
HOUSE BILL 1732

State of Washington

66th Legislature

2019 Regular Session

By Representatives Valdez, Entenman, Ramos, Wylie, Gregerson, Dolan, Frame, Jenkins, Ortiz-Self, Orwall, Peterson, Ryu, Stanford, Kilduff, Santos, Thai, Senn, Macri, and Pollet

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1 AN ACT Relating to identifying and responding to bias-based
2 criminal offenses; amending RCW 9A.36.078, 9A.36.080, 2.56.030,
3 9.94A.030, 9A.36.083, 9A.46.060, 43.43.830, and 48.18.553; reenacting
4 and amending RCW 9.94A.515; and adding a new section to chapter 43.10
5 RCW.

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

7 **Sec. 1.** RCW 9A.36.078 and 1993 c 127 s 1 are each amended to
8 read as follows:

9 The legislature finds that crimes and threats against persons
10 because of their race, color, religion, ancestry, national origin,
11 gender, sexual orientation, or mental, physical, or sensory
12 (~~handicaps~~) disabilities are serious and increasing. The
13 legislature also finds that crimes and threats are often directed
14 against interracial couples and their children or couples of mixed
15 religions, colors, ancestries, or national origins because of bias
16 and bigotry against the race, color, religion, ancestry, or national
17 origin of one person in the couple or family. The legislature finds
18 that the state interest in preventing crimes and threats motivated by
19 bigotry and bias goes beyond the state interest in preventing other
20 felonies or misdemeanors such as criminal trespass, malicious
21 mischief, assault, or other crimes that are not motivated by hatred,

1 bigotry, and bias, and that prosecution of those other crimes
2 inadequately protects citizens from crimes and threats motivated by
3 bigotry and bias. Therefore, the legislature finds that protection of
4 those citizens from threats of harm due to bias and bigotry is a
5 compelling state interest.

6 The legislature also finds that in many cases, certain discrete
7 words or symbols are used to threaten the victims. Those discrete
8 words or symbols have historically or traditionally been used to
9 connote hatred or threats towards members of the class of which the
10 victim or a member of the victim's family or household is a member.
11 In particular, the legislature finds that cross burnings historically
12 and traditionally have been used to threaten, terrorize, intimidate,
13 and harass African Americans and their families. Cross burnings often
14 preceded lynchings, murders, burning of homes, and other acts of
15 terror. Further, Nazi swastikas historically and traditionally have
16 been used to threaten, terrorize, intimidate, and harass Jewish
17 people and their families. Swastikas symbolize the massive
18 destruction of the Jewish population, commonly known as the
19 holocaust. Therefore, the legislature finds that any person who burns
20 or attempts to burn a cross or displays a swastika on the property of
21 the victim or burns a cross or displays a swastika as part of a
22 series of acts directed towards a particular person, the person's
23 family or household members, or a particular group, knows or
24 reasonably should know that the cross burning or swastika may create
25 a reasonable fear of harm in the mind of the person, the person's
26 family and household members, or the group.

27 The legislature also finds that a hate crime committed against a
28 victim because of the victim's gender may be identified in the same
29 manner that a hate crime committed against a victim of another
30 protected group is identified. Affirmative indications of hatred
31 towards gender as a class is the predominant factor to consider.
32 Other factors to consider include the perpetrator's use of language,
33 slurs, or symbols expressing hatred towards the victim's gender as a
34 class; the severity of the attack including mutilation of the
35 victim's sexual organs; a history of similar attacks against victims
36 of the same gender by the perpetrator or a history of similar
37 incidents in the same area; a lack of provocation; an absence of any
38 other apparent motivation; and common sense.

39 The legislature recognizes that, since 2015, Washington state has
40 experienced a sharp increase in malicious harassment offenses, and,

1 in response, the legislature finds that it is vital to send the
2 message that Washington state is a hate free zone. Therefore, the
3 legislature intends to rename the offense to its more commonly
4 understood title of "hate crime offense" and create a
5 multidisciplinary working group to establish recommendations for best
6 practices for identifying and responding to hate crimes.

7 **Sec. 2.** RCW 9A.36.080 and 2010 c 119 s 1 are each amended to
8 read as follows:

9 (1) A person is guilty of (~~malicious harassment~~) a hate crime
10 offense if he or she maliciously and intentionally commits one of the
11 following acts because of his or her perception of the victim's race,
12 color, religion, ancestry, national origin, gender, sexual
13 orientation, or mental, physical, or sensory (~~handicap~~) disability:

14 (a) Causes physical injury to the victim or another person;

15 (b) Causes physical damage to or destruction of the property of
16 the victim or another person; or

17 (c) Threatens a specific person or group of persons and places
18 that person, or members of the specific group of persons, in
19 reasonable fear of harm to person or property. The fear must be a
20 fear that a reasonable person would have under all the circumstances.
21 For purposes of this section, a "reasonable person" is a reasonable
22 person who is a member of the victim's race, color, religion,
23 ancestry, national origin, gender, or sexual orientation, or who has
24 the same mental, physical, or sensory (~~handicap~~) disability as the
25 victim. Words alone do not constitute (~~malicious harassment~~) a hate
26 crime offense unless the context or circumstances surrounding the
27 words indicate the words are a threat. Threatening words do not
28 constitute (~~malicious harassment~~) a hate crime offense if it is
29 apparent to the victim that the person does not have the ability to
30 carry out the threat.

31 (2) In any prosecution for (~~malicious harassment~~) a hate crime
32 offense, unless evidence exists which explains to the trier of fact's
33 satisfaction that the person did not intend to threaten the victim or
34 victims, the trier of fact may infer that the person intended to
35 threaten a specific victim or group of victims because of the
36 person's perception of the victim's or victims' race, color,
37 religion, ancestry, national origin, gender, sexual orientation, or
38 mental, physical, or sensory (~~handicap~~) disability if the person
39 commits one of the following acts:

1 (a) Burns a cross on property of a victim who is or whom the
2 actor perceives to be of African American heritage; or

3 (b) Defaces property of a victim who is or whom the actor
4 perceives to be of Jewish heritage by defacing the property with a
5 swastika.

6 This subsection only applies to the creation of a reasonable
7 inference for evidentiary purposes. This subsection does not restrict
8 the state's ability to prosecute a person under subsection (1) of
9 this section when the facts of a particular case do not fall within
10 (a) or (b) of this subsection.

11 (3) It is not a defense that the accused was mistaken that the
12 victim was a member of a certain race, color, religion, ancestry,
13 national origin, gender, or sexual orientation, or had a mental,
14 physical, or sensory (~~handicap~~) disability.

15 (4) Evidence of expressions or associations of the accused may
16 not be introduced as substantive evidence at trial unless the
17 evidence specifically relates to the crime charged. Nothing in this
18 chapter shall affect the rules of evidence governing impeachment of a
19 witness.

20 (5) Every person who commits another crime during the commission
21 of a crime under this section may be punished and prosecuted for the
22 other crime separately.

23 (6) For the purposes of this section:

24 (a) "Sexual orientation" has the same meaning as in RCW
25 49.60.040.

26 (b) "Threat" means to communicate, directly or indirectly, the
27 intent to:

28 (i) Cause bodily injury immediately or in the future to the
29 person threatened or to any other person; or

30 (ii) Cause physical damage immediately or in the future to the
31 property of a person threatened or that of any other person.

32 (7) (~~Malicious harassment~~) Commission of a hate crime offense
33 is a class C felony.

34 (8) The penalties provided in this section for (~~malicious~~
35 ~~harassment~~) hate crime offenses do not preclude the victims from
36 seeking any other remedies otherwise available under law.

37 (9) Nothing in this section confers or expands any civil rights
38 or protections to any group or class identified under this section,
39 beyond those rights or protections that exist under the federal or
40 state Constitution or the civil laws of the state of Washington.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.10

2 RCW to read as follows:

3 (1) The office of the attorney general must, by September 1,
4 2019, coordinate and convene a multidisciplinary hate crime advisory
5 working group for the purpose of developing strategies toward raising
6 awareness of and appropriate responses to hate crime offenses. The
7 working group must be a collaboration between governmental entities,
8 members of vulnerable communities, and persons with lived experience
9 relating to hate crimes.

