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**SUBSTITUTE SENATE BILL 5099**

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**State of Washington**

**65th Legislature**

**2017 Regular Session**

**By** Senate Law & Justice (originally sponsored by Senators Bailey, Frockt, O'Ban, Pedersen, Darneille, Keiser, and Kuderer; by request of Attorney General)

READ FIRST TIME 02/15/17.

1 AN ACT Relating to crimes against vulnerable persons; amending  
2 RCW 9A.42.020, 9A.42.030, 9A.42.035, 9A.56.010, 9A.04.080, 9A.56.030,  
3 9A.56.040, and 74.34.020; reenacting and amending RCW 9.94A.411 and  
4 9.94A.515; adding a new section to chapter 9A.56 RCW; and adding a  
5 new section to chapter 74.34 RCW.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that seniors and  
8 people with disabilities face a growing threat of financial  
9 exploitation and physical neglect. The legislature intends with this  
10 act to hold accountable those perpetrators who commit theft and  
11 physical neglect of seniors and people with disabilities by  
12 increasing penalties, reducing barriers to prosecution, and expanding  
13 the scope of protection for vulnerable persons.

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

16 (1) A parent of a child, the person entrusted with the physical  
17 custody of a child or dependent person, a person who has assumed the  
18 responsibility to provide to a dependent person the basic necessities  
19 of life, or a person employed to provide to the child or dependent  
20 person the basic necessities of life is guilty of criminal

1 mistreatment in the first degree if he or she (~~recklessly~~) with  
2 criminal negligence, as defined in RCW 9A.08.010, causes great bodily  
3 harm to a child or dependent person by withholding any of the basic  
4 necessities of life.

5 (2) Criminal mistreatment in the first degree is a class B  
6 felony.

7 **Sec. 3.** RCW 9A.42.030 and 2006 c 228 s 3 are each amended to  
8 read as follows:

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

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

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

24 (1) A person is guilty of the crime of criminal mistreatment in  
25 the third degree if the person is the parent of a child, is a person  
26 entrusted with the physical custody of a child or other dependent  
27 person, is a person who has assumed the responsibility to provide to  
28 a dependent person the basic necessities of life, or is a person  
29 employed to provide to the child or dependent person the basic  
30 necessities of life(~~(7)~~) and (~~either~~

31 ~~(a)~~), with criminal negligence, creates an imminent and  
32 substantial risk of substantial bodily harm to a child or dependent  
33 person by withholding any of the basic necessities of life(~~(7) or~~

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

37 (2) For purposes of this section, "a person who has assumed the  
38 responsibility to provide to a dependent person the basic necessities

1 of life" means a person other than: (a) A government agency that  
2 regularly provides assistance or services to dependent persons,  
3 including but not limited to the department of social and health  
4 services; or (b) a good samaritan as defined in RCW 9A.42.010.

5 (3) Criminal mistreatment in the third degree is a gross  
6 misdemeanor.

7 **Sec. 5.** RCW 9.94A.411 and 2006 c 271 s 1 and 2006 c 73 s 13 are  
8 each reenacted and amended to read as follows:

9 (1) Decision not to prosecute.

10 STANDARD: A prosecuting attorney may decline to prosecute, even  
11 though technically sufficient evidence to prosecute exists, in  
12 situations where prosecution would serve no public purpose, would  
13 defeat the underlying purpose of the law in question or would result  
14 in decreased respect for the law.

15 GUIDELINE/COMMENTARY:

16 Examples

17 The following are examples of reasons not to prosecute which  
18 could satisfy the standard.

19 (a) Contrary to Legislative Intent - It may be proper to decline  
20 to charge where the application of criminal sanctions would be  
21 clearly contrary to the intent of the legislature in enacting the  
22 particular statute.

23 (b) Antiquated Statute - It may be proper to decline to charge  
24 where the statute in question is antiquated in that:

25 (i) It has not been enforced for many years; and

26 (ii) Most members of society act as if it were no longer in  
27 existence; and

28 (iii) It serves no deterrent or protective purpose in today's  
29 society; and

30 (iv) The statute has not been recently reconsidered by the  
31 legislature.

32 This reason is not to be construed as the basis for declining  
33 cases because the law in question is unpopular or because it is  
34 difficult to enforce.

35 (c) De Minimis Violation - It may be proper to decline to charge  
36 where the violation of law is only technical or insubstantial and  
37 where no public interest or deterrent purpose would be served by  
38 prosecution.

1 (d) Confinement on Other Charges - It may be proper to decline to  
2 charge because the accused has been sentenced on another charge to a  
3 lengthy period of confinement; and

4 (i) Conviction of the new offense would not merit any additional  
5 direct or collateral punishment;

6 (ii) The new offense is either a misdemeanor or a felony which is  
7 not particularly aggravated; and

8 (iii) Conviction of the new offense would not serve any  
9 significant deterrent purpose.

10 (e) Pending Conviction on Another Charge - It may be proper to  
11 decline to charge because the accused is facing a pending prosecution  
12 in the same or another county; and

13 (i) Conviction of the new offense would not merit any additional  
14 direct or collateral punishment;

15 (ii) Conviction in the pending prosecution is imminent;

16 (iii) The new offense is either a misdemeanor or a felony which  
17 is not particularly aggravated; and

18 (iv) Conviction of the new offense would not serve any  
19 significant deterrent purpose.

20 (f) High Disproportionate Cost of Prosecution - It may be proper  
21 to decline to charge where the cost of locating or transporting, or  
22 the burden on, prosecution witnesses is highly disproportionate to  
23 the importance of prosecuting the offense in question. This reason  
24 should be limited to minor cases and should not be relied upon in  
25 serious cases.

26 (g) Improper Motives of Complainant - It may be proper to decline  
27 charges because the motives of the complainant are improper and  
28 prosecution would serve no public purpose, would defeat the  
29 underlying purpose of the law in question or would result in  
30 decreased respect for the law.

31 (h) Immunity - It may be proper to decline to charge where  
32 immunity is to be given to an accused in order to prosecute another  
33 where the accused's information or testimony will reasonably lead to  
34 the conviction of others who are responsible for more serious  
35 criminal conduct or who represent a greater danger to the public  
36 interest.

37 (i) Victim Request - It may be proper to decline to charge  
38 because the victim requests that no criminal charges be filed and the  
39 case involves the following crimes or situations:

1 (i) Assault cases where the victim has suffered little or no  
2 injury;

3 (ii) Crimes against property, not involving violence, where no  
4 major loss was suffered;

5 (iii) Where doing so would not jeopardize the safety of society.  
6 Care should be taken to insure that the victim's request is  
7 freely made and is not the product of threats or pressure by the  
8 accused.

9 The presence of these factors may also justify the decision to  
10 dismiss a prosecution which has been commenced.

11 Notification

12 The prosecutor is encouraged to notify the victim, when  
13 practical, and the law enforcement personnel, of the decision not to  
14 prosecute.

15 (2) Decision to prosecute.

