
SUBSTITUTE HOUSE BILL 2619

State of Washington

65th Legislature

2018 Regular Session

By House Public Safety (originally sponsored by Representatives Irwin, Eslick, Orwall, Pellicciotti, Volz, Walsh, Griffey, Hayes, Johnson, Van Werven, Stambaugh, Wylie, Muri, McDonald, and Young)

READ FIRST TIME 02/02/18.

1 AN ACT Relating to protecting the public by increasing penalties
2 for certain repeat offenders who engage in lurid criminal conduct;
3 amending RCW 9A.36.041 and 9A.88.010; reenacting and amending RCW
4 9.94A.515; and prescribing penalties.

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

6 **Sec. 1.** RCW 9A.36.041 and 2017 c 272 s 1 are each amended to
7 read as follows:

8 (1) A person is guilty of assault in the fourth degree if, under
9 circumstances not amounting to assault in the first, second, or third
10 degree, or custodial assault, he or she assaults another.

11 (2) Assault in the fourth degree is a gross misdemeanor, except
12 as provided in subsections (3) and (4) of this section.

13 (3) Assault in the fourth degree, where domestic violence was
14 pleaded and proven after July 23, 2017, is a class C felony if the
15 person has two or more prior adult convictions within ten years for
16 any of the following offenses where domestic violence as defined in
17 RCW 9.94A.030 was pleaded and proven after July 23, 2017:

18 (a) Repetitive domestic violence offense as defined in RCW
19 9.94A.030;

20 (b) Crime of harassment as defined by RCW 9A.46.060;

21 (c) Assault in the third degree;

- 1 (d) Assault in the second degree;
- 2 (e) Assault in the first degree; or
- 3 (f) An out-of-state comparable offense.

4 (4) Assault in the fourth degree, where sexual motivation was
5 pleaded and proven after the effective date of this section, is a
6 class C felony if the person has two or more prior adult convictions
7 within ten years for any of the following offenses where sexual
8 motivation was pleaded and proven:

9 (a) Assault in the fourth degree;

10 (b) Assault in the third degree;

11 (c) Assault in the second degree;

12 (d) Assault in the first degree;

13 (e) A municipal offense comparable to an offense under (a)
14 through (d) of this subsection; or

15 (f) An out-of-state offense comparable to an offense under (a)
16 through (d) of this subsection.

17 (5) For purposes of subsection (3) of this section, family or
18 household members means spouses, domestic partners, former spouses,
19 former domestic partners, persons who have a child in common
20 regardless of whether they have been married or have lived together
21 at any time, persons sixteen years of age or older who are presently
22 residing together or who have resided together in the past and who
23 have or have had a dating relationship, and persons sixteen years of
24 age or older with whom a person sixteen years of age or older has or
25 has had a dating relationship.

26 **Sec. 2.** RCW 9A.88.010 and 2003 c 53 s 92 are each amended to
27 read as follows:

28 (1) A person is guilty of indecent exposure if he or she
29 intentionally makes any open and obscene exposure of his or her
30 person or the person of another knowing that such conduct is likely
31 to cause reasonable affront or alarm. The act of breastfeeding or
32 expressing breast milk is not indecent exposure.

33 (2)(a) Except as provided in (b) and (c) of this subsection,
34 indecent exposure is a misdemeanor.

35 (b) Indecent exposure is a gross misdemeanor on the first offense
36 if the person exposes himself or herself to a person under the age of
37 fourteen years.

38 (c) Indecent exposure is a class C felony if the person exposes
39 himself or herself to a person under the age of fourteen years and

1 has previously been convicted under this section ((~~or~~)), of a sex
2 offense as defined in RCW 9.94A.030, or of a municipal offense or
3 out-of-state offense comparable to indecent exposure under this
4 section or a sex offense as defined in RCW 9.94A.030.

5 (d) Indecent exposure is a class C felony if the person exposes
6 himself or herself to a person under circumstances otherwise not
7 provided under (c) of this subsection and has previously been
8 convicted under this section, of a sex offense as defined in RCW
9 9.94A.030, or of a municipal offense or out-of-state offense
10 comparable to indecent exposure under this section or a sex offense
11 as defined in RCW 9.94A.030.