10 (2) The group's membership must include, at a minimum,
11 representatives of:

12 (a) Organizations representing protected groups under RCW
13 9A.36.080;

14 (b) Faith organizations;

15 (c) Victims' rights organizations;

16 (d) The office of the superintendent of public instruction;

17 (e) The office of the governor;

18 (f) The office of the attorney general;

19 (g) Law enforcement, including representatives of tribal police;

20 (h) Emergency dispatchers;

21 (i) The criminal justice training commission;

22 (j) Prosecutors; and

23 (k) Criminal defense attorneys.

24 (3) The work group must develop recommended best practices for:

25 (a) Preventing hate crimes through public awareness and antibias
26 campaigns;

27 (b) Increasing identification and reporting of hate crimes,
28 including recommendations for standardization of data collection and
29 reporting;

30 (c) Strengthening law enforcement and prosecutorial responses to
31 hate crime offenses through enhanced training and other measures; and

32 (d) Supporting victims of hate crime offenses, and in particular,
33 ways of strengthening law enforcement collaboration with, and victim
34 connection to, community advocacy and support organizations.

35 (4) The working group is encouraged to solicit participation and
36 feedback from nonmember groups and individuals with relevant
37 experience, as needed.

38 (5) The working group must hold at least four meetings. By July
39 1, 2020, the office of the attorney general must report the working

1 group's recommendations to the governor and the legislature, in
2 compliance with RCW 43.01.036.

3 **Sec. 4.** RCW 2.56.030 and 2009 c 479 s 2 are each amended to read
4 as follows:

5 The administrator for the courts shall, under the supervision and
6 direction of the chief justice:

7 (1) Examine the administrative methods and systems employed in
8 the offices of the judges, clerks, stenographers, and employees of
9 the courts and make recommendations, through the chief justice, for
10 the improvement of the same;

11 (2) Examine the state of the dockets of the courts and determine
12 the need for assistance by any court;

13 (3) Make recommendations to the chief justice relating to the
14 assignment of judges where courts are in need of assistance and carry
15 out the direction of the chief justice as to the assignments of
16 judges to counties and districts where the courts are in need of
17 assistance;

18 (4) Collect and compile statistical and other data and make
19 reports of the business transacted by the courts and transmit the
20 same to the chief justice to the end that proper action may be taken
21 in respect thereto;

22 (5) Prepare and submit budget estimates of state appropriations
23 necessary for the maintenance and operation of the judicial system
24 and make recommendations in respect thereto;

25 (6) Collect statistical and other data and make reports relating
26 to the expenditure of public moneys, state and local, for the
27 maintenance and operation of the judicial system and the offices
28 connected therewith;

29 (7) Obtain reports from clerks of courts in accordance with law
30 or rules adopted by the supreme court of this state on cases and
31 other judicial business in which action has been delayed beyond
32 periods of time specified by law or rules of court and make report
33 thereof to supreme court of this state;

34 (8) Act as secretary of the judicial conference referred to in
35 RCW 2.56.060;

36 (9) Submit annually, as of February 1st, to the chief justice, a
37 report of the activities of the administrator's office for the
38 preceding calendar year including activities related to courthouse
39 security;

1 (10) Administer programs and standards for the training and
2 education of judicial personnel;

3 (11) Examine the need for new superior court and district court
4 judge positions under an objective workload analysis. The results of
5 the objective workload analysis shall be reviewed by the board for
6 judicial administration which shall make recommendations to the
7 legislature. It is the intent of the legislature that an objective
8 workload analysis become the basis for creating additional district
9 and superior court positions, and recommendations should address that
10 objective;

11 (12) Provide staff to the judicial retirement account plan under
12 chapter 2.14 RCW;

13 (13) Attend to such other matters as may be assigned by the
14 supreme court of this state;

15 (14) Within available funds, develop a curriculum for a general
16 understanding of child development, placement, and treatment
17 resources, as well as specific legal skills and knowledge of relevant
18 statutes including chapters 13.32A, 13.34, and 13.40 RCW, cases,
19 court rules, interviewing skills, and special needs of the abused or
20 neglected child. This curriculum shall be completed and made
21 available to all juvenile court judges, court personnel, and service
22 providers and be updated yearly to reflect changes in statutes, court
23 rules, or case law;

24 (15) Develop, in consultation with the entities set forth in RCW
25 2.56.150(3), a comprehensive statewide curriculum for persons who act
26 as guardians ad litem under Title 13 or 26 RCW. The curriculum shall
27 be made available July 1, 2008, and include specialty sections on
28 child development, child sexual abuse, child physical abuse, child
29 neglect, domestic violence, clinical and forensic investigative and
30 interviewing techniques, family reconciliation and mediation
31 services, and relevant statutory and legal requirements. The
32 curriculum shall be made available to all superior court judges,
33 court personnel, and all persons who act as guardians ad litem;

34 (16) Develop a curriculum for a general understanding of (~~crimes~~
35 ~~of malicious harassment~~) hate crime offenses, as well as specific
36 legal skills and knowledge of RCW 9A.36.080, relevant cases, court
37 rules, and the special needs of (~~malicious harassment~~) hate crime
38 offense victims. This curriculum shall be made available to all
39 superior court and court of appeals judges and to all justices of the
40 supreme court;

1 (17) Develop, in consultation with the criminal justice training
2 commission and the commissions established under chapters 43.113,
3 43.115, and 43.117 RCW, a curriculum for a general understanding of
4 ethnic and cultural diversity and its implications for working with
5 youth of color and their families. The curriculum shall be available
6 to all superior court judges and court commissioners assigned to
7 juvenile court, and other court personnel. Ethnic and cultural
8 diversity training shall be provided annually so as to incorporate
9 cultural sensitivity and awareness into the daily operation of
10 juvenile courts statewide;

11 (18) Authorize the use of closed circuit television and other
12 electronic equipment in judicial proceedings. The administrator shall
13 promulgate necessary standards and procedures and shall provide
14 technical assistance to courts as required;

15 (19) Develop a Washington family law handbook in accordance with
16 RCW 2.56.180;

17 (20) Administer state funds for improving the operation of the
18 courts and provide support for court coordinating councils, under the
19 direction of the board for judicial administration;

20 (21) Administer the family and juvenile court improvement grant
21 program;

22 (22)(a) Administer and distribute amounts appropriated under RCW
23 43.08.250(2) for district court judges' and qualifying elected
24 municipal court judges' salary contributions. The administrator for
25 the courts shall develop a distribution formula for these amounts
26 that does not differentiate between district and elected municipal
27 court judges.

28 (b) A city qualifies for state contribution of elected municipal
29 court judges' salaries under (a) of this subsection if:

30 (i) The judge is serving in an elected position;

31 (ii) The city has established by ordinance that a full-time judge
32 is compensated at a rate equivalent to at least ninety-five percent,
33 but not more than one hundred percent, of a district court judge
34 salary or for a part-time judge on a pro rata basis the same
35 equivalent; and

36 (iii) The city has certified to the office of the administrator
37 for the courts that the conditions in (b)(i) and (ii) of this
38 subsection have been met;

39 (23) Subject to the availability of funds specifically
40 appropriated therefor, assist courts in the development and

1 implementation of language assistance plans required under RCW
2 2.43.090.

3 **Sec. 5.** RCW 9.94A.030 and 2018 c 166 s 3 are each amended to
4 read as follows:

5 Unless the context clearly requires otherwise, the definitions in
6 this section apply throughout this chapter.

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

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

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

19 (4) "Community corrections officer" means an employee of the
20 department who is responsible for carrying out specific duties in
21 supervision of sentenced offenders and monitoring of sentence
22 conditions.

23 (5) "Community custody" means that portion of an offender's
24 sentence of confinement in lieu of earned release time or imposed as
25 part of a sentence under this chapter and served in the community
26 subject to controls placed on the offender's movement and activities
27 by the department.

28 (6) "Community protection zone" means the area within eight
29 hundred eighty feet of the facilities and grounds of a public or
30 private school.

31 (7) "Community restitution" means compulsory service, without
32 compensation, performed for the benefit of the community by the
33 offender.

34 (8) "Confinement" means total or partial confinement.

35 (9) "Conviction" means an adjudication of guilt pursuant to Title
36 10 or 13 RCW and includes a verdict of guilty, a finding of guilty,
37 and acceptance of a plea of guilty.

