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**HOUSE BILL 1541**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Representatives Jinkins, Pettigrew, Thai, Macri, Doglio, Fitzgibbon, Sells, Robinson, Hudgins, Gregerson, Appleton, Senn, Tarleton, Fey, and Valdez

Read first time 01/23/19. Referred to Committee on Civil Rights & Judiciary.

1 AN ACT Relating to prohibiting the possession and acquisition of  
2 weapons by persons convicted of certain criminal offenses or subject  
3 to certain no-contact orders, protection orders, or restraining  
4 orders; amending RCW 9.41.040, 9.41.800, 9.41.042, 13.40.0357,  
5 13.40.160, 13.40.265, 70.02.230, and 70.02.240; reenacting and  
6 amending RCW 13.40.193; and prescribing penalties.

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

8 **Sec. 1.** RCW 9.41.040 and 2018 c 234 s 1 are each amended to read  
9 as follows:

10 (1)(a) A person, whether an adult or juvenile, is guilty of the  
11 crime of unlawful possession of a firearm in the first degree, if the  
12 person owns, has in his or her possession, or has in his or her  
13 control any firearm after having previously been convicted or found  
14 not guilty by reason of insanity in this state or elsewhere of any  
15 serious offense as defined in this chapter.

16 (b) Unlawful possession of a firearm in the first degree is a  
17 class B felony punishable according to chapter 9A.20 RCW.

18 (2)(a) A person, whether an adult or juvenile, is guilty of the  
19 crime of unlawful possession of a firearm in the second degree, if  
20 the person does not qualify under subsection (1) of this section for  
21 the crime of unlawful possession of a firearm in the first degree and

1 the person owns, has in his or her possession, or has in his or her  
2 control any firearm:

3 (i) After having previously been convicted or found not guilty by  
4 reason of insanity in this state or elsewhere of any felony not  
5 specifically listed as prohibiting firearm possession under  
6 subsection (1) of this section, or any of the following crimes when  
7 committed by one family or household member against another,  
8 committed on or after July 1, 1993: Assault in the fourth degree,  
9 coercion, stalking, reckless endangerment, criminal trespass in the  
10 first degree, or violation of the provisions of a protection order or  
11 no-contact order restraining the person or excluding the person from  
12 a residence (RCW 26.50.060, 26.50.070, 26.50.130, or 10.99.040);

13 (ii) After having previously been convicted or found not guilty  
14 by reason of insanity in this state or elsewhere of harassment when  
15 committed by one family or household member against another,  
16 committed on or after June 7, 2018;

17 (iii) After having previously been convicted or found not guilty  
18 by reason of insanity in this state or elsewhere of the following  
19 crimes, committed on or after the effective date of this section:  
20 Unlawful aiming or discharge of a firearm or dangerous weapon (RCW  
21 9.41.230); and animal cruelty in the second degree (RCW 16.52.207);

22 (iv) During any period of time that the person is subject to a  
23 court order issued under chapter 7.90, 7.92, 9A.46, 10.14, 10.99,  
24 26.09, 26.10, (~~26.26~~) 26.26B, or 26.50 RCW that:

25 (A) Was issued after a hearing of which the person received  
26 actual notice, and at which the person had an opportunity to  
27 participate;

28 (B) Restrains the person from harassing, stalking, or threatening  
29 (~~(an intimate partner of)~~) the person protected under the order or  
30 child of the (~~(intimate partner or)~~) protected person, or engaging in  
31 other conduct that would place (~~(an intimate partner)~~) the protected  
32 person in reasonable fear of bodily injury to the (~~(partner)~~)  
33 protected person or child; and

34 (C) (I) Includes a finding that the person represents a credible  
35 threat to the physical safety of the (~~(intimate partner)~~) protected  
36 person or child; and

37 (II) By its terms, explicitly prohibits the use, attempted use,  
38 or threatened use of physical force against the (~~(intimate partner)~~)  
39 protected person or child that would reasonably be expected to cause  
40 bodily injury;

1       ~~((iv))~~ (v) After having previously been involuntarily committed  
2 for mental health treatment under RCW 71.05.240, 71.05.320,  
3 71.34.740, 71.34.750, chapter 10.77 RCW, or equivalent statutes of  
4 another jurisdiction, unless his or her right to possess a firearm  
5 has been restored as provided in RCW 9.41.047;

6       ~~((v))~~ (vi) If the person is under eighteen years of age, except  
7 as provided in RCW 9.41.042; and/or

8       ~~((vi))~~ (vii) If the person is free on bond or personal  
9 recognizance pending trial, appeal, or sentencing for a serious  
10 offense as defined in RCW 9.41.010.