12 **Sec. 3.** RCW 9.94A.515 and 2017 c 335 s 4, 2017 c 292 s 3, 2017 c
13 272 s 10, and 2017 c 266 s 8 are each reenacted and amended to read
14 as follows:

15 TABLE 2

16 CRIMES INCLUDED WITHIN EACH

17 SERIOUSNESS LEVEL

18	XVI	Aggravated Murder 1 (RCW 10.95.020)
19	XV	Homicide by abuse (RCW 9A.32.055)
20		Malicious explosion 1 (RCW
21		70.74.280(1))
22		Murder 1 (RCW 9A.32.030)
23	XIV	Murder 2 (RCW 9A.32.050)
24		Trafficking 1 (RCW 9A.40.100(1))
25	XIII	Malicious explosion 2 (RCW
26		70.74.280(2))
27		Malicious placement of an explosive 1
28		(RCW 70.74.270(1))
29	XII	Assault 1 (RCW 9A.36.011)
30		Assault of a Child 1 (RCW 9A.36.120)
31		Malicious placement of an imitation
32		device 1 (RCW 70.74.272(1)(a))
33		Promoting Commercial Sexual Abuse of
34		a Minor (RCW 9.68A.101)
35		Rape 1 (RCW 9A.44.040)

1 Rape of a Child 1 (RCW 9A.44.073)
2 Trafficking 2 (RCW 9A.40.100(3))
3 XI Manslaughter 1 (RCW 9A.32.060)
4 Rape 2 (RCW 9A.44.050)
5 Rape of a Child 2 (RCW 9A.44.076)
6 Vehicular Homicide, by being under the
7 influence of intoxicating liquor or
8 any drug (RCW 46.61.520)
9 Vehicular Homicide, by the operation of
10 any vehicle in a reckless manner
11 (RCW 46.61.520)
12 X Child Molestation 1 (RCW 9A.44.083)
13 Criminal Mistreatment 1 (RCW
14 9A.42.020)
15 Indecent Liberties (with forcible
16 compulsion) (RCW
17 9A.44.100(1)(a))
18 Kidnapping 1 (RCW 9A.40.020)
19 Leading Organized Crime (RCW
20 9A.82.060(1)(a))
21 Malicious explosion 3 (RCW
22 70.74.280(3))
23 Sexually Violent Predator Escape (RCW
24 9A.76.115)
25 IX Abandonment of Dependent Person 1
26 (RCW 9A.42.060)
27 Assault of a Child 2 (RCW 9A.36.130)
28 Explosive devices prohibited (RCW
29 70.74.180)
30 Hit and Run—Death (RCW
31 46.52.020(4)(a))
32 Homicide by Watercraft, by being under
33 the influence of intoxicating liquor
34 or any drug (RCW 79A.60.050)

1 Inciting Criminal Profiteering (RCW
2 9A.82.060(1)(b))
3 Malicious placement of an explosive 2
4 (RCW 70.74.270(2))
5 Robbery 1 (RCW 9A.56.200)
6 Sexual Exploitation (RCW 9.68A.040)
7 VIII Arson 1 (RCW 9A.48.020)
8 Commercial Sexual Abuse of a Minor
9 (RCW 9.68A.100)
10 Homicide by Watercraft, by the
11 operation of any vessel in a reckless
12 manner (RCW 79A.60.050)
13 Manslaughter 2 (RCW 9A.32.070)
14 Promoting Prostitution 1 (RCW
15 9A.88.070)
16 Theft of Ammonia (RCW 69.55.010)
17 VII Air bag diagnostic systems (causing
18 bodily injury or death) (RCW
19 46.37.660(2)(b))
20 Air bag replacement requirements
21 (causing bodily injury or death)
22 (RCW 46.37.660(1)(b))
23 Burglary 1 (RCW 9A.52.020)
24 Child Molestation 2 (RCW 9A.44.086)
25 Civil Disorder Training (RCW
26 9A.48.120)
27 Dealing in depictions of minor engaged
28 in sexually explicit conduct 1
29 (RCW 9.68A.050(1))
30 Drive-by Shooting (RCW 9A.36.045)
31 Homicide by Watercraft, by disregard
32 for the safety of others (RCW
33 79A.60.050)