16 (a) STANDARD:

17 Crimes against persons will be filed if sufficient admissible  
18 evidence exists, which, when considered with the most plausible,  
19 reasonably foreseeable defense that could be raised under the  
20 evidence, would justify conviction by a reasonable and objective fact  
21 finder. With regard to offenses prohibited by RCW 9A.44.040,  
22 9A.44.050, 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086,  
23 9A.44.089, and 9A.64.020 the prosecutor should avoid prefiling  
24 agreements or diversions intended to place the accused in a program  
25 of treatment or counseling, so that treatment, if determined to be  
26 beneficial, can be provided pursuant to RCW 9.94A.670.

27 Crimes against property/other crimes will be filed if the  
28 admissible evidence is of such convincing force as to make it  
29 probable that a reasonable and objective fact finder would convict  
30 after hearing all the admissible evidence and the most plausible  
31 defense that could be raised.

32 See table below for the crimes within these categories.

33 CATEGORIZATION OF CRIMES FOR PROSECUTING STANDARDS

34 CRIMES AGAINST PERSONS

- 35 Aggravated Murder (RCW 10.95.020)
- 36 1st Degree Murder (RCW 9A.32.030)
- 37 2nd Degree Murder (RCW 9A.32.050)
- 38 1st Degree Manslaughter (RCW 9A.32.060)
- 39 2nd Degree Manslaughter (RCW 9A.32.070)

1 1st Degree Kidnapping (RCW 9A.40.020)  
2 2nd Degree Kidnapping (RCW 9A.40.030)  
3 1st Degree Assault (RCW 9A.36.011)  
4 2nd Degree Assault (RCW 9A.36.021)  
5 3rd Degree Assault (RCW 9A.36.031)  
6 1st Degree Assault of a Child (RCW 9A.36.120)  
7 2nd Degree Assault of a Child (RCW 9A.36.130)  
8 3rd Degree Assault of a Child (RCW 9A.36.140)  
9 1st Degree Rape (RCW 9A.44.040)  
10 2nd Degree Rape (RCW 9A.44.050)  
11 3rd Degree Rape (RCW 9A.44.060)  
12 1st Degree Rape of a Child (RCW 9A.44.073)  
13 2nd Degree Rape of a Child (RCW 9A.44.076)  
14 3rd Degree Rape of a Child (RCW 9A.44.079)  
15 1st Degree Robbery (RCW 9A.56.200)  
16 2nd Degree Robbery (RCW 9A.56.210)  
17 1st Degree Arson (RCW 9A.48.020)  
18 1st Degree Burglary (RCW 9A.52.020)  
19 1st Degree Identity Theft (RCW 9.35.020(2))  
20 2nd Degree Identity Theft (RCW 9.35.020(3))  
21 1st Degree Extortion (RCW 9A.56.120)  
22 2nd Degree Extortion (RCW 9A.56.130)  
23 1st Degree Criminal Mistreatment (RCW 9A.42.020)  
24 2nd Degree Criminal Mistreatment (RCW 9A.42.030)  
25 1st Degree Theft from a Vulnerable Adult (section 6(1) of this  
26 act)  
27 2nd Degree Theft from a Vulnerable Adult (section 6(2) of this  
28 act)  
29 Indecent Liberties (RCW 9A.44.100)  
30 Incest (RCW 9A.64.020)  
31 Vehicular Homicide (RCW 46.61.520)  
32 Vehicular Assault (RCW 46.61.522)  
33 1st Degree Child Molestation (RCW 9A.44.083)  
34 2nd Degree Child Molestation (RCW 9A.44.086)  
35 3rd Degree Child Molestation (RCW 9A.44.089)  
36 1st Degree Promoting Prostitution (RCW 9A.88.070)  
37 Intimidating a Juror (RCW 9A.72.130)  
38 Communication with a Minor (RCW 9.68A.090)  
39 Intimidating a Witness (RCW 9A.72.110)  
40 Intimidating a Public Servant (RCW 9A.76.180)

1 Bomb Threat (if against person) (RCW 9.61.160)  
2 Unlawful Imprisonment (RCW 9A.40.040)  
3 Promoting a Suicide Attempt (RCW 9A.36.060)  
4 (~~Riot~~) Criminal Mischief (if against person) (RCW 9A.84.010)  
5 Stalking (RCW 9A.46.110)  
6 Custodial Assault (RCW 9A.36.100)  
7 Domestic Violence Court Order Violation (RCW 10.99.040,  
8 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or  
9 74.34.145)  
10 Counterfeiting (if a violation of RCW 9.16.035(4))  
11 Felony Driving a Motor Vehicle While Under the Influence of  
12 Intoxicating Liquor or Any Drug (RCW 46.61.502(6))  
13 Felony Physical Control of a Motor Vehicle While Under the  
14 Influence of Intoxicating Liquor or Any Drug (RCW 46.61.504(6))  
15 CRIMES AGAINST PROPERTY/OTHER CRIMES  
16 2nd Degree Arson (RCW 9A.48.030)  
17 1st Degree Escape (RCW 9A.76.110)  
18 2nd Degree Escape (RCW 9A.76.120)  
19 2nd Degree Burglary (RCW 9A.52.030)  
20 1st Degree Theft (RCW 9A.56.030)  
21 2nd Degree Theft (RCW 9A.56.040)  
22 1st Degree Perjury (RCW 9A.72.020)  
23 2nd Degree Perjury (RCW 9A.72.030)  
24 1st Degree Introducing Contraband (RCW 9A.76.140)  
25 2nd Degree Introducing Contraband (RCW 9A.76.150)  
26 1st Degree Possession of Stolen Property (RCW 9A.56.150)  
27 2nd Degree Possession of Stolen Property (RCW 9A.56.160)  
28 Bribery (RCW 9A.68.010)  
29 Bribing a Witness (RCW 9A.72.090)  
30 Bribe received by a Witness (RCW 9A.72.100)  
31 Bomb Threat (if against property) (RCW 9.61.160)  
32 1st Degree Malicious Mischief (RCW 9A.48.070)  
33 2nd Degree Malicious Mischief (RCW 9A.48.080)  
34 1st Degree Reckless Burning (RCW 9A.48.040)  
35 Taking a Motor Vehicle without Authorization (RCW 9A.56.070 and  
36 9A.56.075)  
37 Forgery (RCW 9A.60.020)  
38 2nd Degree Promoting Prostitution (RCW 9A.88.080)  
39 Tampering with a Witness (RCW 9A.72.120)

1 Trading in Public Office (RCW 9A.68.040)  
2 Trading in Special Influence (RCW 9A.68.050)  
3 Receiving/Granting Unlawful Compensation (RCW 9A.68.030)  
4 Bigamy (RCW 9A.64.010)  
5 Eluding a Pursuing Police Vehicle (RCW 46.61.024)  
6 Willful Failure to Return from Furlough  
7 Escape from Community Custody  
8 (~~Riot~~) Criminal Mischief (if against property) (RCW 9A.84.010)  
9 1st Degree Theft of Livestock (RCW 9A.56.080)  
10 2nd Degree Theft of Livestock (RCW 9A.56.083)  
11 ALL OTHER UNCLASSIFIED FELONIES  
12 Selection of Charges/Degree of Charge  
13 (i) The prosecutor should file charges which adequately describe  
14 the nature of defendant's conduct. Other offenses may be charged only  
15 if they are necessary to ensure that the charges:  
16 (A) Will significantly enhance the strength of the state's case  
17 at trial; or  
18 (B) Will result in restitution to all victims.  
19 (ii) The prosecutor should not overcharge to obtain a guilty  
20 plea. Overcharging includes:  
21 (A) Charging a higher degree;  
22 (B) Charging additional counts.  
23 This standard is intended to direct prosecutors to charge those  
24 crimes which demonstrate the nature and seriousness of a defendant's  
25 criminal conduct, but to decline to charge crimes which are not  
26 necessary to such an indication. Crimes which do not merge as a  
27 matter of law, but which arise from the same course of conduct, do  
28 not all have to be charged.  
29 (b) GUIDELINES/COMMENTARY:  
30 (i) Police Investigation  
31 A prosecuting attorney is dependent upon law enforcement agencies  
32 to conduct the necessary factual investigation which must precede the  
33 decision to prosecute. The prosecuting attorney shall ensure that a  
34 thorough factual investigation has been conducted before a decision  
35 to prosecute is made. In ordinary circumstances the investigation  
36 should include the following:  
37 (A) The interviewing of all material witnesses, together with the  
38 obtaining of written statements whenever possible;  
39 (B) The completion of necessary laboratory tests; and