11       (b) (a) ~~((iii))~~ (iv) of this subsection does not apply to a  
12 sexual assault protection order under chapter 7.90 RCW if the order  
13 has been modified pursuant to RCW 7.90.170 to remove any restrictions  
14 on firearm purchase, transfer, or possession.

15       (c) Unlawful possession of a firearm in the second degree is a  
16 class C felony punishable according to chapter 9A.20 RCW.

17       (3) Notwithstanding RCW 9.41.047 or any other provisions of law,  
18 as used in this chapter, a person has been "convicted", whether in an  
19 adult court or adjudicated in a juvenile court, at such time as a  
20 plea of guilty has been accepted, or a verdict of guilty has been  
21 filed, notwithstanding the pendency of any future proceedings  
22 including but not limited to sentencing or disposition, post-trial or  
23 post-fact-finding motions, and appeals. Conviction includes a  
24 dismissal entered after a period of probation, suspension or deferral  
25 of sentence, and also includes equivalent dispositions by courts in  
26 jurisdictions other than Washington state. A person shall not be  
27 precluded from possession of a firearm if the conviction has been the  
28 subject of a pardon, annulment, certificate of rehabilitation, or  
29 other equivalent procedure based on a finding of the rehabilitation  
30 of the person convicted or the conviction or disposition has been the  
31 subject of a pardon, annulment, or other equivalent procedure based  
32 on a finding of innocence. Where no record of the court's disposition  
33 of the charges can be found, there shall be a rebuttable presumption  
34 that the person was not convicted of the charge.

35       (4) (a) Notwithstanding subsection (1) or (2) of this section, a  
36 person convicted or found not guilty by reason of insanity of an  
37 offense prohibiting the possession of a firearm under this section  
38 other than murder, manslaughter, robbery, rape, indecent liberties,  
39 arson, assault, kidnapping, extortion, burglary, or violations with  
40 respect to controlled substances under RCW 69.50.401 and 69.50.410,

1 who received a probationary sentence under RCW 9.95.200, and who  
2 received a dismissal of the charge under RCW 9.95.240, shall not be  
3 precluded from possession of a firearm as a result of the conviction  
4 or finding of not guilty by reason of insanity. Notwithstanding any  
5 other provisions of this section, if a person is prohibited from  
6 possession of a firearm under subsection (1) or (2) of this section  
7 and has not previously been convicted or found not guilty by reason  
8 of insanity of a sex offense prohibiting firearm ownership under  
9 subsection (1) or (2) of this section and/or any felony defined under  
10 any law as a class A felony or with a maximum sentence of at least  
11 twenty years, or both, the individual may petition a court of record  
12 to have his or her right to possess a firearm restored:

13 (i) Under RCW 9.41.047; and/or

14 (ii)(A) If the conviction or finding of not guilty by reason of  
15 insanity was for a felony offense, after five or more consecutive  
16 years in the community without being convicted or found not guilty by  
17 reason of insanity or currently charged with any felony, gross  
18 misdemeanor, or misdemeanor crimes, if the individual has no prior  
19 felony convictions that prohibit the possession of a firearm counted  
20 as part of the offender score under RCW 9.94A.525; or

21 (B) If the conviction or finding of not guilty by reason of  
22 insanity was for a nonfelony offense, after three or more consecutive  
23 years in the community without being convicted or found not guilty by  
24 reason of insanity or currently charged with any felony, gross  
25 misdemeanor, or misdemeanor crimes, if the individual has no prior  
26 felony convictions that prohibit the possession of a firearm counted  
27 as part of the offender score under RCW 9.94A.525 and the individual  
28 has completed all conditions of the sentence.

29 (b) An individual may petition a court of record to have his or  
30 her right to possess a firearm restored under (a) of this subsection  
31 (4) only at:

32 (i) The court of record that ordered the petitioner's prohibition  
33 on possession of a firearm; or

34 (ii) The superior court in the county in which the petitioner  
35 resides.

36 (5) In addition to any other penalty provided for by law, if a  
37 person under the age of eighteen years is found by a court to have  
38 possessed a firearm in a vehicle in violation of subsection (1) or  
39 (2) of this section or to have committed an offense while armed with  
40 a firearm during which offense a motor vehicle served an integral

1 function, the court shall notify the department of licensing within  
2 twenty-four hours and the person's privilege to drive shall be  
3 revoked under RCW 46.20.265, unless the offense is the juvenile's  
4 first offense in violation of this section and has not committed an  
5 offense while armed with a firearm, an unlawful possession of a  
6 firearm offense, or an offense in violation of chapter 66.44, 69.52,  
7 69.41, or 69.50 RCW.