38 (10) "Crime-related prohibition" means an order of a court
39 prohibiting conduct that directly relates to the circumstances of the

1 crime for which the offender has been convicted, and shall not be
2 construed to mean orders directing an offender affirmatively to
3 participate in rehabilitative programs or to otherwise perform
4 affirmative conduct. However, affirmative acts necessary to monitor
5 compliance with the order of a court may be required by the
6 department.

7 (11) "Criminal history" means the list of a defendant's prior
8 convictions and juvenile adjudications, whether in this state, in
9 federal court, or elsewhere, and any issued certificates of
10 restoration of opportunity pursuant to RCW 9.97.020.

11 (a) The history shall include, where known, for each conviction
12 (i) whether the defendant has been placed on probation and the length
13 and terms thereof; and (ii) whether the defendant has been
14 incarcerated and the length of incarceration.

15 (b) A conviction may be removed from a defendant's criminal
16 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,
17 9.95.240, or a similar out-of-state statute, or if the conviction has
18 been vacated pursuant to a governor's pardon.

19 (c) The determination of a defendant's criminal history is
20 distinct from the determination of an offender score. A prior
21 conviction that was not included in an offender score calculated
22 pursuant to a former version of the sentencing reform act remains
23 part of the defendant's criminal history.

24 (12) "Criminal street gang" means any ongoing organization,
25 association, or group of three or more persons, whether formal or
26 informal, having a common name or common identifying sign or symbol,
27 having as one of its primary activities the commission of criminal
28 acts, and whose members or associates individually or collectively
29 engage in or have engaged in a pattern of criminal street gang
30 activity. This definition does not apply to employees engaged in
31 concerted activities for their mutual aid and protection, or to the
32 activities of labor and bona fide nonprofit organizations or their
33 members or agents.

34 (13) "Criminal street gang associate or member" means any person
35 who actively participates in any criminal street gang and who
36 intentionally promotes, furthers, or assists in any criminal act by
37 the criminal street gang.

38 (14) "Criminal street gang-related offense" means any felony or
39 misdemeanor offense, whether in this state or elsewhere, that is
40 committed for the benefit of, at the direction of, or in association

1 with any criminal street gang, or is committed with the intent to
2 promote, further, or assist in any criminal conduct by the gang, or
3 is committed for one or more of the following reasons:

4 (a) To gain admission, prestige, or promotion within the gang;

5 (b) To increase or maintain the gang's size, membership,
6 prestige, dominance, or control in any geographical area;

7 (c) To exact revenge or retribution for the gang or any member of
8 the gang;

9 (d) To obstruct justice, or intimidate or eliminate any witness
10 against the gang or any member of the gang;

11 (e) To directly or indirectly cause any benefit, aggrandizement,
12 gain, profit, or other advantage for the gang, its reputation,
13 influence, or membership; or

14 (f) To provide the gang with any advantage in, or any control or
15 dominance over any criminal market sector, including, but not limited
16 to, manufacturing, delivering, or selling any controlled substance
17 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
18 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88
19 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual
20 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter
21 9.68 RCW).

22 (15) "Day fine" means a fine imposed by the sentencing court that
23 equals the difference between the offender's net daily income and the
24 reasonable obligations that the offender has for the support of the
25 offender and any dependents.

26 (16) "Day reporting" means a program of enhanced supervision
27 designed to monitor the offender's daily activities and compliance
28 with sentence conditions, and in which the offender is required to
29 report daily to a specific location designated by the department or
30 the sentencing court.

31 (17) "Department" means the department of corrections.

32 (18) "Determinate sentence" means a sentence that states with
33 exactitude the number of actual years, months, or days of total
34 confinement, of partial confinement, of community custody, the number
35 of actual hours or days of community restitution work, or dollars or
36 terms of a legal financial obligation. The fact that an offender
37 through earned release can reduce the actual period of confinement
38 shall not affect the classification of the sentence as a determinate
39 sentence.

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

13 (20) "Domestic violence" has the same meaning as defined in RCW
14 10.99.020 and 26.50.010.

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

19 (22) "Drug offense" means:

20 (a) Any felony violation of chapter 69.50 RCW except possession
21 of a controlled substance (RCW 69.50.4013) or forged prescription for
22 a controlled substance (RCW 69.50.403);

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

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

29 (23) "Earned release" means earned release from confinement as
30 provided in RCW 9.94A.728.

31 (24) "Electronic monitoring" means tracking the location of an
32 individual, whether pretrial or posttrial, through the use of
33 technology that is capable of determining or identifying the
34 monitored individual's presence or absence at a particular location
35 including, but not limited to:

36 (a) Radio frequency signaling technology, which detects if the
37 monitored individual is or is not at an approved location and
38 notifies the monitoring agency of the time that the monitored
39 individual either leaves the approved location or tampers with or
40 removes the monitoring device; or

1 (b) Active or passive global positioning system technology, which
2 detects the location of the monitored individual and notifies the
3 monitoring agency of the monitored individual's location.

4 (25) "Escape" means:

5 (a) Sexually violent predator escape (RCW 9A.76.115), escape in
6 the first degree (RCW 9A.76.110), escape in the second degree (RCW
7 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
8 willful failure to return from work release (RCW 72.65.070), or
9 willful failure to be available for supervision by the department
10 while in community custody (RCW 72.09.310); or

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

14 (26) "Felony traffic offense" means:

15 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
16 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-
17 run injury-accident (RCW 46.52.020(4)), felony driving while under
18 the influence of intoxicating liquor or any drug (RCW 46.61.502(6)),
19 or felony physical control of a vehicle while under the influence of
20 intoxicating liquor or any drug (RCW 46.61.504(6)); or

21 (b) Any federal or out-of-state conviction for an offense that
22 under the laws of this state would be a felony classified as a felony
23 traffic offense under (a) of this subsection.

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

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

30 (29) "Home detention" is a subset of electronic monitoring and
31 means a program of partial confinement available to offenders wherein
32 the offender is confined in a private residence twenty-four hours a
33 day, unless an absence from the residence is approved, authorized, or
34 otherwise permitted in the order by the court or other supervising
35 agency that ordered home detention, and the offender is subject to
36 electronic monitoring.

37 (30) "Homelessness" or "homeless" means a condition where an
38 individual lacks a fixed, regular, and adequate nighttime residence
39 and who has a primary nighttime residence that is:

1 (a) A supervised, publicly or privately operated shelter designed
2 to provide temporary living accommodations;

3 (b) A public or private place not designed for, or ordinarily
4 used as, a regular sleeping accommodation for human beings; or

5 (c) A private residence where the individual stays as a transient
6 invitee.

7 (31) "Legal financial obligation" means a sum of money that is
8 ordered by a superior court of the state of Washington for legal
9 financial obligations which may include restitution to the victim,
10 statutorily imposed crime victims' compensation fees as assessed
11 pursuant to RCW 7.68.035, court costs, county or interlocal drug
12 funds, court-appointed attorneys' fees, and costs of defense, fines,
13 and any other financial obligation that is assessed to the offender
14 as a result of a felony conviction. Upon conviction for vehicular
15 assault while under the influence of intoxicating liquor or any drug,
16 RCW 46.61.522(1)(b), or vehicular homicide while under the influence
17 of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal
18 financial obligations may also include payment to a public agency of
19 the expense of an emergency response to the incident resulting in the
20 conviction, subject to RCW 38.52.430.

21 (32) "Minor child" means a biological or adopted child of the
22 offender who is under age eighteen at the time of the offender's
23 current offense.