1 (C) The obtaining, in accordance with constitutional  
2 requirements, of the suspect's version of the events.

3 If the initial investigation is incomplete, a prosecuting  
4 attorney should insist upon further investigation before a decision  
5 to prosecute is made, and specify what the investigation needs to  
6 include.

7 (ii) Exceptions

8 In certain situations, a prosecuting attorney may authorize  
9 filing of a criminal complaint before the investigation is complete  
10 if:

11 (A) Probable cause exists to believe the suspect is guilty; and

12 (B) The suspect presents a danger to the community or is likely  
13 to flee if not apprehended; or

14 (C) The arrest of the suspect is necessary to complete the  
15 investigation of the crime.

16 In the event that the exception to the standard is applied, the  
17 prosecuting attorney shall obtain a commitment from the law  
18 enforcement agency involved to complete the investigation in a timely  
19 manner. If the subsequent investigation does not produce sufficient  
20 evidence to meet the normal charging standard, the complaint should  
21 be dismissed.

22 (iii) Investigation Techniques

23 The prosecutor should be fully advised of the investigatory  
24 techniques that were used in the case investigation including:

25 (A) Polygraph testing;

26 (B) Hypnosis;

27 (C) Electronic surveillance;

28 (D) Use of informants.

29 (iv) Prefiling Discussions with Defendant

30 Discussions with the defendant or his/her representative  
31 regarding the selection or disposition of charges may occur prior to  
32 the filing of charges, and potential agreements can be reached.

33 (v) Prefiling Discussions with Victim(s)

34 Discussions with the victim(s) or victims' representatives  
35 regarding the selection or disposition of charges may occur before  
36 the filing of charges. The discussions may be considered by the  
37 prosecutor in charging and disposition decisions, and should be  
38 considered before reaching any agreement with the defendant regarding  
39 these decisions.

1        NEW SECTION.    **Sec. 6.**    A new section is added to chapter 9A.56  
2    RCW to read as follows:

3        (1)(a) A person is guilty of theft from a vulnerable adult in the  
4    first degree if he or she commits theft of property or services that  
5    exceed(s) five thousand dollars in value, other than a firearm as  
6    defined in RCW 9.41.010, of a vulnerable adult. The defendant must  
7    have known or should have known that the victim was a vulnerable  
8    adult.

9        (b) Theft from a vulnerable adult in the first degree is a class  
10   B felony.

11       (2)(a) A person is guilty of theft from a vulnerable adult in the  
12   second degree if he or she commits theft of property or services that  
13   exceed(s) seven hundred fifty dollars in value but does not exceed  
14   five thousand dollars in value, other than a firearm as defined in  
15   RCW 9.41.010 or a motor vehicle, of a vulnerable adult. The defendant  
16   must have known or should have known that the victim was a vulnerable  
17   adult.

18       (b) Theft from a vulnerable adult in the second degree is a class  
19   C felony.

20       **Sec. 7.**    RCW 9A.56.010 and 2011 c 164 s 2 are each amended to  
21   read as follows:

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

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

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

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

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

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

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

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

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

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

16 (e) Promises performance which the actor does not intend to  
17 perform or knows will not be performed;

18 (6) "Deprive" in addition to its common meaning means to make  
19 unauthorized use or an unauthorized copy of records, information,  
20 data, trade secrets, or computer programs;

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

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

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

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

39 (c) Is in transit with a postal service, mail carrier, letter  
40 carrier, commercial carrier, or that is at or in a postal vehicle,

1 postal station, mailbox, postal airplane, transit station, or similar  
2 location of a commercial carrier; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (18) "Subscription television service" means cable or encrypted  
12 video and related audio and data services intended for viewing on a  
13 home television by authorized members of the public only, who have  
14 agreed to pay a fee for the service. Subscription services include  
15 but are not limited to those video services presently delivered by  
16 coaxial cable, fiber optic cable, terrestrial microwave, television  
17 broadcast, and satellite transmission;

18 (19) "Telecommunication device" means (a) any type of instrument,  
19 device, machine, or equipment that is capable of transmitting or  
20 receiving telephonic or electronic communications; or (b) any part of  
21 such an instrument, device, machine, or equipment, or any computer  
22 circuit, computer chip, electronic mechanism, or other component,  
23 that is capable of facilitating the transmission or reception of  
24 telephonic or electronic communications;

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

29 (21) Value. (a) "Value" means the market value of the property or  
30 services at the time and in the approximate area of the criminal act.

31 (b) Whether or not they have been issued or delivered, written  
32 instruments, except those having a readily ascertained market value,  
33 shall be evaluated as follows:

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

39 (ii) The value of a ticket or equivalent instrument which  
40 evidences a right to receive transportation, entertainment, or other

1 service shall be deemed the price stated thereon, if any; and if no  
2 price is stated thereon, the value shall be deemed the price of such  
3 ticket or equivalent instrument which the issuer charged the general  
4 public;

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

10 (c) Except as provided in RCW 9A.56.340(4) and 9A.56.350(4),  
11 whenever any series of transactions which constitute theft, would,  
12 when considered separately, constitute theft in the third degree  
13 because of value, and said series of transactions are a part of a  
14 criminal episode or a common scheme or plan, then the transactions  
15 may be aggregated in one count and the sum of the value of all said  
16 transactions shall be the value considered in determining the degree  
17 of theft involved.

18 For purposes of this subsection, "criminal episode" means a  
19 series of thefts committed by the same person from one or more  
20 mercantile establishments on three or more occasions within a five-  
21 day period.