1 Indecent Liberties (without forcible
2 compulsion) (RCW 9A.44.100(1)
3 (b) and (c))
4 Introducing Contraband 1 (RCW
5 9A.76.140)
6 Malicious placement of an explosive 3
7 (RCW 70.74.270(3))
8 Manufacture or import counterfeit,
9 nonfunctional, damaged, or
10 previously deployed air bag
11 (causing bodily injury or death)
12 (RCW 46.37.650(1)(b))
13 Negligently Causing Death By Use of a
14 Signal Preemption Device (RCW
15 46.37.675)
16 ((~~Sale~~ ~~off~~)) Sell, install, or reinstall
17 counterfeit, nonfunctional,
18 damaged, or previously deployed
19 airbag (RCW 46.37.650(2)(b))
20 Sending, bringing into state depictions
21 of minor engaged in sexually
22 explicit conduct 1 (RCW
23 9.68A.060(1))
24 Unlawful Possession of a Firearm in the
25 first degree (RCW 9.41.040(1))
26 Use of a Machine Gun in Commission
27 of a Felony (RCW 9.41.225)
28 Vehicular Homicide, by disregard for
29 the safety of others (RCW
30 46.61.520)
31 VI Bail Jumping with Murder 1 (RCW
32 9A.76.170(3)(a))
33 Bribery (RCW 9A.68.010)
34 Incest 1 (RCW 9A.64.020(1))
35 Intimidating a Judge (RCW 9A.72.160)

1 Intimidating a Juror/Witness (RCW
2 9A.72.110, 9A.72.130)
3 Malicious placement of an imitation
4 device 2 (RCW 70.74.272(1)(b))
5 Possession of Depictions of a Minor
6 Engaged in Sexually Explicit
7 Conduct 1 (RCW 9.68A.070(1))
8 Rape of a Child 3 (RCW 9A.44.079)
9 Theft of a Firearm (RCW 9A.56.300)
10 Theft from a Vulnerable Adult 1 (RCW
11 9A.56.400(1))
12 Unlawful Storage of Ammonia (RCW
13 69.55.020)
14 V Abandonment of Dependent Person 2
15 (RCW 9A.42.070)
16 Advancing money or property for
17 extortionate extension of credit
18 (RCW 9A.82.030)
19 Air bag diagnostic systems (RCW
20 46.37.660(2)(c))
21 Air bag replacement requirements
22 (RCW 46.37.660(1)(c))
23 Bail Jumping with class A Felony
24 (RCW 9A.76.170(3)(b))
25 Child Molestation 3 (RCW 9A.44.089)
26 Criminal Mistreatment 2 (RCW
27 9A.42.030)
28 Custodial Sexual Misconduct 1 (RCW
29 9A.44.160)
30 Dealing in Depictions of Minor
31 Engaged in Sexually Explicit
32 Conduct 2 (RCW 9.68A.050(2))

1 Domestic Violence Court Order
2 Violation (RCW 10.99.040,
3 10.99.050, 26.09.300, 26.10.220,
4 26.26.138, 26.50.110, 26.52.070, or
5 74.34.145)
6 Extortion 1 (RCW 9A.56.120)
7 Extortionate Extension of Credit (RCW
8 9A.82.020)
9 Extortionate Means to Collect
10 Extensions of Credit (RCW
11 9A.82.040)
12 Incest 2 (RCW 9A.64.020(2))
13 Kidnapping 2 (RCW 9A.40.030)
14 Manufacture or import counterfeit,
15 nonfunctional, damaged, or
16 previously deployed air bag (RCW
17 46.37.650(1)(c))
18 Perjury 1 (RCW 9A.72.020)
19 Persistent prison misbehavior (RCW
20 9.94.070)
21 Possession of a Stolen Firearm (RCW
22 9A.56.310)
23 Rape 3 (RCW 9A.44.060)
24 Rendering Criminal Assistance 1 (RCW
25 9A.76.070)
26 ~~((Sale of))~~ Sell, install, or reinstall
27 counterfeit, nonfunctional,
28 damaged, or previously deployed
29 airbag (RCW 46.37.650(2)(c))
30 Sending, Bringing into State Depictions
31 of Minor Engaged in Sexually
32 Explicit Conduct 2 (RCW
33 9.68A.060(2))
34 Sexual Misconduct with a Minor 1
35 (RCW 9A.44.093)