24 (33) "Most serious offense" means any of the following felonies
25 or a felony attempt to commit any of the following felonies:

26 (a) Any felony defined under any law as a class A felony or
27 criminal solicitation of or criminal conspiracy to commit a class A
28 felony;

29 (b) Assault in the second degree;

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

31 (d) Child molestation in the second degree;

32 (e) Controlled substance homicide;

33 (f) Extortion in the first degree;

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

35 (h) Indecent liberties;

36 (i) Kidnapping in the second degree;

37 (j) Leading organized crime;

38 (k) Manslaughter in the first degree;

39 (l) Manslaughter in the second degree;

40 (m) Promoting prostitution in the first degree;

1 (n) Rape in the third degree;
2 (o) Robbery in the second degree;
3 (p) Sexual exploitation;
4 (q) Vehicular assault, when caused by the operation or driving of
5 a vehicle by a person while under the influence of intoxicating
6 liquor or any drug or by the operation or driving of a vehicle in a
7 reckless manner;
8 (r) Vehicular homicide, when proximately caused by the driving of
9 any vehicle by any person while under the influence of intoxicating
10 liquor or any drug as defined by RCW 46.61.502, or by the operation
11 of any vehicle in a reckless manner;
12 (s) Any other class B felony offense with a finding of sexual
13 motivation;
14 (t) Any other felony with a deadly weapon verdict under RCW
15 9.94A.825;
16 (u) Any felony offense in effect at any time prior to December 2,
17 1993, that is comparable to a most serious offense under this
18 subsection, or any federal or out-of-state conviction for an offense
19 that under the laws of this state would be a felony classified as a
20 most serious offense under this subsection;
21 (v) (i) A prior conviction for indecent liberties under RCW
22 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex.
23 sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b),
24 and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW
25 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986,
26 until July 1, 1988;
27 (ii) A prior conviction for indecent liberties under RCW
28 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
29 if: (A) The crime was committed against a child under the age of
30 fourteen; or (B) the relationship between the victim and perpetrator
31 is included in the definition of indecent liberties under RCW
32 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27,
33 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25,
34 1993, through July 27, 1997;
35 (w) Any out-of-state conviction for a felony offense with a
36 finding of sexual motivation if the minimum sentence imposed was ten
37 years or more; provided that the out-of-state felony offense must be
38 comparable to a felony offense under this title and Title 9A RCW and
39 the out-of-state definition of sexual motivation must be comparable
40 to the definition of sexual motivation contained in this section.

1 (34) "Nonviolent offense" means an offense which is not a violent
2 offense.

3 (35) "Offender" means a person who has committed a felony
4 established by state law and is eighteen years of age or older or is
5 less than eighteen years of age but whose case is under superior
6 court jurisdiction under RCW 13.04.030 or has been transferred by the
7 appropriate juvenile court to a criminal court pursuant to RCW
8 13.40.110. In addition, for the purpose of community custody
9 requirements under this chapter, "offender" also means a misdemeanor
10 or gross misdemeanor probationer ordered by a superior court to
11 probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and
12 supervised by the department pursuant to RCW 9.94A.501 and
13 9.94A.5011. Throughout this chapter, the terms "offender" and
14 "defendant" are used interchangeably.

15 (36) "Partial confinement" means confinement for no more than one
16 year in a facility or institution operated or utilized under contract
17 by the state or any other unit of government, or, if home detention,
18 electronic monitoring, or work crew has been ordered by the court or
19 home detention has been ordered by the department as part of the
20 parenting program or the graduated reentry program, in an approved
21 residence, for a substantial portion of each day with the balance of
22 the day spent in the community. Partial confinement includes work
23 release, home detention, work crew, electronic monitoring, and a
24 combination of work crew, electronic monitoring, and home detention.

25 (37) "Pattern of criminal street gang activity" means:

26 (a) The commission, attempt, conspiracy, or solicitation of, or
27 any prior juvenile adjudication of or adult conviction of, two or
28 more of the following criminal street gang-related offenses:

29 (i) Any "serious violent" felony offense as defined in this
30 section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a
31 Child 1 (RCW 9A.36.120);

32 (ii) Any "violent" offense as defined by this section, excluding
33 Assault of a Child 2 (RCW 9A.36.130);

34 (iii) Deliver or Possession with Intent to Deliver a Controlled
35 Substance (chapter 69.50 RCW);

36 (iv) Any violation of the firearms and dangerous weapon act
37 (chapter 9.41 RCW);

38 (v) Theft of a Firearm (RCW 9A.56.300);

39 (vi) Possession of a Stolen Firearm (RCW 9A.56.310);

40 (vii) (~~Malicious Harassment~~) Hate Crime (RCW 9A.36.080);

1 (viii) Harassment where a subsequent violation or deadly threat
2 is made (RCW 9A.46.020(2)(b));

3 (ix) Criminal Gang Intimidation (RCW 9A.46.120);

4 (x) Any felony conviction by a person eighteen years of age or
5 older with a special finding of involving a juvenile in a felony
6 offense under RCW 9.94A.833;

7 (xi) Residential Burglary (RCW 9A.52.025);

8 (xii) Burglary 2 (RCW 9A.52.030);

9 (xiii) Malicious Mischief 1 (RCW 9A.48.070);

10 (xiv) Malicious Mischief 2 (RCW 9A.48.080);

11 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);

12 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);

13 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW
14 9A.56.070);

15 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
16 9A.56.075);

17 (xix) Extortion 1 (RCW 9A.56.120);

18 (xx) Extortion 2 (RCW 9A.56.130);

19 (xxi) Intimidating a Witness (RCW 9A.72.110);

20 (xxii) Tampering with a Witness (RCW 9A.72.120);

21 (xxiii) Reckless Endangerment (RCW 9A.36.050);

22 (xxiv) Coercion (RCW 9A.36.070);

23 (xxv) Harassment (RCW 9A.46.020); or

24 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);

25 (b) That at least one of the offenses listed in (a) of this
26 subsection shall have occurred after July 1, 2008;

27 (c) That the most recent committed offense listed in (a) of this
28 subsection occurred within three years of a prior offense listed in
29 (a) of this subsection; and

30 (d) Of the offenses that were committed in (a) of this
31 subsection, the offenses occurred on separate occasions or were
32 committed by two or more persons.

33 (38) "Persistent offender" is an offender who:

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

36 (ii) Has, before the commission of the offense under (a) of this
37 subsection, been convicted as an offender on at least two separate
38 occasions, whether in this state or elsewhere, of felonies that under
39 the laws of this state would be considered most serious offenses and
40 would be included in the offender score under RCW 9.94A.525; provided

1 that of the two or more previous convictions, at least one conviction
2 must have occurred before the commission of any of the other most
3 serious offenses for which the offender was previously convicted; or

4 (b) (i) Has been convicted of: (A) Rape in the first degree, rape
5 of a child in the first degree, child molestation in the first
6 degree, rape in the second degree, rape of a child in the second
7 degree, or indecent liberties by forcible compulsion; (B) any of the
8 following offenses with a finding of sexual motivation: Murder in the
9 first degree, murder in the second degree, homicide by abuse,
10 kidnapping in the first degree, kidnapping in the second degree,
11 assault in the first degree, assault in the second degree, assault of
12 a child in the first degree, assault of a child in the second degree,
13 or burglary in the first degree; or (C) an attempt to commit any
14 crime listed in this subsection (38) (b) (i); and

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

27 (39) "Predatory" means: (a) The perpetrator of the crime was a
28 stranger to the victim, as defined in this section; (b) the
29 perpetrator established or promoted a relationship with the victim
30 prior to the offense and the victimization of the victim was a
31 significant reason the perpetrator established or promoted the
32 relationship; or (c) the perpetrator was: (i) A teacher, counselor,
33 volunteer, or other person in authority in any public or private
34 school and the victim was a student of the school under his or her
35 authority or supervision. For purposes of this subsection, "school"
36 does not include home-based instruction as defined in RCW
37 28A.225.010; (ii) a coach, trainer, volunteer, or other person in
38 authority in any recreational activity and the victim was a
39 participant in the activity under his or her authority or
40 supervision; (iii) a pastor, elder, volunteer, or other person in

1 authority in any church or religious organization, and the victim was
2 a member or participant of the organization under his or her
3 authority; or (iv) a teacher, counselor, volunteer, or other person
4 in authority providing home-based instruction and the victim was a
5 student receiving home-based instruction while under his or her
6 authority or supervision. For purposes of this subsection: (A) "Home-
7 based instruction" has the same meaning as defined in RCW
8 28A.225.010; and (B) "teacher, counselor, volunteer, or other person
9 in authority" does not include the parent or legal guardian of the
10 victim.

11 (40) "Private school" means a school regulated under chapter
12 28A.195 or 28A.205 RCW.

13 (41) "Public school" has the same meaning as in RCW 28A.150.010.