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

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

34 (22) "Vulnerable adult" includes a person eighteen years of age  
35 or older who:

36 (a) Has the functional, mental, or physical inability to care for  
37 himself or herself; or

38 (b) Is suffering from a cognitive impairment other than voluntary  
39 intoxication;

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

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

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

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

16 **Sec. 8.** RCW 9.94A.515 and 2016 c 213 s 5, 2016 c 164 s 13, and  
17 2016 c 6 s 1 are each reenacted and amended to read as follows:

18 TABLE 2

19 CRIMES INCLUDED WITHIN EACH

20 SERIOUSNESS LEVEL

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

1 Promoting Commercial Sexual Abuse of  
2 a Minor (RCW 9.68A.101)  
3 Rape 1 (RCW 9A.44.040)  
4 Rape of a Child 1 (RCW 9A.44.073)  
5 Trafficking 2 (RCW 9A.40.100(3))  
6 XI Manslaughter 1 (RCW 9A.32.060)  
7 Rape 2 (RCW 9A.44.050)  
8 Rape of a Child 2 (RCW 9A.44.076)  
9 Vehicular Homicide, by being under the  
10 influence of intoxicating liquor or  
11 any drug (RCW 46.61.520)  
12 Vehicular Homicide, by the operation of  
13 any vehicle in a reckless manner  
14 (RCW 46.61.520)  
15 X Child Molestation 1 (RCW 9A.44.083)  
16 Criminal Mistreatment 1 (RCW  
17 9A.42.020)  
18 Indecent Liberties (with forcible  
19 compulsion) (RCW  
20 9A.44.100(1)(a))  
21 Kidnapping 1 (RCW 9A.40.020)  
22 Leading Organized Crime (RCW  
23 9A.82.060(1)(a))  
24 Malicious explosion 3 (RCW  
25 70.74.280(3))  
26 Sexually Violent Predator Escape (RCW  
27 9A.76.115)  
28 IX Abandonment of Dependent Person 1  
29 (RCW 9A.42.060)  
30 Assault of a Child 2 (RCW 9A.36.130)  
31 Explosive devices prohibited (RCW  
32 70.74.180)  
33 Hit and Run—Death (RCW  
34 46.52.020(4)(a))



1 Homicide by Watercraft, by being under  
2 the influence of intoxicating liquor  
3 or any drug (RCW 79A.60.050)  
4 Inciting Criminal Profiteering (RCW  
5 9A.82.060(1)(b))  
6 Malicious placement of an explosive 2  
7 (RCW 70.74.270(2))  
8 Robbery 1 (RCW 9A.56.200)  
9 Sexual Exploitation (RCW 9.68A.040)  
10 VIII Arson 1 (RCW 9A.48.020)  
11 Commercial Sexual Abuse of a Minor  
12 (RCW 9.68A.100)  
13 Homicide by Watercraft, by the  
14 operation of any vessel in a reckless  
15 manner (RCW 79A.60.050)  
16 Manslaughter 2 (RCW 9A.32.070)  
17 Promoting Prostitution 1 (RCW  
18 9A.88.070)  
19 Theft of Ammonia (RCW 69.55.010)  
20 VII Air bag diagnostic systems (causing  
21 bodily injury or death) (RCW  
22 46.37.660(2)(b))  
23 Air bag replacement requirements  
24 (causing bodily injury or death)  
25 (RCW 46.37.660(1)(b))  
26 Burglary 1 (RCW 9A.52.020)  
27 Child Molestation 2 (RCW 9A.44.086)  
28 Civil Disorder Training (RCW  
29 9A.48.120)  
30 Manufacture or import counterfeit,  
31 nonfunctional, damaged, or  
32 previously deployed air bag  
33 (causing bodily injury or death)  
34 (RCW 46.37.650(1)(b))

1 Sale, install, ~~((for))~~ or reinstall  
2 counterfeit, nonfunctional,  
3 damaged, or previously deployed  
4 airbag (RCW 46.37.650(2)(b))  
5 Dealing in depictions of minor engaged  
6 in sexually explicit conduct 1  
7 (RCW 9.68A.050(1))  
8 Drive-by Shooting (RCW 9A.36.045)  
9 Homicide by Watercraft, by disregard  
10 for the safety of others (RCW  
11 79A.60.050)  
12 Indecent Liberties (without forcible  
13 compulsion) (RCW 9A.44.100(1)  
14 (b) and (c))  
15 Introducing Contraband 1 (RCW  
16 9A.76.140)  
17 Malicious placement of an explosive 3  
18 (RCW 70.74.270(3))  
19 Negligently Causing Death By Use of a  
20 Signal Preemption Device (RCW  
21 46.37.675)  
22 Sending, bringing into state depictions  
23 of minor engaged in sexually  
24 explicit conduct 1 (RCW  
25 9.68A.060(1))  
26 Unlawful Possession of a Firearm in the  
27 first degree (RCW 9.41.040(1))  
28 Use of a Machine Gun in Commission  
29 of a Felony (RCW 9.41.225)  
30 Vehicular Homicide, by disregard for  
31 the safety of others (RCW  
32 46.61.520)  
33 VI Bail Jumping with Murder 1 (RCW  
34 9A.76.170(3)(a))  
35 Bribery (RCW 9A.68.010)  
36 Incest 1 (RCW 9A.64.020(1))

1 Intimidating a Judge (RCW 9A.72.160)  
2 Intimidating a Juror/Witness (RCW  
3 9A.72.110, 9A.72.130)  
4 Malicious placement of an imitation  
5 device 2 (RCW 70.74.272(1)(b))  
6 Possession of Depictions of a Minor  
7 Engaged in Sexually Explicit  
8 Conduct 1 (RCW 9.68A.070(1))  
9 Rape of a Child 3 (RCW 9A.44.079)  
10 Theft of a Firearm (RCW 9A.56.300)  
11 Theft from a Vulnerable Adult 1  
12 (section 6(1) of this act)  
13 Unlawful Storage of Ammonia (RCW  
14 69.55.020)  
15 V Abandonment of Dependent Person 2  
16 (RCW 9A.42.070)  
17 Advancing money or property for  
18 extortionate extension of credit  
19 (RCW 9A.82.030)  
20 Air bag diagnostic systems (RCW  
21 46.37.660(2)(c))  
22 Air bag replacement requirements  
23 (RCW 46.37.660(1)(c))  
24 Bail Jumping with class A Felony  
25 (RCW 9A.76.170(3)(b))  
26 Child Molestation 3 (RCW 9A.44.089)  
27 Manufacture or import counterfeit,  
28 nonfunctional, damaged, or  
29 previously deployed air bag (RCW  
30 46.37.650(1)(c))  
31 Sale, install, ~~((for))~~ or reinstall  
32 counterfeit, nonfunctional,  
33 damaged, or previously deployed  
34 airbag (RCW 46.37.650(2)(c))  
35 Criminal Mistreatment 2 (RCW  
36 9A.42.030)

1 Custodial Sexual Misconduct 1 (RCW  
2 9A.44.160)  
3 Dealing in Depictions of Minor  
4 Engaged in Sexually Explicit  
5 Conduct 2 (RCW 9.68A.050(2))  
6 Domestic Violence Court Order  
7 Violation (RCW 10.99.040,  
8 10.99.050, 26.09.300, 26.10.220,  
9 26.26.138, 26.50.110, 26.52.070, or  
10 74.34.145)  
11 Driving While Under the Influence  
12 (RCW 46.61.502(6))  
13 Extortion 1 (RCW 9A.56.120)  
14 Extortionate Extension of Credit (RCW  
15 9A.82.020)  
16 Extortionate Means to Collect  
17 Extensions of Credit (RCW  
18 9A.82.040)  
19 Incest 2 (RCW 9A.64.020(2))  
20 Kidnapping 2 (RCW 9A.40.030)  
21 Perjury 1 (RCW 9A.72.020)  
22 Persistent prison misbehavior (RCW  
23 9.94.070)  
24 Physical Control of a Vehicle While  
25 Under the Influence (RCW  
26 46.61.504(6))  
27 Possession of a Stolen Firearm (RCW  
28 9A.56.310)  
29 Rape 3 (RCW 9A.44.060)  
30 Rendering Criminal Assistance 1 (RCW  
31 9A.76.070)  
32 Sending, Bringing into State Depictions  
33 of Minor Engaged in Sexually  
34 Explicit Conduct 2 (RCW  
35 9.68A.060(2))