1 Sexually Violating Human Remains
2 (RCW 9A.44.105)
3 Stalking (RCW 9A.46.110)
4 Taking Motor Vehicle Without
5 Permission 1 (RCW 9A.56.070)
6 IV Arson 2 (RCW 9A.48.030)
7 Assault 2 (RCW 9A.36.021)
8 Assault 3 (of a Peace Officer with a
9 Projectile Stun Gun) (RCW
10 9A.36.031(1)(h))
11 Assault 4 (third domestic violence
12 offense) (RCW 9A.36.041(3))
13 Assault by Watercraft (RCW
14 79A.60.060)
15 Bribing a Witness/Bribe Received by
16 Witness (RCW 9A.72.090,
17 9A.72.100)
18 Cheating 1 (RCW 9A.46.1961)
19 Commercial Bribery (RCW 9A.68.060)
20 Counterfeiting (RCW 9A.16.035(4))
21 Driving While Under the Influence
22 (RCW 46.61.502(6))
23 Endangerment with a Controlled
24 Substance (RCW 9A.42.100)
25 Escape 1 (RCW 9A.76.110)
26 Hit and Run—Injury (RCW
27 46.52.020(4)(b))
28 Hit and Run with Vessel—Injury
29 Accident (RCW 79A.60.200(3))
30 Identity Theft 1 (RCW 9A.35.020(2))
31 Indecent Exposure to Person Under Age
32 Fourteen (subsequent sex offense)
33 (RCW 9A.88.010(2)(c))
34 Influencing Outcome of Sporting Event
35 (RCW 9A.82.070)

1 Malicious Harassment (RCW
2 9A.36.080)
3 Physical Control of a Vehicle While
4 Under the Influence (RCW
5 46.61.504(6))
6 Possession of Depictions of a Minor
7 Engaged in Sexually Explicit
8 Conduct 2 (RCW 9.68A.070(2))
9 Residential Burglary (RCW 9A.52.025)
10 Robbery 2 (RCW 9A.56.210)
11 Theft of Livestock 1 (RCW 9A.56.080)
12 Threats to Bomb (RCW 9.61.160)
13 Trafficking in Stolen Property 1 (RCW
14 9A.82.050)
15 Unlawful factoring of a credit card or
16 payment card transaction (RCW
17 9A.56.290(4)(b))
18 Unlawful transaction of health coverage
19 as a health care service contractor
20 (RCW 48.44.016(3))
21 Unlawful transaction of health coverage
22 as a health maintenance
23 organization (RCW 48.46.033(3))
24 Unlawful transaction of insurance
25 business (RCW 48.15.023(3))
26 Unlicensed practice as an insurance
27 professional (RCW 48.17.063(2))
28 Use of Proceeds of Criminal
29 Profiteering (RCW 9A.82.080 (1)
30 and (2))
31 Vehicle Prowling 2 (third or subsequent
32 offense) (RCW 9A.52.100(3))

1 Vehicular Assault, by being under the
2 influence of intoxicating liquor or
3 any drug, or by the operation or
4 driving of a vehicle in a reckless
5 manner (RCW 46.61.522)

6 Viewing of Depictions of a Minor
7 Engaged in Sexually Explicit
8 Conduct 1 (RCW 9.68A.075(1))

9 Willful Failure to Return from Furlough
10 (RCW 72.66.060)

11 III Animal Cruelty 1 (Sexual Conduct or
12 Contact) (RCW 16.52.205(3))

13 Assault 3 (Except Assault 3 of a Peace
14 Officer With a Projectile Stun Gun)
15 (RCW 9A.36.031 except subsection
16 (1)(h))