8 (6) Nothing in chapter 129, Laws of 1995 shall ever be construed  
9 or interpreted as preventing an offender from being charged and  
10 subsequently convicted for the separate felony crimes of theft of a  
11 firearm or possession of a stolen firearm, or both, in addition to  
12 being charged and subsequently convicted under this section for  
13 unlawful possession of a firearm in the first or second degree.  
14 Notwithstanding any other law, if the offender is convicted under  
15 this section for unlawful possession of a firearm in the first or  
16 second degree and for the felony crimes of theft of a firearm or  
17 possession of a stolen firearm, or both, then the offender shall  
18 serve consecutive sentences for each of the felony crimes of  
19 conviction listed in this subsection.

20 (7) Each firearm unlawfully possessed under this section shall be  
21 a separate offense.

22 ~~((8) For purposes of this section, "intimate partner" includes:~~  
23 ~~A spouse, a domestic partner, a former spouse, a former domestic~~  
24 ~~partner, a person with whom the restrained person has a child in~~  
25 ~~common, or a person with whom the restrained person has cohabitated~~  
26 ~~or is cohabitating as part of a dating relationship.))~~

27 **Sec. 2.** RCW 9.41.800 and 2014 c 111 s 2 are each amended to read  
28 as follows:

29 (1) Any court when entering an order authorized under chapter  
30 7.92 RCW, RCW 7.90.090, 9A.46.080, 10.14.080, 10.99.040, 10.99.045,  
31 26.09.050, 26.09.060, 26.10.040, 26.10.115, ~~((26.26.130))~~ 26.26B.020,  
32 26.50.060, 26.50.070, or 26.26.590 shall, upon a showing by clear and  
33 convincing evidence, that a party has: Used, displayed, or threatened  
34 to use a firearm or other dangerous weapon in a felony, or previously  
35 committed any offense that makes him or her ineligible to possess a  
36 firearm under the provisions of RCW 9.41.040:

37 (a) Require the party to surrender any firearm or other dangerous  
38 weapon;

1 (b) Require the party to surrender any concealed pistol license  
2 issued under RCW 9.41.070;

3 (c) Prohibit the party from obtaining or possessing a firearm or  
4 other dangerous weapon;

5 (d) Prohibit the party from obtaining or possessing a concealed  
6 pistol license.

7 (2) Any court when entering an order authorized under chapter  
8 7.92 RCW, RCW 7.90.090, 9A.46.080, 10.14.080, 10.99.040, 10.99.045,  
9 26.09.050, 26.09.060, 26.10.040, 26.10.115, (~~26.26.130~~) 26.26B.020,  
10 26.50.060, 26.50.070, or 26.26.590 may, upon a showing by a  
11 preponderance of the evidence but not by clear and convincing  
12 evidence, that a party has: Used, displayed, or threatened to use a  
13 firearm or other dangerous weapon in a felony, or previously  
14 committed any offense that makes him or her ineligible to possess a  
15 firearm under the provisions of RCW 9.41.040:

16 (a) Require the party to surrender any firearm or other dangerous  
17 weapon;

18 (b) Require the party to surrender a concealed pistol license  
19 issued under RCW 9.41.070;

20 (c) Prohibit the party from obtaining or possessing a firearm or  
21 other dangerous weapon;

22 (d) Prohibit the party from obtaining or possessing a concealed  
23 pistol license.

24 (3) During any period of time that the person is subject to a  
25 court order issued under chapter 7.90, 7.92, 9A.46, 10.14, 10.99,  
26 26.09, 26.10, (~~26.26~~) 26.26B, or 26.50 RCW that:

27 (a) Was issued after a hearing of which the person received  
28 actual notice, and at which the person had an opportunity to  
29 participate;

30 (b) Restrains the person from harassing, stalking, or threatening  
31 (~~(an intimate partner of)~~) the person protected under the order or  
32 child of the (~~(intimate partner or)~~) protected person, or engaging in  
33 other conduct that would place (~~(an intimate partner)~~) the protected  
34 person in reasonable fear of bodily injury to the (~~(partner)~~)  
35 protected person or child; and

36 (c) (i) Includes a finding that the person represents a credible  
37 threat to the physical safety of the (~~(intimate partner)~~) protected  
38 person or child; and

39 (ii) By its terms, explicitly prohibits the use, attempted use,  
40 or threatened use of physical force against the (~~(intimate partner)~~)

1 protected person or child that would reasonably be expected to cause  
2 bodily injury, the court shall:

3 (A) Require the party to surrender any firearm or other dangerous  
4 weapon;

5 (B) Require the party to surrender a concealed pistol license  
6 issued under RCW 9.41.070;

7 (C) Prohibit the party from obtaining or possessing a firearm or  
8 other dangerous weapon; and

9 (D) Prohibit the party from obtaining or possessing a concealed  
10 pistol license.

11 (4) The court may order temporary surrender of a firearm or other  
12 dangerous weapon without notice to the other party if it finds, on  
13 the basis of the moving affidavit or other evidence, that irreparable  
14 injury could result if an order is not issued until the time for  
15 response has elapsed.