1 Sexual Misconduct with a Minor 1  
2 (RCW 9A.44.093)  
3 Sexually Violating Human Remains  
4 (RCW 9A.44.105)  
5 Stalking (RCW 9A.46.110)  
6 Taking Motor Vehicle Without  
7 Permission 1 (RCW 9A.56.070)  
8 IV Arson 2 (RCW 9A.48.030)  
9 Assault 2 (RCW 9A.36.021)  
10 Assault 3 (of a Peace Officer with a  
11 Projectile Stun Gun) (RCW  
12 9A.36.031(1)(h))  
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 9.46.1961)  
19 Commercial Bribery (RCW 9A.68.060)  
20 Counterfeiting (RCW 9.16.035(4))  
21 Endangerment with a Controlled  
22 Substance (RCW 9A.42.100)  
23 Escape 1 (RCW 9A.76.110)  
24 Hit and Run—Injury (RCW  
25 46.52.020(4)(b))  
26 Hit and Run with Vessel—Injury  
27 Accident (RCW 79A.60.200(3))  
28 Identity Theft 1 (RCW 9.35.020(2))  
29 Indecent Exposure to Person Under Age  
30 Fourteen (subsequent sex offense)  
31 (RCW 9A.88.010)  
32 Influencing Outcome of Sporting Event  
33 (RCW 9A.82.070)  
34 Malicious Harassment (RCW  
35 9A.36.080)

1 Possession of Depictions of a Minor  
2 Engaged in Sexually Explicit  
3 Conduct 2 (RCW 9.68A.070(2))  
4 Residential Burglary (RCW 9A.52.025)  
5 Robbery 2 (RCW 9A.56.210)  
6 Theft of Livestock 1 (RCW 9A.56.080)  
7 Threats to Bomb (RCW 9.61.160)  
8 Trafficking in Stolen Property 1 (RCW  
9 9A.82.050)  
10 Unlawful factoring of a credit card or  
11 payment card transaction (RCW  
12 9A.56.290(4)(b))  
13 Unlawful transaction of health coverage  
14 as a health care service contractor  
15 (RCW 48.44.016(3))  
16 Unlawful transaction of health coverage  
17 as a health maintenance  
18 organization (RCW 48.46.033(3))  
19 Unlawful transaction of insurance  
20 business (RCW 48.15.023(3))  
21 Unlicensed practice as an insurance  
22 professional (RCW 48.17.063(2))  
23 Use of Proceeds of Criminal  
24 Profiteering (RCW 9A.82.080 (1)  
25 and (2))  
26 Vehicle Prowling 2 (third or subsequent  
27 offense) (RCW 9A.52.100(3))  
28 Vehicular Assault, by being under the  
29 influence of intoxicating liquor or  
30 any drug, or by the operation or  
31 driving of a vehicle in a reckless  
32 manner (RCW 46.61.522)  
33 Viewing of Depictions of a Minor  
34 Engaged in Sexually Explicit  
35 Conduct 1 (RCW 9.68A.075(1))

1 Willful Failure to Return from Furlough  
2 (RCW 72.66.060)

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

5 Assault 3 (Except Assault 3 of a Peace  
6 Officer With a Projectile Stun Gun)  
7 (RCW 9A.36.031 except subsection  
8 (1)(h))

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

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

12 Burglary 2 (RCW 9A.52.030)

13 Communication with a Minor for  
14 Immoral Purposes (RCW  
15 9.68A.090)

16 Criminal Gang Intimidation (RCW  
17 9A.46.120)

18 Custodial Assault (RCW 9A.36.100)

19 Cyberstalking (subsequent conviction or  
20 threat of death) (RCW 9.61.260(3))

21 Escape 2 (RCW 9A.76.120)

22 Extortion 2 (RCW 9A.56.130)

23 Harassment (RCW 9A.46.020)

24 Intimidating a Public Servant (RCW  
25 9A.76.180)

26 Introducing Contraband 2 (RCW  
27 9A.76.150)

28 Malicious Injury to Railroad Property  
29 (RCW 81.60.070)

30 Mortgage Fraud (RCW 19.144.080)

31 Negligently Causing Substantial Bodily  
32 Harm By Use of a Signal  
33 Preemption Device (RCW  
34 46.37.674)

1 Organized Retail Theft 1 (RCW  
2 9A.56.350(2))  
3 Perjury 2 (RCW 9A.72.030)  
4 Possession of Incendiary Device (RCW  
5 9.40.120)  
6 Possession of Machine Gun or Short-  
7 Barreled Shotgun or Rifle (RCW  
8 9.41.190)  
9 Promoting Prostitution 2 (RCW  
10 9A.88.080)  
11 Retail Theft with Special Circumstances  
12 1 (RCW 9A.56.360(2))  
13 Securities Act violation (RCW  
14 21.20.400)  
15 Tampering with a Witness (RCW  
16 9A.72.120)  
17 Telephone Harassment (subsequent  
18 conviction or threat of death) (RCW  
19 9.61.230(2))  
20 Theft of Livestock 2 (RCW 9A.56.083)  
21 Theft with the Intent to Resell 1 (RCW  
22 9A.56.340(2))  
23 Trafficking in Stolen Property 2 (RCW  
24 9A.82.055)  
25 Unlawful Hunting of Big Game 1 (RCW  
26 77.15.410(3)(b))  
27 Unlawful Imprisonment (RCW  
28 9A.40.040)  
29 Unlawful Misbranding of Food Fish or  
30 Shellfish 1 (RCW 69.04.938(3))  
31 Unlawful possession of firearm in the  
32 second degree (RCW 9.41.040(2))  
33 Unlawful Taking of Endangered Fish or  
34 Wildlife 1 (RCW 77.15.120(3)(b))



1 Unlawful Trafficking in Fish, Shellfish,  
2 or Wildlife 1 (RCW  
3 77.15.260(3)(b))  
4 Unlawful Use of a Nondesignated  
5 Vessel (RCW 77.15.530(4))  
6 Vehicular Assault, by the operation or  
7 driving of a vehicle with disregard  
8 for the safety of others (RCW  
9 46.61.522)  
10 Willful Failure to Return from Work  
11 Release (RCW 72.65.070)  
12 II Commercial Fishing Without a License  
13 1 (RCW 77.15.500(3)(b))  
14 Computer Trespass 1 (RCW 9A.90.040)  
15 Counterfeiting (RCW 9.16.035(3))  
16 Electronic Data Service Interference  
17 (RCW 9A.90.060)  
18 Electronic Data Tampering 1 (RCW  
19 9A.90.080)  
20 Electronic Data Theft (RCW 9A.90.100)  
21 Engaging in Fish Dealing Activity  
22 Unlicensed 1 (RCW 77.15.620(3))  
23 Escape from Community Custody  
24 (RCW 72.09.310)  
25 Failure to Register as a Sex Offender  
26 (second or subsequent offense)  
27 (RCW 9A.44.130 prior to June 10,  
28 2010, and RCW 9A.44.132)  
29 Health Care False Claims (RCW  
30 48.80.030)  
31 Identity Theft 2 (RCW 9.35.020(3))  
32 Improperly Obtaining Financial  
33 Information (RCW 9.35.010)  
34 Malicious Mischief 1 (RCW 9A.48.070)  
35 Organized Retail Theft 2 (RCW  
36 9A.56.350(3))