14 (42) "Repetitive domestic violence offense" means any:

15 (a)(i) Domestic violence assault that is not a felony offense
16 under RCW 9A.36.041;

17 (ii) Domestic violence violation of a no-contact order under
18 chapter 10.99 RCW that is not a felony offense;

19 (iii) Domestic violence violation of a protection order under
20 chapter 26.09, 26.10, 26.26, or 26.50 RCW that is not a felony
21 offense;

22 (iv) Domestic violence harassment offense under RCW 9A.46.020
23 that is not a felony offense; or

24 (v) Domestic violence stalking offense under RCW 9A.46.110 that
25 is not a felony offense; or

26 (b) Any federal, out-of-state, tribal court, military, county, or
27 municipal conviction for an offense that under the laws of this state
28 would be classified as a repetitive domestic violence offense under
29 (a) of this subsection.

30 (43) "Restitution" means a specific sum of money ordered by the
31 sentencing court to be paid by the offender to the court over a
32 specified period of time as payment of damages. The sum may include
33 both public and private costs.

34 (44) "Risk assessment" means the application of the risk
35 instrument recommended to the department by the Washington state
36 institute for public policy as having the highest degree of
37 predictive accuracy for assessing an offender's risk of reoffense.

38 (45) "Serious traffic offense" means:

39 (a) Nonfelony driving while under the influence of intoxicating
40 liquor or any drug (RCW 46.61.502), nonfelony actual physical control

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

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

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

- 9 (a) (i) Murder in the first degree;
10 (ii) Homicide by abuse;
11 (iii) Murder in the second degree;
12 (iv) Manslaughter in the first degree;
13 (v) Assault in the first degree;
14 (vi) Kidnapping in the first degree;
15 (vii) Rape in the first degree;
16 (viii) Assault of a child in the first degree; or
17 (ix) An attempt, criminal solicitation, or criminal conspiracy to
18 commit one of these felonies; or

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

22 (47) "Sex offense" means:

- 23 (a) (i) A felony that is a violation of chapter 9A.44 RCW other
24 than RCW 9A.44.132;
25 (ii) A violation of RCW 9A.64.020;
26 (iii) A felony that is a violation of chapter 9.68A RCW other
27 than RCW 9.68A.080;
28 (iv) A felony that is, under chapter 9A.28 RCW, a criminal
29 attempt, criminal solicitation, or criminal conspiracy to commit such
30 crimes; or
31 (v) A felony violation of RCW 9A.44.132(1) (failure to register
32 as a sex offender) if the person has been convicted of violating RCW
33 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130
34 prior to June 10, 2010, on at least one prior occasion;

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

38 (c) A felony with a finding of sexual motivation under RCW
39 9.94A.835 or 13.40.135; or

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

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

7 (49) "Standard sentence range" means the sentencing court's
8 discretionary range in imposing a nonappealable sentence.

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

14 (51) "Stranger" means that the victim did not know the offender
15 twenty-four hours before the offense.

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

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

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

29 (55) "Violent offense" means:

30 (a) Any of the following felonies:

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

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

35 (iii) Manslaughter in the first degree;

36 (iv) Manslaughter in the second degree;

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

38 (vi) Kidnapping in the second degree;

39 (vii) Arson in the second degree;

40 (viii) Assault in the second degree;

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

9 (xiv) Vehicular homicide, when proximately caused by the driving
10 of any vehicle by any person while under the influence of
11 intoxicating liquor or any drug as defined by RCW 46.61.502, or by
12 the operation of any vehicle in a reckless manner;

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

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

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

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

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

32 **Sec. 6.** RCW 9.94A.515 and 2018 c 236 s 721 and 2018 c 7 s 7 are
33 each reenacted and amended to read as follows:

34 TABLE 2
35 CRIMES INCLUDED WITHIN EACH
36 SERIOUSNESS LEVEL
37 XVI Aggravated Murder 1 (RCW 10.95.020)

1 XV Homicide by abuse (RCW 9A.32.055)
2 Malicious explosion 1 (RCW
3 70.74.280(1))
4 Murder 1 (RCW 9A.32.030)
5 XIV Murder 2 (RCW 9A.32.050)
6 Trafficking 1 (RCW 9A.40.100(1))
7 XIII Malicious explosion 2 (RCW
8 70.74.280(2))
9 Malicious placement of an explosive 1
10 (RCW 70.74.270(1))
11 XII Assault 1 (RCW 9A.36.011)
12 Assault of a Child 1 (RCW 9A.36.120)
13 Malicious placement of an imitation
14 device 1 (RCW 70.74.272(1)(a))
15 Promoting Commercial Sexual Abuse of
16 a Minor (RCW 9.68A.101)
17 Rape 1 (RCW 9A.44.040)
18 Rape of a Child 1 (RCW 9A.44.073)
19 Trafficking 2 (RCW 9A.40.100(3))
20 XI Manslaughter 1 (RCW 9A.32.060)
21 Rape 2 (RCW 9A.44.050)
22 Rape of a Child 2 (RCW 9A.44.076)
23 Vehicular Homicide, by being under the
24 influence of intoxicating liquor or
25 any drug (RCW 46.61.520)
26 Vehicular Homicide, by the operation of
27 any vehicle in a reckless manner
28 (RCW 46.61.520)
29 X Child Molestation 1 (RCW 9A.44.083)
30 Criminal Mistreatment 1 (RCW
31 9A.42.020)
32 Indecent Liberties (with forcible
33 compulsion) (RCW
34 9A.44.100(1)(a))
35 Kidnapping 1 (RCW 9A.40.020)

1 Leading Organized Crime (RCW
2 9A.82.060(1)(a))
3 Malicious explosion 3 (RCW
4 70.74.280(3))
5 Sexually Violent Predator Escape (RCW
6 9A.76.115)
7 IX Abandonment of Dependent Person 1
8 (RCW 9A.42.060)
9 Assault of a Child 2 (RCW 9A.36.130)
10 Explosive devices prohibited (RCW
11 70.74.180)
12 Hit and Run—Death (RCW
13 46.52.020(4)(a))
14 Homicide by Watercraft, by being under
15 the influence of intoxicating liquor
16 or any drug (RCW 79A.60.050)
17 Inciting Criminal Profiteering (RCW
18 9A.82.060(1)(b))
19 Malicious placement of an explosive 2
20 (RCW 70.74.270(2))
21 Robbery 1 (RCW 9A.56.200)
22 Sexual Exploitation (RCW 9.68A.040)
23 VIII Arson 1 (RCW 9A.48.020)
24 Commercial Sexual Abuse of a Minor
25 (RCW 9.68A.100)
26 Homicide by Watercraft, by the
27 operation of any vessel in a reckless
28 manner (RCW 79A.60.050)
29 Manslaughter 2 (RCW 9A.32.070)
30 Promoting Prostitution 1 (RCW
31 9A.88.070)
32 Theft of Ammonia (RCW 69.55.010)
33 VII Air bag diagnostic systems (causing
34 bodily injury or death) (RCW
35 46.37.660(2)(b))

1 Air bag replacement requirements
2 (causing bodily injury or death)
3 (RCW 46.37.660(1)(b))
4 Burglary 1 (RCW 9A.52.020)
5 Child Molestation 2 (RCW 9A.44.086)
6 Civil Disorder Training (RCW
7 9A.48.120)
8 Dealing in depictions of minor engaged
9 in sexually explicit conduct 1
10 (RCW 9.68A.050(1))
11 Drive-by Shooting (RCW 9A.36.045)
12 Homicide by Watercraft, by disregard
13 for the safety of others (RCW
14 79A.60.050)
15 Indecent Liberties (without forcible
16 compulsion) (RCW 9A.44.100(1)
17 (b) and (c))
18 Introducing Contraband 1 (RCW
19 9A.76.140)
20 Malicious placement of an explosive 3
21 (RCW 70.74.270(3))
22 Manufacture or import counterfeit,
23 nonfunctional, damaged, or
24 previously deployed air bag
25 (causing bodily injury or death)
26 (RCW 46.37.650(1)(b))
27 Negligently Causing Death By Use of a
28 Signal Preemption Device (RCW
29 46.37.675)
30 Sell, install, or reinstall counterfeit,
31 nonfunctional, damaged, or
32 previously deployed airbag (RCW
33 46.37.650(2)(b))
34 Sending, bringing into state depictions
35 of minor engaged in sexually
36 explicit conduct 1 (RCW
37 9.68A.060(1))