16 (5) In addition to the provisions of subsections (1), (2), and  
17 (4) of this section, the court may enter an order requiring a party  
18 to comply with the provisions in subsection (1) of this section if it  
19 finds that the possession of a firearm or other dangerous weapon by  
20 any party presents a serious and imminent threat to public health or  
21 safety, or to the health or safety of any individual.

22 (6) The requirements of subsections (1), (2), and (5) of this  
23 section may be for a period of time less than the duration of the  
24 order.

25 (7) The court may require the party to surrender any firearm or  
26 other dangerous weapon in his or her immediate possession or control  
27 or subject to his or her immediate possession or control to the  
28 sheriff of the county having jurisdiction of the proceeding, the  
29 chief of police of the municipality having jurisdiction, or to the  
30 restrained or enjoined party's counsel or to any person designated by  
31 the court.

32 **Sec. 3.** RCW 9.41.042 and 2003 c 53 s 27 are each amended to read  
33 as follows:

34 RCW 9.41.040(2)(a) (~~(iii)~~) (vi) shall not apply to any person  
35 under the age of eighteen years who is:

36 (1) In attendance at a hunter's safety course or a firearms  
37 safety course;

38 (2) Engaging in practice in the use of a firearm or target  
39 shooting at an established range authorized by the governing body of

1 the jurisdiction in which such range is located or any other area  
2 where the discharge of a firearm is not prohibited;

3 (3) Engaging in an organized competition involving the use of a  
4 firearm, or participating in or practicing for a performance by an  
5 organized group that uses firearms as a part of the performance;

6 (4) Hunting or trapping under a valid license issued to the  
7 person under Title 77 RCW;

8 (5) In an area where the discharge of a firearm is permitted, is  
9 not trespassing, and the person either: (a) Is at least fourteen  
10 years of age, has been issued a hunter safety certificate, and is  
11 using a lawful firearm other than a pistol; or (b) is under the  
12 supervision of a parent, guardian, or other adult approved for the  
13 purpose by the parent or guardian;

14 (6) Traveling with any unloaded firearm in the person's  
15 possession to or from any activity described in subsection (1), (2),  
16 (3), (4), or (5) of this section;

17 (7) On real property under the control of his or her parent,  
18 other relative, or legal guardian and who has the permission of the  
19 parent or legal guardian to possess a firearm;

20 (8) At his or her residence and who, with the permission of his  
21 or her parent or legal guardian, possesses a firearm for the purpose  
22 of exercising the rights specified in RCW 9A.16.020(3); or

23 (9) Is a member of the armed forces of the United States,  
24 national guard, or organized reserves, when on duty.

25 **Sec. 4.** RCW 13.40.0357 and 2018 c 162 s 3 are each amended to  
26 read as follows:

27 **DESCRIPTION AND OFFENSE CATEGORY**

		JUVENILE DISPOSITION
JUVENILE		CATEGORY FOR
DISPOSITION		ATTEMPT, BAILJUMP,
OFFENSE		CONSPIRACY, OR
CATEGORY	DESCRIPTION (RCW CITATION)	SOLICITATION

33 **Arson and Malicious Mischief**

34	A	Arson 1 (9A.48.020)	B+
35	B	Arson 2 (9A.48.030)	C
36	C	Reckless Burning 1 (9A.48.040)	D
37	D	Reckless Burning 2 (9A.48.050)	E



1	B	Malicious Mischief 1 (9A.48.070)	C
2	C	Malicious Mischief 2 (9A.48.080)	D
3	D	Malicious Mischief 3 (9A.48.090)	E
4	E	Tampering with Fire Alarm Apparatus	
5		(9.40.100)	E
6	E	Tampering with Fire Alarm Apparatus with	
7		Intent to Commit Arson (9.40.105)	E
8	A	Possession of Incendiary Device (9.40.120)	B+
9		<b>Assault and Other Crimes Involving</b>	
10		<b>Physical Harm</b>	
11	A	Assault 1 (9A.36.011)	B+
12	B+	Assault 2 (9A.36.021)	C+
13	C+	Assault 3 (9A.36.031)	D+
14	D+	Assault 4 (9A.36.041)	E
15	B+	Drive-By Shooting (9A.36.045) committed	
16		at age 15 or under	C+
17	A++	Drive-By Shooting (9A.36.045) committed	
18		at age 16 or 17	A+
19	D+	Reckless Endangerment (9A.36.050)	E
20	C+	Promoting Suicide Attempt (9A.36.060)	D+
21	D+	Coercion (9A.36.070)	E
22	C+	Custodial Assault (9A.36.100)	D+
23		<b>Burglary and Trespass</b>	
24	B+	Burglary 1 (9A.52.020) committed at age	
25		15 or under	C+
26	A-	Burglary 1 (9A.52.020) committed at age	
27		16 or 17	B+
28	B	Residential Burglary (9A.52.025)	C
29	B	Burglary 2 (9A.52.030)	C
30	D	Burglary Tools (Possession of) (9A.52.060)	E
31	D	Criminal Trespass 1 (9A.52.070)	E
32	E	Criminal Trespass 2 (9A.52.080)	E
33	C	Mineral Trespass (78.44.330)	C
34	C	Vehicle Prowling 1 (9A.52.095)	D
35	D	Vehicle Prowling 2 (9A.52.100)	E
36		<b>Drugs</b>	