1 Possession of Stolen Property 1 (RCW  
2 9A.56.150)  
3 Possession of a Stolen Vehicle (RCW  
4 9A.56.068)  
5 Retail Theft with Special Circumstances  
6 2 (RCW 9A.56.360(3))  
7 Scrap Processing, Recycling, or  
8 Supplying Without a License  
9 (second or subsequent offense)  
10 (RCW 19.290.100)  
11 Theft 1 (RCW 9A.56.030)  
12 Theft of a Motor Vehicle (RCW  
13 9A.56.065)  
14 Theft of Rental, Leased, Lease-  
15 purchased, or Loaned Property  
16 (valued at five thousand dollars or  
17 more) (RCW 9A.56.096(5)(a))  
18 Theft with the Intent to Resell 2 (RCW  
19 9A.56.340(3))  
20 Trafficking in Insurance Claims (RCW  
21 48.30A.015)  
22 Unlawful factoring of a credit card or  
23 payment card transaction (RCW  
24 9A.56.290(4)(a))  
25 Unlawful Participation of Non-Indians  
26 in Indian Fishery (RCW  
27 77.15.570(2))  
28 Unlawful Practice of Law (RCW  
29 2.48.180)  
30 Unlawful Purchase or Use of a License  
31 (RCW 77.15.650(3)(b))  
32 Unlawful Trafficking in Fish, Shellfish,  
33 or Wildlife 2 (RCW  
34 77.15.260(3)(a))  
35 Unlicensed Practice of a Profession or  
36 Business (RCW 18.130.190(7))

1 Voyeurism (RCW 9A.44.115)  
2 I Attempting to Elude a Pursuing Police  
3 Vehicle (RCW 46.61.024)  
4 False Verification for Welfare (RCW  
5 74.08.055)  
6 Forgery (RCW 9A.60.020)  
7 Fraudulent Creation or Revocation of a  
8 Mental Health Advance Directive  
9 (RCW 9A.60.060)  
10 Malicious Mischief 2 (RCW 9A.48.080)  
11 Mineral Trespass (RCW 78.44.330)  
12 Possession of Stolen Property 2 (RCW  
13 9A.56.160)  
14 Reckless Burning 1 (RCW 9A.48.040)  
15 Spotlighting Big Game 1 (RCW  
16 77.15.450(3)(b))  
17 Suspension of Department Privileges 1  
18 (RCW 77.15.670(3)(b))  
19 Taking Motor Vehicle Without  
20 Permission 2 (RCW 9A.56.075)  
21 Theft 2 (RCW 9A.56.040)  
22 Theft from a Vulnerable Adult 2  
23 (section 6(2) of this act)  
24 Theft of Rental, Leased, Lease-  
25 purchased, or Loaned Property  
26 (valued at seven hundred fifty  
27 dollars or more but less than five  
28 thousand dollars) (RCW  
29 9A.56.096(5)(b))  
30 Transaction of insurance business  
31 beyond the scope of licensure  
32 (RCW 48.17.063)  
33 Unlawful Fish and Shellfish Catch  
34 Accounting (RCW 77.15.630(3)(b))  
35 Unlawful Issuance of Checks or Drafts  
36 (RCW 9A.56.060)

1 Unlawful Possession of Fictitious  
2 Identification (RCW 9A.56.320)  
3 Unlawful Possession of Instruments of  
4 Financial Fraud (RCW 9A.56.320)  
5 Unlawful Possession of Payment  
6 Instruments (RCW 9A.56.320)  
7 Unlawful Possession of a Personal  
8 Identification Device (RCW  
9 9A.56.320)  
10 Unlawful Production of Payment  
11 Instruments (RCW 9A.56.320)  
12 Unlawful Releasing, Planting,  
13 Possessing, or Placing Deleterious  
14 Exotic Wildlife (RCW  
15 77.15.250(2)(b))  
16 Unlawful Trafficking in Food Stamps  
17 (RCW 9.91.142)  
18 Unlawful Use of Food Stamps (RCW  
19 9.91.144)  
20 Unlawful Use of Net to Take Fish 1  
21 (RCW 77.15.580(3)(b))  
22 Unlawful Use of Prohibited Aquatic  
23 Animal Species (RCW  
24 77.15.253(3))  
25 Vehicle Prowl 1 (RCW 9A.52.095)  
26 Violating Commercial Fishing Area or  
27 Time 1 (RCW 77.15.550(3)(b))

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

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

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

34 (i) Murder;

35 (ii) Homicide by abuse;

36 (iii) Arson if a death results;

1 (iv) Vehicular homicide;  
2 (v) Vehicular assault if a death results;  
3 (vi) Hit-and-run injury-accident if a death results (RCW  
4 46.52.020(4)).

5 (b) Except as provided in (c) of this subsection, the following  
6 offenses shall not be prosecuted more than ten years after their  
7 commission:

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

12 (ii) Arson if no death results;

13 (iii)(A) Violations of RCW 9A.44.040 or 9A.44.050 if the rape is  
14 reported to a law enforcement agency within one year of its  
15 commission.

16 (B) If a violation of RCW 9A.44.040 or 9A.44.050 is not reported  
17 within one year, the rape may not be prosecuted more than three years  
18 after its commission; or

19 (iv) Indecent liberties under RCW 9A.44.100(1)(b).

20 (c) Violations of the following statutes, when committed against  
21 a victim under the age of eighteen, may be prosecuted up to the  
22 victim's thirtieth birthday: RCW 9A.44.040 (rape in the first  
23 degree), 9A.44.050 (rape in the second degree), 9A.44.073 (rape of a  
24 child in the first degree), 9A.44.076 (rape of a child in the second  
25 degree), 9A.44.079 (rape of a child in the third degree), 9A.44.083  
26 (child molestation in the first degree), 9A.44.086 (child molestation  
27 in the second degree), 9A.44.089 (child molestation in the third  
28 degree), 9A.44.100(1)(b) (indecent liberties), 9A.64.020 (incest), or  
29 9.68A.040 (sexual exploitation of a minor).

30 (d) The following offenses shall not be prosecuted more than six  
31 years after their commission or their discovery, whichever occurs  
32 later:

33 (i) Violations of RCW 9A.82.060 or 9A.82.080;

34 (ii) Any felony violation of chapter 9A.83 RCW;

35 (iii) Any felony violation of chapter 9.35 RCW;

36 (iv) Theft in the first or second degree under chapter 9A.56 RCW  
37 when accomplished by color or aid of deception; (~~(e)~~)

38 (v) Theft from a vulnerable adult under section 6 of this act; or

39 (vi) Trafficking in stolen property in the first or second degree  
40 under chapter 9A.82 RCW in which the stolen property is a motor

1 vehicle or major component part of a motor vehicle as defined in RCW  
2 46.80.010.