1 Unlawful Possession of a Firearm in the
2 first degree (RCW 9A.1.040(1))
3 Use of a Machine Gun or Bump-fire
4 Stock in Commission of a Felony
5 (RCW 9A.1.225)
6 Vehicular Homicide, by disregard for
7 the safety of others (RCW
8 46.61.520)
9 VI Bail Jumping with Murder 1 (RCW
10 9A.76.170(3)(a))
11 Bribery (RCW 9A.68.010)
12 Incest 1 (RCW 9A.64.020(1))
13 Intimidating a Judge (RCW 9A.72.160)
14 Intimidating a Juror/Witness (RCW
15 9A.72.110, 9A.72.130)
16 Malicious placement of an imitation
17 device 2 (RCW 70.74.272(1)(b))
18 Possession of Depictions of a Minor
19 Engaged in Sexually Explicit
20 Conduct 1 (RCW 9.68A.070(1))
21 Rape of a Child 3 (RCW 9A.44.079)
22 Theft of a Firearm (RCW 9A.56.300)
23 Theft from a Vulnerable Adult 1 (RCW
24 9A.56.400(1))
25 Unlawful Storage of Ammonia (RCW
26 69.55.020)
27 V Abandonment of Dependent Person 2
28 (RCW 9A.42.070)
29 Advancing money or property for
30 extortionate extension of credit
31 (RCW 9A.82.030)
32 Air bag diagnostic systems (RCW
33 46.37.660(2)(c))
34 Air bag replacement requirements
35 (RCW 46.37.660(1)(c))

1 Bail Jumping with class A Felony
2 (RCW 9A.76.170(3)(b))
3 Child Molestation 3 (RCW 9A.44.089)
4 Criminal Mistreatment 2 (RCW
5 9A.42.030)
6 Custodial Sexual Misconduct 1 (RCW
7 9A.44.160)
8 Dealing in Depictions of Minor
9 Engaged in Sexually Explicit
10 Conduct 2 (RCW 9.68A.050(2))
11 Domestic Violence Court Order
12 Violation (RCW 10.99.040,
13 10.99.050, 26.09.300, 26.10.220,
14 ((~~26.26.138~~) 26.26B.050,
15 26.50.110, 26.52.070, or 74.34.145)
16 Extortion 1 (RCW 9A.56.120)
17 Extortionate Extension of Credit (RCW
18 9A.82.020)
19 Extortionate Means to Collect
20 Extensions of Credit (RCW
21 9A.82.040)
22 Incest 2 (RCW 9A.64.020(2))
23 Kidnapping 2 (RCW 9A.40.030)
24 Manufacture or import counterfeit,
25 nonfunctional, damaged, or
26 previously deployed air bag (RCW
27 46.37.650(1)(c))
28 Perjury 1 (RCW 9A.72.020)
29 Persistent prison misbehavior (RCW
30 9.94.070)
31 Possession of a Stolen Firearm (RCW
32 9A.56.310)
33 Rape 3 (RCW 9A.44.060)
34 Rendering Criminal Assistance 1 (RCW
35 9A.76.070)

1 Sell, install, or reinstall counterfeit,
2 nonfunctional, damaged, or
3 previously deployed airbag (RCW
4 46.37.650(2)(c))
5 Sending, Bringing into State Depictions
6 of Minor Engaged in Sexually
7 Explicit Conduct 2 (RCW
8 9.68A.060(2))
9 Sexual Misconduct with a Minor 1
10 (RCW 9A.44.093)
11 Sexually Violating Human Remains
12 (RCW 9A.44.105)
13 Stalking (RCW 9A.46.110)
14 Taking Motor Vehicle Without
15 Permission 1 (RCW 9A.56.070)
16 IV Arson 2 (RCW 9A.48.030)
17 Assault 2 (RCW 9A.36.021)
18 Assault 3 (of a Peace Officer with a
19 Projectile Stun Gun) (RCW
20 9A.36.031(1)(h))
21 Assault 4 (third domestic violence
22 offense) (RCW 9A.36.041(3))
23 Assault by Watercraft (RCW
24 79A.60.060)
25 Bribing a Witness/Bribe Received by
26 Witness (RCW 9A.72.090,
27 9A.72.100)
28 Cheating 1 (RCW 9.46.1961)
29 Commercial Bribery (RCW 9A.68.060)
30 Counterfeiting (RCW 9.16.035(4))
31 Driving While Under the Influence
32 (RCW 46.61.502(6))
33 Endangerment with a Controlled
34 Substance (RCW 9A.42.100)
35 Escape 1 (RCW 9A.76.110)

1 Hate Crime (RCW 9A.36.080)
2 Hit and Run—Injury (RCW
3 46.52.020(4)(b))
4 Hit and Run with Vessel—Injury
5 Accident (RCW 79A.60.200(3))
6 Identity Theft 1 (RCW 9.35.020(2))
7 Indecent Exposure to Person Under Age
8 Fourteen (subsequent sex offense)
9 (RCW 9A.88.010)
10 Influencing Outcome of Sporting Event
11 (RCW 9A.82.070)
12 ~~((Malicious Harassment (RCW
13 9A.36.080)))~~
14 Physical Control of a Vehicle While
15 Under the Influence (RCW
16 46.61.504(6))
17 Possession of Depictions of a Minor
18 Engaged in Sexually Explicit
19 Conduct 2 (RCW 9.68A.070(2))
20 Residential Burglary (RCW 9A.52.025)
21 Robbery 2 (RCW 9A.56.210)
22 Theft of Livestock 1 (RCW 9A.56.080)
23 Threats to Bomb (RCW 9.61.160)
24 Trafficking in Stolen Property 1 (RCW
25 9A.82.050)
26 Unlawful factoring of a credit card or
27 payment card transaction (RCW
28 9A.56.290(4)(b))
29 Unlawful transaction of health coverage
30 as a health care service contractor
31 (RCW 48.44.016(3))
32 Unlawful transaction of health coverage
33 as a health maintenance
34 organization (RCW 48.46.033(3))
35 Unlawful transaction of insurance
36 business (RCW 48.15.023(3))

1 Unlicensed practice as an insurance
2 professional (RCW 48.17.063(2))
3 Use of Proceeds of Criminal
4 Profiteering (RCW 9A.82.080 (1)
5 and (2))
6 Vehicle Prowling 2 (third or subsequent
7 offense) (RCW 9A.52.100(3))
8 Vehicular Assault, by being under the
9 influence of intoxicating liquor or
10 any drug, or by the operation or
11 driving of a vehicle in a reckless
12 manner (RCW 46.61.522)
13 Viewing of Depictions of a Minor
14 Engaged in Sexually Explicit
15 Conduct 1 (RCW 9.68A.075(1))
16 Willful Failure to Return from Furlough
17 (RCW 72.66.060)
18 III Animal Cruelty 1 (Sexual Conduct or
19 Contact) (RCW 16.52.205(3))
20 Assault 3 (Except Assault 3 of a Peace
21 Officer With a Projectile Stun Gun)
22 (RCW 9A.36.031 except subsection
23 (1)(h))
24 Assault of a Child 3 (RCW 9A.36.140)
25 Bail Jumping with class B or C Felony
26 (RCW 9A.76.170(3)(c))
27 Burglary 2 (RCW 9A.52.030)
28 Communication with a Minor for
29 Immoral Purposes (RCW
30 9.68A.090)
31 Criminal Gang Intimidation (RCW
32 9A.46.120)
33 Custodial Assault (RCW 9A.36.100)
34 Cyberstalking (subsequent conviction or
35 threat of death) (RCW 9.61.260(3))
36 Escape 2 (RCW 9A.76.120)

1 Extortion 2 (RCW 9A.56.130)
2 Harassment (RCW 9A.46.020)
3 Intimidating a Public Servant (RCW
4 9A.76.180)
5 Introducing Contraband 2 (RCW
6 9A.76.150)
7 Malicious Injury to Railroad Property
8 (RCW 81.60.070)
9 Mortgage Fraud (RCW 19.144.080)
10 Negligently Causing Substantial Bodily
11 Harm By Use of a Signal
12 Preemption Device (RCW
13 46.37.674)
14 Organized Retail Theft 1 (RCW
15 9A.56.350(2))
16 Perjury 2 (RCW 9A.72.030)
17 Possession of Incendiary Device (RCW
18 9.40.120)
19 Possession of Machine Gun, Bump-fire
20 Stock, or Short-Barreled Shotgun or
21 Rifle (RCW 9.41.190)
22 Promoting Prostitution 2 (RCW
23 9A.88.080)
24 Retail Theft with Special Circumstances
25 1 (RCW 9A.56.360(2))
26 Securities Act violation (RCW
27 21.20.400)
28 Tampering with a Witness (RCW
29 9A.72.120)
30 Telephone Harassment (subsequent
31 conviction or threat of death) (RCW
32 9.61.230(2))
33 Theft of Livestock 2 (RCW 9A.56.083)
34 Theft with the Intent to Resell 1 (RCW
35 9A.56.340(2))