1	E	Possession/Consumption of Alcohol	
2		(66.44.270)	E
3	C	Illegally Obtaining Legend Drug	
4		(69.41.020)	D
5	C+	Sale, Delivery, Possession of Legend Drug	
6		with Intent to Sell (69.41.030(2)(a))	D+
7	E	Possession of Legend Drug	
8		(69.41.030(2)(b))	E
9	B+	Violation of Uniform Controlled	
10		Substances Act - Narcotic,	
11		Methamphetamine, or Flunitrazepam Sale	
12		(69.50.401(2) (a) or (b))	B+
13	C	Violation of Uniform Controlled	
14		Substances Act - Nonnarcotic Sale	
15		(69.50.401(2)(c))	C
16	E	Possession of Marihuana <40 grams	
17		(69.50.4014)	E
18	C	Fraudulently Obtaining Controlled	
19		Substance (69.50.403)	C
20	C+	Sale of Controlled Substance for Profit	
21		(69.50.410)	C+
22	E	Unlawful Inhalation (9.47A.020)	E
23	B	Violation of Uniform Controlled	
24		Substances Act - Narcotic,	
25		Methamphetamine, or Flunitrazepam	
26		Counterfeit Substances (69.50.4011(2) (a)	
27		or (b))	B
28	C	Violation of Uniform Controlled	
29		Substances Act - Nonnarcotic Counterfeit	
30		Substances (69.50.4011(2) (c), (d), or (e))	C
31	C	Violation of Uniform Controlled	
32		Substances Act - Possession of a Controlled	
33		Substance (69.50.4013)	C
34	C	Violation of Uniform Controlled	
35		Substances Act - Possession of a Controlled	
36		Substance (69.50.4012)	C
37		<b>Firearms and Weapons</b>	
38	B	Theft of Firearm (9A.56.300)	C

1	B	Possession of Stolen Firearm (9A.56.310)	C
2	E	Carrying Loaded Pistol Without Permit	
3		(9.41.050)	E
4	C	Possession of Firearms by Minor (<18)	
5		(9.41.040(2)(a) (( <del>iv</del> )) (vi))	C
6	D+	Possession of Dangerous Weapon	
7		(9.41.250)	E
8	D	Intimidating Another Person by use of	
9		Weapon (9.41.270)	E
10		<b>Homicide</b>	
11	A+	Murder 1 (9A.32.030)	A
12	A+	Murder 2 (9A.32.050)	B+
13	B+	Manslaughter 1 (9A.32.060)	C+
14	C+	Manslaughter 2 (9A.32.070)	D+
15	B+	Vehicular Homicide (46.61.520)	C+
16		<b>Kidnapping</b>	
17	A	Kidnap 1 (9A.40.020)	B+
18	B+	Kidnap 2 (9A.40.030)	C+
19	C+	Unlawful Imprisonment (9A.40.040)	D+
20		<b>Obstructing Governmental Operation</b>	
21	D	Obstructing a Law Enforcement Officer	
22		(9A.76.020)	E
23	E	Resisting Arrest (9A.76.040)	E
24	B	Introducing Contraband 1 (9A.76.140)	C
25	C	Introducing Contraband 2 (9A.76.150)	D
26	E	Introducing Contraband 3 (9A.76.160)	E
27	B+	Intimidating a Public Servant (9A.76.180)	C+
28	B+	Intimidating a Witness (9A.72.110)	C+
29		<b>Public Disturbance</b>	
30	C+	Criminal Mischief with Weapon	
31		(9A.84.010(2)(b))	D+
32	D+	Criminal Mischief Without Weapon	
33		(9A.84.010(2)(a))	E
34	E	Failure to Disperse (9A.84.020)	E
35	E	Disorderly Conduct (9A.84.030)	E
36		<b>Sex Crimes</b>	