3 (e) The following offenses shall not be prosecuted more than five  
4 years after their commission: Any class C felony under chapter 74.09,  
5 82.36, or 82.38 RCW.

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

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

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

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

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

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

25 (3) In any prosecution for a sex offense as defined in RCW  
26 9.94A.030, the periods of limitation prescribed in subsection (1) of  
27 this section run from the date of commission or one year from the  
28 date on which the identity of the suspect is conclusively established  
29 by deoxyribonucleic acid testing or by photograph as defined in RCW  
30 9.68A.011, whichever is later.

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

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

1       (1) Except as provided in section 6 of this act, a person is  
2 guilty of theft in the first degree if he or she commits theft of:

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

5       (b) Property of any value, other than a firearm as defined in RCW  
6 9.41.010 or a motor vehicle, taken from the person of another;

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

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

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

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

16       (1) Except as provided in section 6 of this act, a person is  
17 guilty of theft in the second degree if he or she commits theft of:

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

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

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

29       (d) An access device.

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

31       **Sec. 12.** RCW 74.34.020 and 2015 c 268 s 1 are each amended to  
32 read as follows:

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

35       (1) "Abandonment" means action or inaction by a person or entity  
36 with a duty of care for a vulnerable adult that leaves the vulnerable  
37 person without the means or ability to obtain necessary food,  
38 clothing, shelter, or health care.

1 (2) "Abuse" means the willful action or inaction that inflicts  
2 injury, unreasonable confinement, intimidation, or punishment on a  
3 vulnerable adult. In instances of abuse of a vulnerable adult who is  
4 unable to express or demonstrate physical harm, pain, or mental  
5 anguish, the abuse is presumed to cause physical harm, pain, or  
6 mental anguish. Abuse includes sexual abuse, mental abuse, physical  
7 abuse, and personal exploitation of a vulnerable adult, and improper  
8 use of restraint against a vulnerable adult which have the following  
9 meanings:

10 (a) "Sexual abuse" means any form of nonconsensual sexual  
11 conduct, including but not limited to unwanted or inappropriate  
12 touching, rape, sodomy, sexual coercion, sexually explicit  
13 photographing, and sexual harassment. Sexual abuse also includes any  
14 sexual conduct between a staff person, who is not also a resident or  
15 client, of a facility or a staff person of a program authorized under  
16 chapter 71A.12 RCW, and a vulnerable adult living in that facility or  
17 receiving service from a program authorized under chapter 71A.12 RCW,  
18 whether or not it is consensual.

19 (b) "Physical abuse" means the willful action of inflicting  
20 bodily injury or physical mistreatment. Physical abuse includes, but  
21 is not limited to, striking with or without an object, slapping,  
22 pinching, choking, kicking, shoving, or prodding.

23 (c) "Mental abuse" means a willful verbal or nonverbal action  
24 that threatens, humiliates, harasses, coerces, intimidates, isolates,  
25 unreasonably confines, or punishes a vulnerable adult. Mental abuse  
26 may include ridiculing, yelling, or swearing.

27 (d) "Personal exploitation" means an act of forcing, compelling,  
28 or exerting undue influence over a vulnerable adult causing the  
29 vulnerable adult to act in a way that is inconsistent with relevant  
30 past behavior, or causing the vulnerable adult to perform services  
31 for the benefit of another.

32 (e) "Improper use of restraint" means the inappropriate use of  
33 chemical, physical, or mechanical restraints for convenience or  
34 discipline or in a manner that: (i) Is inconsistent with federal or  
35 state licensing or certification requirements for facilities,  
36 hospitals, or programs authorized under chapter 71A.12 RCW; (ii) is  
37 not medically authorized; or (iii) otherwise constitutes abuse under  
38 this section.

39 (3) "Chemical restraint" means the administration of any drug to  
40 manage a vulnerable adult's behavior in a way that reduces the safety



1 risk to the vulnerable adult or others, has the temporary effect of  
2 restricting the vulnerable adult's freedom of movement, and is not  
3 standard treatment for the vulnerable adult's medical or psychiatric  
4 condition.

5 (4) "Consent" means express written consent granted after the  
6 vulnerable adult or his or her legal representative has been fully  
7 informed of the nature of the services to be offered and that the  
8 receipt of services is voluntary.

9 (5) "Department" means the department of social and health  
10 services.

11 (6) "Facility" means a residence licensed or required to be  
12 licensed under chapter 18.20 RCW, assisted living facilities; chapter  
13 18.51 RCW, nursing homes; chapter 70.128 RCW, adult family homes;  
14 chapter 72.36 RCW, soldiers' homes; or chapter 71A.20 RCW,  
15 residential habilitation centers; or any other facility licensed or  
16 certified by the department.

17 (7) "Financial exploitation" means the illegal or improper use,  
18 control over, or withholding of the property, income, resources, or  
19 trust funds of the vulnerable adult by any person or entity for any  
20 person's or entity's profit or advantage other than for the  
21 vulnerable adult's profit or advantage. "Financial exploitation"  
22 includes, but is not limited to:

23 (a) The use of deception, intimidation, or undue influence by a  
24 person or entity in a position of trust and confidence with a  
25 vulnerable adult to obtain or use the property, income, resources, or  
26 trust funds of the vulnerable adult for the benefit of a person or  
27 entity other than the vulnerable adult;

28 (b) The breach of a fiduciary duty, including, but not limited  
29 to, the misuse of a power of attorney, trust, or a guardianship  
30 appointment, that results in the unauthorized appropriation, sale, or  
31 transfer of the property, income, resources, or trust funds of the  
32 vulnerable adult for the benefit of a person or entity other than the  
33 vulnerable adult; or

34 (c) Obtaining or using a vulnerable adult's property, income,  
35 resources, or trust funds without lawful authority, by a person or  
36 entity who knows or clearly should know that the vulnerable adult  
37 lacks the capacity to consent to the release or use of his or her  
38 property, income, resources, or trust funds.

39 (8) "Financial institution" has the same meaning as in RCW  
40 30A.22.040 and 30A.22.041. For purposes of this chapter only,

1 "financial institution" also means a "broker-dealer" or "investment  
2 adviser" as defined in RCW 21.20.005.

3 (9) "Hospital" means a facility licensed under chapter 70.41,  
4 71.12, or 72.23 RCW and any employee, agent, officer, director, or  
5 independent contractor thereof.

6 (10) "Incapacitated person" means a person who is at a  
7 significant risk of personal or financial harm under RCW 11.88.010(1)  
8 (a), (b), (c), or (d).

9 (11) "Individual provider" means a person under contract with the  
10 department to provide services in the home under chapter 74.09 or  
11 74.39A RCW.

12 (12) "Interested person" means a person who demonstrates to the  
13 court's satisfaction that the person is interested in the welfare of  
14 the vulnerable adult, that the person has a good faith belief that  
15 the court's intervention is necessary, and that the vulnerable adult  
16 is unable, due to incapacity, undue influence, or duress at the time  
17 the petition is filed, to protect his or her own interests.