17 Assault 4 with Sexual Motivation (third
18 offense) (RCW 9A.36.041(4))

19 Assault of a Child 3 (RCW 9A.36.140)

20 Bail Jumping with class B or C Felony
21 (RCW 9A.76.170(3)(c))

22 Burglary 2 (RCW 9A.52.030)

23 Communication with a Minor for
24 Immoral Purposes (RCW
25 9.68A.090)

26 Criminal Gang Intimidation (RCW
27 9A.46.120)

28 Custodial Assault (RCW 9A.36.100)

29 Cyberstalking (subsequent conviction or
30 threat of death) (RCW 9.61.260(3))

31 Escape 2 (RCW 9A.76.120)

32 Extortion 2 (RCW 9A.56.130)

33 Harassment (RCW 9A.46.020)

34 Intimidating a Public Servant (RCW
35 9A.76.180)

1 Introducing Contraband 2 (RCW
2 9A.76.150)
3 Malicious Injury to Railroad Property
4 (RCW 81.60.070)
5 Mortgage Fraud (RCW 19.144.080)
6 Negligently Causing Substantial Bodily
7 Harm By Use of a Signal
8 Preemption Device (RCW
9 46.37.674)
10 Organized Retail Theft 1 (RCW
11 9A.56.350(2))
12 Perjury 2 (RCW 9A.72.030)
13 Possession of Incendiary Device (RCW
14 9.40.120)
15 Possession of Machine Gun or Short-
16 Barreled Shotgun or Rifle (RCW
17 9.41.190)
18 Promoting Prostitution 2 (RCW
19 9A.88.080)
20 Retail Theft with Special Circumstances
21 1 (RCW 9A.56.360(2))
22 Securities Act violation (RCW
23 21.20.400)
24 Tampering with a Witness (RCW
25 9A.72.120)
26 Telephone Harassment (subsequent
27 conviction or threat of death) (RCW
28 9.61.230(2))
29 Theft of Livestock 2 (RCW 9A.56.083)
30 Theft with the Intent to Resell 1 (RCW
31 9A.56.340(2))
32 Trafficking in Stolen Property 2 (RCW
33 9A.82.055)
34 Unlawful Hunting of Big Game 1 (RCW
35 77.15.410(3)(b))

1 Unlawful Imprisonment (RCW
2 9A.40.040)

3 Unlawful Misbranding of Food Fish or
4 Shellfish 1 (RCW 69.04.938(3))

5 Unlawful possession of firearm in the
6 second degree (RCW 9.41.040(2))

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

9 Unlawful Trafficking in Fish, Shellfish,
10 or Wildlife 1 (RCW
11 77.15.260(3)(b))

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

14 Vehicular Assault, by the operation or
15 driving of a vehicle with disregard
16 for the safety of others (RCW
17 46.61.522)

18 Willful Failure to Return from Work
19 Release (RCW 72.65.070)

20 II Commercial Fishing Without a License
21 1 (RCW 77.15.500(3)(b))

22 Computer Trespass 1 (RCW 9A.90.040)

23 Counterfeiting (RCW 9.16.035(3))

24 Electronic Data Service Interference
25 (RCW 9A.90.060)

26 Electronic Data Tampering 1 (RCW
27 9A.90.080)

28 Electronic Data Theft (RCW 9A.90.100)

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

31 Escape from Community Custody
32 (RCW 72.09.310)

33 Failure to Register as a Sex Offender
34 (second or subsequent offense)
35 (RCW 9A.44.130 prior to June 10,
36 2010, and RCW 9A.44.132)