1	A	Rape 1 (9A.44.040)	B+
2	B++	Rape 2 (9A.44.050) committed at age 14 or	
3		under	B+
4	A-	Rape 2 (9A.44.050) committed at age 15	
5		through age 17	B+
6	C+	Rape 3 (9A.44.060)	D+
7	B++	Rape of a Child 1 (9A.44.073) committed at	
8		age 14 or under	B+
9	A-	Rape of a Child 1 (9A.44.073) committed at	
10		age 15	B+
11	B+	Rape of a Child 2 (9A.44.076)	C+
12	B	Incest 1 (9A.64.020(1))	C
13	C	Incest 2 (9A.64.020(2))	D
14	D+	Indecent Exposure (Victim <14)	
15		(9A.88.010)	E
16	E	Indecent Exposure (Victim 14 or over)	
17		(9A.88.010)	E
18	B+	Promoting Prostitution 1 (9A.88.070)	C+
19	C+	Promoting Prostitution 2 (9A.88.080)	D+
20	E	O & A (Prostitution) (9A.88.030)	E
21	B+	Indecent Liberties (9A.44.100)	C+
22	B++	Child Molestation 1 (9A.44.083) committed	
23		at age 14 or under	B+
24	A-	Child Molestation 1 (9A.44.083) committed	
25		at age 15 through age 17	B+
26	B	Child Molestation 2 (9A.44.086)	C+
27	C	Failure to Register as a Sex Offender	
28		(9A.44.132)	D
29		<b>Theft, Robbery, Extortion, and Forgery</b>	
30	B	Theft 1 (9A.56.030)	C
31	C	Theft 2 (9A.56.040)	D
32	D	Theft 3 (9A.56.050)	E
33	B	Theft of Livestock 1 and 2 (9A.56.080 and	
34		9A.56.083)	C
35	C	Forgery (9A.60.020)	D
36	A	Robbery 1 (9A.56.200) committed at age	
37		15 or under	B+

1	A++	Robbery 1 (9A.56.200) committed at age	
2		16 or 17	A+
3	B+	Robbery 2 (9A.56.210)	C+
4	B+	Extortion 1 (9A.56.120)	C+
5	C+	Extortion 2 (9A.56.130)	D+
6	C	Identity Theft 1 (9.35.020(2))	D
7	D	Identity Theft 2 (9.35.020(3))	E
8	D	Improperly Obtaining Financial	
9		Information (9.35.010)	E
10	B	Possession of a Stolen Vehicle (9A.56.068)	C
11	B	Possession of Stolen Property 1	
12		(9A.56.150)	C
13	C	Possession of Stolen Property 2	
14		(9A.56.160)	D
15	D	Possession of Stolen Property 3	
16		(9A.56.170)	E
17	B	Taking Motor Vehicle Without Permission 1	
18		(9A.56.070)	C
19	C	Taking Motor Vehicle Without Permission 2	
20		(9A.56.075)	D
21	B	Theft of a Motor Vehicle (9A.56.065)	C
22		<b>Motor Vehicle Related Crimes</b>	
23	E	Driving Without a License (46.20.005)	E
24	B+	Hit and Run - Death (46.52.020(4)(a))	C+
25	C	Hit and Run - Injury (46.52.020(4)(b))	D
26	D	Hit and Run-Attended (46.52.020(5))	E
27	E	Hit and Run-Unattended (46.52.010)	E
28	C	Vehicular Assault (46.61.522)	D
29	C	Attempting to Elude Pursuing Police	
30		Vehicle (46.61.024)	D
31	E	Reckless Driving (46.61.500)	E
32	D	Driving While Under the Influence	
33		(46.61.502 and 46.61.504)	E
34	B+	Felony Driving While Under the Influence	
35		(46.61.502(6))	B

1	B+	Felony Physical Control of a Vehicle While	
2		Under the Influence (46.61.504(6))	B
3		<b>Other</b>	
4	B	Animal Cruelty 1 (16.52.205)	C
5	B	Bomb Threat (9.61.160)	C
6	C	Escape 1 <sup>1</sup> (9A.76.110)	C
7	C	Escape 2 <sup>1</sup> (9A.76.120)	C
8	D	Escape 3 (9A.76.130)	E
9	E	Obscene, Harassing, Etc., Phone Calls	
10		(9.61.230)	E
11	A	Other Offense Equivalent to an Adult Class	
12		A Felony	B+
13	B	Other Offense Equivalent to an Adult Class	
14		B Felony	C
15	C	Other Offense Equivalent to an Adult Class	
16		C Felony	D
17	D	Other Offense Equivalent to an Adult Gross	
18		Misdemeanor	E
19	E	Other Offense Equivalent to an Adult	
20		Misdemeanor	E
21	V	Violation of Order of Restitution,	
22		Community Supervision, or Confinement	
23		(13.40.200) <sup>2</sup>	V

24 <sup>1</sup>Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses  
25 and the standard range is established as follows:

26 1st escape or attempted escape during 12-month period - 28 days  
27 confinement

28 2nd escape or attempted escape during 12-month period - 8 weeks  
29 confinement

30 3rd and subsequent escape or attempted escape during 12-month  
31 period - 12 weeks confinement

32 <sup>2</sup>If the court finds that a respondent has violated terms of an order,  
33 it may impose a penalty of up to 30 days of confinement.