18 (13) "Mandated reporter" is an employee of the department; law  
19 enforcement officer; social worker; professional school personnel;  
20 individual provider; an employee of a facility; an operator of a  
21 facility; an employee of a social service, welfare, mental health,  
22 adult day health, adult day care, home health, home care, or hospice  
23 agency; county coroner or medical examiner; Christian Science  
24 practitioner; or health care provider subject to chapter 18.130 RCW.

25 (14) "Mechanical restraint" means any device attached or adjacent  
26 to the vulnerable adult's body that he or she cannot easily remove  
27 that restricts freedom of movement or normal access to his or her  
28 body. "Mechanical restraint" does not include the use of devices,  
29 materials, or equipment that are (a) medically authorized, as  
30 required, and (b) used in a manner that is consistent with federal or  
31 state licensing or certification requirements for facilities,  
32 hospitals, or programs authorized under chapter 71A.12 RCW.

33 (15) "Neglect" means (a) a pattern of conduct or inaction by a  
34 person or entity with a duty of care that fails to provide the goods  
35 and services that maintain physical or mental health of a vulnerable  
36 adult, or that fails to avoid or prevent physical or mental harm or  
37 pain to a vulnerable adult; or (b) an act or omission by a person or  
38 entity with a duty of care that demonstrates a serious disregard of  
39 consequences of such a magnitude as to constitute a clear and present

1 danger to the vulnerable adult's health, welfare, or safety,  
2 including but not limited to conduct prohibited under RCW 9A.42.100.

3 (16) "Permissive reporter" means any person, including, but not  
4 limited to, an employee of a financial institution, attorney, or  
5 volunteer in a facility or program providing services for vulnerable  
6 adults.

7 (17) "Physical restraint" means the application of physical force  
8 without the use of any device, for the purpose of restraining the  
9 free movement of a vulnerable adult's body. "Physical restraint" does  
10 not include (a) briefly holding without undue force a vulnerable  
11 adult in order to calm or comfort him or her, or (b) holding a  
12 vulnerable adult's hand to safely escort him or her from one area to  
13 another.

14 (18) "Protective services" means any services provided by the  
15 department to a vulnerable adult with the consent of the vulnerable  
16 adult, or the legal representative of the vulnerable adult, who has  
17 been abandoned, abused, financially exploited, neglected, or in a  
18 state of self-neglect. These services may include, but are not  
19 limited to case management, social casework, home care, placement,  
20 arranging for medical evaluations, psychological evaluations, day  
21 care, or referral for legal assistance.

22 (19) "Self-neglect" means the failure of a vulnerable adult, not  
23 living in a facility, to provide for himself or herself the goods and  
24 services necessary for the vulnerable adult's physical or mental  
25 health, and the absence of which impairs or threatens the vulnerable  
26 adult's well-being. This definition may include a vulnerable adult  
27 who is receiving services through home health, hospice, or a home  
28 care agency, or an individual provider when the neglect is not a  
29 result of inaction by that agency or individual provider.

30 (20) "Social worker" means:

31 (a) A social worker as defined in RCW 18.320.010(2); or

32 (b) Anyone engaged in a professional capacity during the regular  
33 course of employment in encouraging or promoting the health, welfare,  
34 support, or education of vulnerable adults, or providing social  
35 services to vulnerable adults, whether in an individual capacity or  
36 as an employee or agent of any public or private organization or  
37 institution.

38 (21) "Vulnerable adult" includes a person:

39 (a) Sixty years of age or older who has the functional, mental,  
40 or physical inability to care for himself or herself; or

- 1 (b) Found incapacitated under chapter 11.88 RCW; or  
2 (c) Who has a developmental disability as defined under RCW  
3 71A.10.020; or  
4 (d) Admitted to any facility; or  
5 (e) Receiving services from home health, hospice, or home care  
6 agencies licensed or required to be licensed under chapter 70.127  
7 RCW; or  
8 (f) Receiving services from an individual provider; or  
9 (g) Who self-directs his or her own care and receives services  
10 from a personal aide under chapter 74.39 RCW.

11 (22) "Vulnerable adult advocacy team" means a team of three or  
12 more persons who coordinate a multidisciplinary process, in  
13 compliance with this act and the protocol governed by section 13 of  
14 this act, for preventing, identifying, investigating, prosecuting,  
15 and providing services related to abuse, neglect, or financial  
16 exploitation of vulnerable adults.

17 NEW SECTION. Sec. 13. A new section is added to chapter 74.34  
18 RCW to read as follows:

19 (1) Each county is encouraged to develop a written protocol for  
20 handling criminal cases involving vulnerable adults. The protocol  
21 shall:

22 (a) Address the coordination of vulnerable adult mistreatment  
23 investigations among the following groups as appropriate and when  
24 available: The prosecutor's office; law enforcement; adult protective  
25 services; vulnerable adult advocacy centers; local advocacy groups;  
26 community victim advocacy programs; professional guardians; medical  
27 examiners or coroners; financial analysts or forensic accountants;  
28 social workers with experience or training related to the  
29 mistreatment of vulnerable adults; medical personnel; the state long-  
30 term care ombuds or a regional long-term care ombuds specifically  
31 designated by the state long-term care ombuds; developmental  
32 disabilities ombuds; the attorney general's office; and any other  
33 local agency involved in the criminal investigation of vulnerable  
34 adult mistreatment;

35 (b) Be developed by the prosecuting attorney with the assistance  
36 of the agencies referenced in this subsection;

37 (c) Provide that participation as a member of the vulnerable  
38 adult advocacy team is voluntary;

1 (d) Include a brief statement provided by the state long-term  
2 care ombuds, without alteration, that describes the confidentiality  
3 laws and policies governing the state long-term care ombuds program,  
4 and includes citations to relevant federal and state laws;

5 (e) Require the development and use of a confidentiality  
6 agreement, in compliance with this section, that includes, but is not  
7 limited to, terms governing the type of information that must be  
8 shared, and the means by which it is shared; the existing  
9 confidentiality obligations of team members; and the circumstances  
10 under which team members may disclose information outside of the  
11 team;

12 (f) Require the vulnerable adult advocacy team to make a good  
13 faith effort to obtain the participation of the state long-term care  
14 ombuds prior to addressing any issue related to abuse, neglect, or  
15 financial exploitation of a vulnerable adult residing in a long-term  
16 care facility during the relevant time period.

17 (2) Members of a vulnerable adult advocacy team must disclose to  
18 each other confidential or sensitive information and records, if the  
19 team member disclosing the information or records reasonably believes  
20 the disclosure is relevant to the duties of the vulnerable adult  
21 advocacy team. The disclosure and receipt of confidential information  
22 between vulnerable adult advocacy team members shall be governed by  
23 the requirements of this section, and by the county protocol  
24 developed pursuant to this section.

25 (3) Prior to participation, each member of the vulnerable adult  
26 advocacy team must sign a confidentiality agreement that requires  
27 compliance with all governing federal and state confidentiality laws.

28 (4) The information or records obtained shall be maintained in a  
29 manner that ensures the maximum protection of privacy and  
30 confidentiality rights.

31 (5) Information and records communicated or provided to  
32 vulnerable adult advocacy team members, as well as information and  
33 records created in the course of an investigation, shall be deemed  
34 private and confidential and shall be protected from discovery and  
35 disclosure by all applicable statutory and common law protections.  
36 The disclosed information may not be further disclosed except by law  
37 or by court order.

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