1 Trafficking in Stolen Property 2 (RCW
2 9A.82.055)
3 Unlawful Hunting of Big Game 1 (RCW
4 77.15.410(3)(b))
5 Unlawful Imprisonment (RCW
6 9A.40.040)
7 Unlawful Misbranding of ((Food)) Fish
8 or Shellfish 1 (RCW 77.140.060(3))
9 Unlawful possession of firearm in the
10 second degree (RCW 9.41.040(2))
11 Unlawful Taking of Endangered Fish or
12 Wildlife 1 (RCW 77.15.120(3)(b))
13 Unlawful Trafficking in Fish, Shellfish,
14 or Wildlife 1 (RCW
15 77.15.260(3)(b))
16 Unlawful Use of a Nondesignated
17 Vessel (RCW 77.15.530(4))
18 Vehicular Assault, by the operation or
19 driving of a vehicle with disregard
20 for the safety of others (RCW
21 46.61.522)
22 Willful Failure to Return from Work
23 Release (RCW 72.65.070)
24 II Commercial Fishing Without a License
25 1 (RCW 77.15.500(3)(b))
26 Computer Trespass 1 (RCW 9A.90.040)
27 Counterfeiting (RCW 9.16.035(3))
28 Electronic Data Service Interference
29 (RCW 9A.90.060)
30 Electronic Data Tampering 1 (RCW
31 9A.90.080)
32 Electronic Data Theft (RCW 9A.90.100)
33 Engaging in Fish Dealing Activity
34 Unlicensed 1 (RCW 77.15.620(3))
35 Escape from Community Custody
36 (RCW 72.09.310)

1 Failure to Register as a Sex Offender
2 (second or subsequent offense)
3 (RCW 9A.44.130 prior to June 10,
4 2010, and RCW 9A.44.132)
5 Health Care False Claims (RCW
6 48.80.030)
7 Identity Theft 2 (RCW 9.35.020(3))
8 Improperly Obtaining Financial
9 Information (RCW 9.35.010)
10 Malicious Mischief 1 (RCW 9A.48.070)
11 Organized Retail Theft 2 (RCW
12 9A.56.350(3))
13 Possession of Stolen Property 1 (RCW
14 9A.56.150)
15 Possession of a Stolen Vehicle (RCW
16 9A.56.068)
17 Retail Theft with Special Circumstances
18 2 (RCW 9A.56.360(3))
19 Scrap Processing, Recycling, or
20 Supplying Without a License
21 (second or subsequent offense)
22 (RCW 19.290.100)
23 Theft 1 (RCW 9A.56.030)
24 Theft of a Motor Vehicle (RCW
25 9A.56.065)
26 Theft of Rental, Leased, Lease-
27 purchased, or Loaned Property
28 (valued at five thousand dollars or
29 more) (RCW 9A.56.096(5)(a))
30 Theft with the Intent to Resell 2 (RCW
31 9A.56.340(3))
32 Trafficking in Insurance Claims (RCW
33 48.30A.015)
34 Unlawful factoring of a credit card or
35 payment card transaction (RCW
36 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))

1 Vehicle Prowl 1 (RCW 9A.52.095)

2 Violating Commercial Fishing Area or

3 Time 1 (RCW 77.15.550(3)(b))

4 **Sec. 7.** RCW 9A.36.083 and 1993 c 127 s 3 are each amended to
5 read as follows:

6 In addition to the criminal penalty provided in RCW 9A.36.080 for
7 committing a (~~crime of malicious harassment~~) hate crime offense,
8 the victim may bring a civil cause of action for (~~malicious~~
9 ~~harassment~~) the hate crime offense against the (~~harasser~~) person
10 who committed the offense. A person may be liable to the victim of
11 (~~malicious harassment~~) the hate crime offense for actual damages,
12 punitive damages of up to ten thousand dollars, and reasonable
13 attorneys' fees and costs incurred in bringing the action.

14 **Sec. 8.** RCW 9A.46.060 and 2006 c 138 s 21 are each amended to
15 read as follows:

16 As used in this chapter, "harassment" may include but is not
17 limited to any of the following crimes:

- 18 (1) Harassment (RCW 9A.46.020);
- 19 (2) (~~Malicious harassment~~) Hate crime (RCW 9A.36.080);
- 20 (3) Telephone harassment (RCW 9.61.230);
- 21 (4) Assault in the first degree (RCW 9A.36.011);
- 22 (5) Assault of a child in the first degree (RCW 9A.36.120);
- 23 (6) Assault in the second degree (RCW 9A.36.021);
- 24 (7) Assault of a child in the second degree (RCW 9A.36.130);
- 25 (8) Assault in the fourth degree (RCW 9A.36.041);
- 26 (9) Reckless endangerment (RCW 9A.36.050);
- 27 (10) Extortion in the first degree (RCW 9A.56.120);
- 28 (11) Extortion in the second degree (RCW 9A.56.130);
- 29 (12) Coercion (RCW 9A.36.070);
- 30 (13) Burglary in the first degree (RCW 9A.52.020);
- 31 (14) Burglary in the second degree (RCW 9A.52.030);
- 32 (15) Criminal trespass in the first degree (RCW 9A.52.070);
- 33 (16) Criminal trespass in the second degree (RCW 9A.52.080);
- 34 (17) Malicious mischief in the first degree (RCW 9A.48.070);
- 35 (18) Malicious mischief in the second degree (RCW 9A.48.080);
- 36 (19) Malicious mischief in the third degree (RCW 9A.48.090);
- 37 (20) Kidnapping in the first degree (RCW 9A.40.020);

- 1 (21) Kidnapping in the second degree (RCW 9A.40.030);
- 2 (22) Unlawful imprisonment (RCW 9A.40.040);
- 3 (23) Rape in the first degree (RCW 9A.44.040);
- 4 (24) Rape in the second degree (RCW 9A.44.050);
- 5 (25) Rape in the third degree (RCW 9A.44.060);
- 6 (26) Indecent liberties (RCW 9A.44.100);
- 7 (27) Rape of a child in the first degree (RCW 9A.44.073);
- 8 (28) Rape of a child in the second degree (RCW 9A.44.076);
- 9 (29) Rape of a child in the third degree (RCW 9A.44.079);
- 10 (30) Child molestation in the first degree (RCW 9A.44.083);
- 11 (31) Child molestation in the second degree (RCW 9A.44.086);
- 12 (32) Child molestation in the third degree (RCW 9A.44.089);
- 13 (33) Stalking (RCW 9A.46.110);
- 14 (34) Cyberstalking (RCW 9.61.260);
- 15 (35) Residential burglary (RCW 9A.52.025);
- 16 (36) Violation of a temporary, permanent, or final protective
- 17 order issued pursuant to chapter 7.90, 9A.46, 10.14, 10.99, 26.09, or
- 18 26.50 RCW;
- 19 (37) Unlawful discharge of a laser in the first degree (RCW
- 20 9A.49.020); and
- 21 (38) Unlawful discharge of a laser in the second degree (RCW
- 22 9A.49.030).

23 **Sec. 9.** RCW 43.43.830 and 2017 c 272 s 5 are each amended to
24 read as follows:

25 Unless the context clearly requires otherwise, the definitions in
26 this section apply throughout RCW 43.43.830 through 43.43.845.

27 (1) "Agency" means any person, firm, partnership, association,
28 corporation, or facility which receives, provides services to, houses
29 or otherwise cares for vulnerable adults, juveniles, or children, or
30 which provides child day care, early learning, or early childhood
31 education services.