34 **JUVENILE SENTENCING STANDARDS**

35 This schedule must be used for juvenile offenders. The court may  
36 select sentencing option A, B, C, or D.

OPTION A

JUVENILE OFFENDER SENTENCING GRID

STANDARD RANGE

4	A++	129 to 260 weeks for all category A++ offenses					
5	A+	180 weeks to age 21 for all category A+ offenses					
6	A	103-129 weeks for all category A offenses					
7	A-	30-40 weeks	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks	
8	B++	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks	
9	CURRENT	B+	15-36 weeks	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks
10	OFFENSE	B	LS	LS	15-36 weeks	15-36 weeks	52-65 weeks
11	CATEGORY	C+	LS	LS	LS	15-36 weeks	15-36 weeks
12		C	LS	LS	LS	LS	15-36 weeks
13		D+	LS	LS	LS	LS	LS
14		D	LS	LS	LS	LS	LS
15		E	LS	LS	LS	LS	LS
16	PRIOR		0	1	2	3	4 or more
17	ADJUDICATIONS						

18 NOTE: References in the grid to days or weeks mean periods of  
 19 confinement. "LS" means "local sanctions" as defined in RCW  
 20 13.40.020.

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

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

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

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

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

4 OR

5 **OPTION B**

6 **SUSPENDED DISPOSITION ALTERNATIVE**

7 (1) If the offender is subject to a standard range disposition  
8 involving confinement by the department, the court may impose the  
9 standard range and suspend the disposition on condition that the  
10 offender comply with one or more local sanctions and any educational  
11 or treatment requirement. The treatment programs provided to the  
12 offender must be either research-based best practice programs as  
13 identified by the Washington state institute for public policy or the  
14 joint legislative audit and review committee, or for chemical  
15 dependency treatment programs or services, they must be evidence-  
16 based or research-based best practice programs. For the purposes of  
17 this subsection:

18 (a) "Evidence-based" means a program or practice that has had  
19 multiple site random controlled trials across heterogeneous  
20 populations demonstrating that the program or practice is effective  
21 for the population; and

22 (b) "Research-based" means a program or practice that has some  
23 research demonstrating effectiveness, but that does not yet meet the  
24 standard of evidence-based practices.

25 (2) If the offender fails to comply with the suspended  
26 disposition, the court may impose sanctions pursuant to RCW 13.40.200  
27 or may revoke the suspended disposition and order the disposition's  
28 execution.

29 (3) An offender is ineligible for the suspended disposition  
30 option under this section if the offender:

31 (a) Is adjudicated of an A+ or A++ offense;

32 (b) Is fourteen years of age or older and is adjudicated of one  
33 or more of the following offenses:

34 (i) A class A offense, or an attempt, conspiracy, or solicitation  
35 to commit a class A offense;

36 (ii) Manslaughter in the first degree (RCW 9A.32.060);

37 (iii) Assault in the second degree (RCW 9A.36.021), extortion in  
38 the first degree (RCW 9A.56.120), kidnapping in the second degree  
39 (RCW 9A.40.030), drive-by shooting (RCW 9A.36.045), vehicular



1 homicide (RCW 46.61.520), hit and run death (RCW 46.52.020(4)(a)), or  
2 manslaughter 2 (RCW 9A.32.070); or

3 (iv) Violation of the uniform controlled substances act (RCW  
4 69.50.401(2) (a) and (b)), when the offense includes infliction of  
5 bodily harm upon another or when during the commission or immediate  
6 withdrawal from the offense the respondent was armed with a deadly  
7 weapon;

8 (c) Is ordered to serve a disposition for a firearm violation  
9 under RCW 13.40.193;

10 (d) Is adjudicated of a sex offense as defined in RCW 9.94A.030;  
11 or

12 (e) Has a prior option B disposition.

13 **OR**

14 **OPTION C**

15 **CHEMICAL DEPENDENCY/MENTAL HEALTH DISPOSITION ALTERNATIVE**

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

20 **OR**

21 **OPTION D**

22 **MANIFEST INJUSTICE**

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

26 **Sec. 5.** RCW 13.40.160 and 2011 c 338 s 2 are each amended to  
27 read as follows:

28 (1) The standard range disposition for a juvenile adjudicated of  
29 an offense is determined according to RCW 13.40.0357.

30 (a) When the court sentences an offender to a local sanction as  
31 provided in RCW 13.40.0357 option A, the court shall impose a  
32 determinate disposition within the standard ranges, except as  
33 provided in subsection (2), (3), (4), (5), or (6) of this section.  
34 The disposition may be comprised of one or more local sanctions.