1 Health Care False Claims (RCW
2 48.80.030)
3 Identity Theft 2 (RCW 9.35.020(3))
4 Improperly Obtaining Financial
5 Information (RCW 9.35.010)
6 Indecent Exposure to Person Age
7 Fourteen or Older (subsequent
8 offense) (RCW 9A.88.010(2)(d))
9 Malicious Mischief 1 (RCW 9A.48.070)
10 Organized Retail Theft 2 (RCW
11 9A.56.350(3))
12 Possession of Stolen Property 1 (RCW
13 9A.56.150)
14 Possession of a Stolen Vehicle (RCW
15 9A.56.068)
16 Retail Theft with Special Circumstances
17 2 (RCW 9A.56.360(3))
18 Scrap Processing, Recycling, or
19 Supplying Without a License
20 (second or subsequent offense)
21 (RCW 19.290.100)
22 Theft 1 (RCW 9A.56.030)
23 Theft of a Motor Vehicle (RCW
24 9A.56.065)
25 Theft of Rental, Leased, Lease-
26 purchased, or Loaned Property
27 (valued at five thousand dollars or
28 more) (RCW 9A.56.096(5)(a))
29 Theft with the Intent to Resell 2 (RCW
30 9A.56.340(3))
31 Trafficking in Insurance Claims (RCW
32 48.30A.015)
33 Unlawful factoring of a credit card or
34 payment card transaction (RCW
35 9A.56.290(4)(a))

1 Unlawful Participation of Non-Indians
2 in Indian Fishery (RCW
3 77.15.570(2))
4 Unlawful Practice of Law (RCW
5 2.48.180)
6 Unlawful Purchase or Use of a License
7 (RCW 77.15.650(3)(b))
8 Unlawful Trafficking in Fish, Shellfish,
9 or Wildlife 2 (RCW
10 77.15.260(3)(a))
11 Unlicensed Practice of a Profession or
12 Business (RCW 18.130.190(7))
13 Voyeurism 1 (RCW 9A.44.115)
14 I Attempting to Elude a Pursuing Police
15 Vehicle (RCW 46.61.024)
16 False Verification for Welfare (RCW
17 74.08.055)
18 Forgery (RCW 9A.60.020)
19 Fraudulent Creation or Revocation of a
20 Mental Health Advance Directive
21 (RCW 9A.60.060)
22 Malicious Mischief 2 (RCW 9A.48.080)
23 Mineral Trespass (RCW 78.44.330)
24 Possession of Stolen Property 2 (RCW
25 9A.56.160)
26 Reckless Burning 1 (RCW 9A.48.040)
27 Spotlighting Big Game 1 (RCW
28 77.15.450(3)(b))
29 Suspension of Department Privileges 1
30 (RCW 77.15.670(3)(b))
31 Taking Motor Vehicle Without
32 Permission 2 (RCW 9A.56.075)
33 Theft 2 (RCW 9A.56.040)
34 Theft from a Vulnerable Adult 2 (RCW
35 9A.56.400(2))

1 Theft of Rental, Leased, Lease-
2 purchased, or Loaned Property
3 (valued at seven hundred fifty
4 dollars or more but less than five
5 thousand dollars) (RCW
6 9A.56.096(5)(b))
7 Transaction of insurance business
8 beyond the scope of licensure
9 (RCW 48.17.063)
10 Unlawful Fish and Shellfish Catch
11 Accounting (RCW 77.15.630(3)(b))
12 Unlawful Issuance of Checks or Drafts
13 (RCW 9A.56.060)
14 Unlawful Possession of Fictitious
15 Identification (RCW 9A.56.320)
16 Unlawful Possession of Instruments of
17 Financial Fraud (RCW 9A.56.320)
18 Unlawful Possession of Payment
19 Instruments (RCW 9A.56.320)
20 Unlawful Possession of a Personal
21 Identification Device (RCW
22 9A.56.320)
23 Unlawful Production of Payment
24 Instruments (RCW 9A.56.320)
25 Unlawful Releasing, Planting,
26 Possessing, or Placing Deleterious
27 Exotic Wildlife (RCW
28 77.15.250(2)(b))
29 Unlawful Trafficking in Food Stamps
30 (RCW 9.91.142)
31 Unlawful Use of Food Stamps (RCW
32 9.91.144)
33 Unlawful Use of Net to Take Fish 1
34 (RCW 77.15.580(3)(b))
35 Unlawful Use of Prohibited Aquatic
36 Animal Species (RCW
37 77.15.253(3))

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Vehicle Prowl 1 (RCW 9A.52.095)
Violating Commercial Fishing Area or
Time 1 (RCW 77.15.550(3)(b))

--- **END** ---