32 (2) "Applicant" means:

33 (a) Any prospective employee who will or may have unsupervised
34 access to children under sixteen years of age or developmentally
35 disabled persons or vulnerable adults during the course of his or her
36 employment or involvement with the business or organization;

37 (b) Any prospective volunteer who will have regularly scheduled
38 unsupervised access to children under sixteen years of age,
39 developmentally disabled persons, or vulnerable adults during the

1 course of his or her employment or involvement with the business or
2 organization under circumstances where such access will or may
3 involve groups of (i) five or fewer children under twelve years of
4 age, (ii) three or fewer children between twelve and sixteen years of
5 age, (iii) developmentally disabled persons, or (iv) vulnerable
6 adults;

7 (c) Any prospective adoptive parent, as defined in RCW 26.33.020;
8 or

9 (d) Any prospective custodian in a nonparental custody proceeding
10 under chapter 26.10 RCW.

11 (3) "Business or organization" means a person, business, or
12 organization licensed in this state, any agency of the state, or
13 other governmental entity, that educates, trains, treats, supervises,
14 houses, or provides recreation to developmentally disabled persons,
15 vulnerable adults, or children under sixteen years of age, or that
16 provides child day care, early learning, or early learning childhood
17 education services, including but not limited to public housing
18 authorities, school districts, and educational service districts.

19 (4) "Civil adjudication proceeding" is a judicial or
20 administrative adjudicative proceeding that results in a finding of,
21 or upholds an agency finding of, domestic violence, abuse, sexual
22 abuse, neglect, abandonment, violation of a professional licensing
23 standard regarding a child or vulnerable adult, or exploitation or
24 financial exploitation of a child or vulnerable adult under any
25 provision of law, including but not limited to chapter 13.34, 26.44,
26 or 74.34 RCW, or rules adopted under chapters 18.51 and 74.42 RCW.
27 "Civil adjudication proceeding" also includes judicial or
28 administrative findings that become final due to the failure of the
29 alleged perpetrator to timely exercise a legal right to
30 administratively challenge such findings.

31 (5) "Client" or "resident" means a child, person with
32 developmental disabilities, or vulnerable adult applying for housing
33 assistance from a business or organization.

34 (6) "Conviction record" means "conviction record" information as
35 defined in RCW 10.97.030 and 10.97.050 relating to a crime committed
36 by either an adult or a juvenile. It does not include a conviction
37 for an offense that has been the subject of an expungement, pardon,
38 annulment, certificate of rehabilitation, or other equivalent
39 procedure based on a finding of the rehabilitation of the person
40 convicted, or a conviction that has been the subject of a pardon,

1 annulment, or other equivalent procedure based on a finding of
2 innocence. It does include convictions for offenses for which the
3 defendant received a deferred or suspended sentence, unless the
4 record has been expunged according to law.

5 (7) "Crime against children or other persons" means a conviction
6 of any of the following offenses: Aggravated murder; first or second
7 degree murder; first or second degree kidnapping; first, second, or
8 third degree assault; fourth degree assault (if a violation of RCW
9 9A.36.041(3)); first, second, or third degree assault of a child;
10 first, second, or third degree rape; first, second, or third degree
11 rape of a child; first or second degree robbery; first degree arson;
12 first degree burglary; first or second degree manslaughter; first or
13 second degree extortion; indecent liberties; incest; vehicular
14 homicide; first degree promoting prostitution; communication with a
15 minor; unlawful imprisonment; simple assault; sexual exploitation of
16 minors; first or second degree criminal mistreatment; endangerment
17 with a controlled substance; child abuse or neglect as defined in RCW
18 26.44.020; first or second degree custodial interference; first or
19 second degree custodial sexual misconduct; (~~malicious harassment~~)
20 hate crime; first, second, or third degree child molestation; first
21 or second degree sexual misconduct with a minor; commercial sexual
22 abuse of a minor; child abandonment; promoting pornography; selling
23 or distributing erotic material to a minor; custodial assault;
24 violation of child abuse restraining order; child buying or selling;
25 prostitution; felony indecent exposure; criminal abandonment; or any
26 of these crimes as they may be renamed in the future.

27 (8) "Crimes relating to drugs" means a conviction of a crime to
28 manufacture, delivery, or possession with intent to manufacture or
29 deliver a controlled substance.

30 (9) "Crimes relating to financial exploitation" means a
31 conviction for first, second, or third degree extortion; first,
32 second, or third degree theft; first or second degree robbery;
33 forgery; or any of these crimes as they may be renamed in the future.

34 (10) "Financial exploitation" means "financial exploitation" as
35 defined in RCW 74.34.020.

36 (11) "Health care facility" means a nursing home licensed under
37 chapter 18.51 RCW, (~~a~~~~an~~) an assisted living facility licensed
38 under chapter 18.20 RCW, or an adult family home licensed under
39 chapter 70.128 RCW.

1 (12) "Peer counselor" means a nonprofessional person who has
2 equal standing with another person, providing advice on a topic about
3 which the nonprofessional person is more experienced or
4 knowledgeable, and who is a counselor for a peer counseling program
5 that contracts with or is otherwise approved by the department,
6 another state or local agency, or the court.

7 (13) "Unsupervised" means not in the presence of:

8 (a) Another employee or volunteer from the same business or
9 organization as the applicant; or

10 (b) Any relative or guardian of any of the children or
11 developmentally disabled persons or vulnerable adults to which the
12 applicant has access during the course of his or her employment or
13 involvement with the business or organization.

14 With regard to peer counselors, "unsupervised" does not include
15 incidental contact with children under age sixteen at the location at
16 which the peer counseling is taking place. "Incidental contact" means
17 minor or casual contact with a child in an area accessible to and
18 within visual or auditory range of others. It could include passing a
19 child while walking down a hallway but would not include being alone
20 with a child for any period of time in a closed room or office.

21 (14) "Vulnerable adult" means "vulnerable adult" as defined in
22 chapter 74.34 RCW, except that for the purposes of requesting and
23 receiving background checks pursuant to RCW 43.43.832, it shall also
24 include adults of any age who lack the functional, mental, or
25 physical ability to care for themselves.

26 **Sec. 10.** RCW 48.18.553 and 2003 c 117 s 1 are each amended to
27 read as follows:

28 (1) For the purposes of this section:

29 (a) "Insured" means a current policyholder or a person or entity
30 that is covered under the insurance policy.

31 (b) (~~"Malicious harassment"~~) "Hate crime offense" has the same
32 meaning as RCW 9A.36.080. Under this section, the perpetrator does
33 not have to be identified for (~~(an act of malicious harassment)~~) a
34 hate crime offense to have occurred.

35 (c) "Underwriting action" means an insurer:

36 (i) Cancels or refuses to renew an insurance policy; or

37 (ii) Changes the terms or benefits in an insurance policy.

38 (2) This section applies to property insurance policies if the
39 insured is:

1 (a) An individual;
2 (b) A religious organization;
3 (c) An educational organization; or
4 (d) Any other nonprofit organization that is organized and
5 operated for religious, charitable, or educational purposes.

6 (3) An insurer may not take an underwriting action on a policy
7 described in subsection (2) of this section because an insured has
8 made one or more insurance claims for any loss that occurred during
9 the preceding sixty months that is the result of ~~((malicious
10 harassment))~~ a hate crime offense. An insurer may take an
11 underwriting action due to other factors that are not prohibited by
12 this subsection.

13 (4) If an insured sustains a loss that is the result of
14 ~~((malicious harassment))~~ a hate crime offense, the insured must file
15 a report with the police or other law enforcement authority within
16 thirty days of discovery of the incident, and a law enforcement
17 authority must determine that a crime has occurred. The report must
18 contain sufficient information to provide an insurer with reasonable
19 notice that the loss was the result of ~~((malicious harassment))~~ a
20 hate crime offense. The insured has a duty to cooperate with any law
21 enforcement official or insurer investigation. ~~((For incidents of
22 malicious harassment occurring prior to July 27, 2003, the insured
23 must file the report within six months of the discovery of the
24 incident.))~~

25 (5) Annually, each insurer must report underwriting actions to
26 the commissioner if the insurer has taken an underwriting action
27 against any insured who has filed a claim during the preceding sixty
28 months that was the result of ~~((malicious harassment))~~ a hate crime
29 offense. The report must include the policy number, name of the
30 insured, location of the property, and the reason for the
31 underwriting action.

--- END ---