44.050 (rape in the second degree), 9A.44.073 (rape of a
child in the first degree), 9A.44.076 (rape of a child in the second
degree), 9A.44.079 (rape of a child in the third degree), 9A.44.083
(child molestation in the first degree), 9A.44.086 (child molestation
in the second degree), 9A.44.089 (child molestation in the third
degree), 9A.44.100(1)(b) (indecent liberties), 9A.64.020 (incest), or
9.68A.040 (sexual exploitation of a minor).
(d) The following offenses shall not be prosecuted more than six
years after their commission or their discovery, whichever occurs
later:
   (i) Violations of RCW 9A.82.060 or 9A.82.080;
   (ii) Any felony violation of chapter 9A.83 RCW;
   (iii) Any felony violation of chapter 9.35 RCW;
(iv) Theft in the first or second degree under chapter 9A.56 RCW when accomplished by color or aid of deception; ((ee))

(v) Theft from a vulnerable adult under section 5 of this act; or

(vi) Trafficking in stolen property in the first or second degree under chapter 9A.82 RCW in which the stolen property is a motor vehicle or major component part of a motor vehicle as defined in RCW 46.80.010.

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

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

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

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

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

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

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

(3) In any prosecution for a sex offense as defined in RCW 9.94A.030, the periods of limitation prescribed in subsection (1) of this section run from the date of commission or one year from the date on which the identity of the suspect is conclusively established by deoxyribonucleic acid testing or by photograph as defined in RCW 9.68A.011, whichever is later.

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

Sec. 10. RCW 9A.56.030 and 2013 c 322 s 2 are each amended to read as follows:

(1) Except as provided in section 5 of this act, a person is guilty of theft in the first degree if he or she commits theft of:

(a) Property or services which exceed(s) five thousand dollars in value other than a firearm as defined in RCW 9.41.010;

(b) Property of any value, other than a firearm as defined in RCW 9.41.010 or a motor vehicle, taken from the person of another;

(c) A search and rescue dog, as defined in RCW 9.91.175, while the search and rescue dog is on duty; or

(d) Commercial metal property, nonferrous metal property, or private metal property, as those terms are defined in RCW 19.290.010, and the costs of the damage to the owner's property exceed five thousand dollars in value.

(2) Theft in the first degree is a class B felony.

Sec. 11. RCW 9A.56.040 and 2013 c 322 s 3 are each amended to read as follows:

(1) Except as provided in section 5 of this act, a person is guilty of theft in the second degree if he or she commits theft of:

(a) Property or services which exceed(s) seven hundred fifty dollars in value but does not exceed five thousand dollars in value, other than a firearm as defined in RCW 9.41.010 or a motor vehicle;

(b) A public record, writing, or instrument kept, filed, or deposited according to law with or in the keeping of any public office or public servant;

(c) Commercial metal property, nonferrous metal property, or private metal property, as those terms are defined in RCW 19.290.010, and the costs of the damage to the owner's property exceed seven hundred fifty dollars but does not exceed five thousand dollars in value; or

(d) An access device.

(2) Theft in the second degree is a class C felony.