35 (b) When the court sentences an offender to a standard range as  
36 provided in RCW 13.40.0357 option A that includes a term of  
37 confinement exceeding thirty days, commitment shall be to the

1 department for the standard range of confinement, except as provided  
2 in subsection (2), (3), (4), (5), or (6) of this section.

3 (2) If the court concludes, and enters reasons for its  
4 conclusion, that disposition within the standard range would  
5 effectuate a manifest injustice the court shall impose a disposition  
6 outside the standard range, as indicated in option D of RCW  
7 13.40.0357. The court's finding of manifest injustice shall be  
8 supported by clear and convincing evidence.

9 A disposition outside the standard range shall be determinate and  
10 shall be comprised of confinement or community supervision, or a  
11 combination thereof. When a judge finds a manifest injustice and  
12 imposes a sentence of confinement exceeding thirty days, the court  
13 shall sentence the juvenile to a maximum term, and the provisions of  
14 RCW 13.40.030(2) shall be used to determine the range. A disposition  
15 outside the standard range is appealable under RCW 13.40.230 by the  
16 state or the respondent. A disposition within the standard range is  
17 not appealable under RCW 13.40.230.

18 (3) If a juvenile offender is found to have committed a sex  
19 offense, other than a sex offense that is also a serious violent  
20 offense as defined by RCW 9.94A.030, and has no history of a prior  
21 sex offense, the court may impose the special sex offender  
22 disposition alternative under RCW 13.40.162.

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

27 (5) If a juvenile is subject to a commitment of 15 to 65 weeks of  
28 confinement, the court may impose the disposition alternative under  
29 RCW 13.40.167.

30 (6) When the offender is subject to a standard range commitment  
31 of 15 to 36 weeks and is ineligible for a suspended disposition  
32 alternative, a manifest injustice disposition below the standard  
33 range, special sex offender disposition alternative, chemical  
34 dependency disposition alternative, or mental health disposition  
35 alternative, the court in a county with a pilot program under RCW  
36 13.40.169 may impose the disposition alternative under RCW 13.40.169.

37 (7) RCW 13.40.193 shall govern the disposition of any juvenile  
38 adjudicated of possessing a firearm in violation of RCW  
39 9.41.040(2)(a) (~~(iii)~~) (vi) or any crime in which a special finding  
40 is entered that the juvenile was armed with a firearm.

1 (8) RCW 13.40.308 shall govern the disposition of any juvenile  
2 adjudicated of theft of a motor vehicle as defined under RCW  
3 9A.56.065, possession of a stolen motor vehicle as defined under RCW  
4 9A.56.068, taking a motor vehicle without permission in the first  
5 degree under RCW 9A.56.070, and taking a motor vehicle without  
6 permission in the second degree under RCW 9A.56.075.

7 (9) Whenever a juvenile offender is entitled to credit for time  
8 spent in detention prior to a dispositional order, the dispositional  
9 order shall specifically state the number of days of credit for time  
10 served.

11 (10) Except as provided under subsection (3), (4), (5), or (6) of  
12 this section, or option B of RCW 13.40.0357, or RCW 13.40.127, the  
13 court shall not suspend or defer the imposition or the execution of  
14 the disposition.

15 (11) In no case shall the term of confinement imposed by the  
16 court at disposition exceed that to which an adult could be subjected  
17 for the same offense.

18 **Sec. 6.** RCW 13.40.193 and 2018 c 162 s 5, 2018 c 22 s 7, and  
19 2018 c 7 s 9 are each reenacted and amended to read as follows:

20 (1) If a respondent is found to have been in possession of a  
21 firearm in violation of RCW 9.41.040(2)(a)(~~(iv)~~) (vi), the court  
22 shall impose a minimum disposition of ten days of confinement. If the  
23 offender's standard range of disposition for the offense as indicated  
24 in RCW 13.40.0357 is more than thirty days of confinement, the court  
25 shall commit the offender to the department for the standard range  
26 disposition. The offender shall not be released until the offender  
27 has served a minimum of ten days in confinement.

28 (2)(a) If a respondent is found to have been in possession of a  
29 firearm in violation of RCW 9.41.040, the disposition must include a  
30 requirement that the respondent participate in a qualifying program  
31 as described in (b) of this subsection, when available, unless the  
32 court makes a written finding based on the outcome of the juvenile  
33 court risk assessment that participation in a qualifying program  
34 would not be appropriate.

35 (b) For purposes of this section, "qualifying program" means an  
36 aggression replacement training program, a functional family therapy  
37 program, or another program applicable to the juvenile firearm  
38 offender population that has been identified as evidence-based or  
39 research-based and cost-beneficial in the current list prepared at

1 the direction of the legislature by the Washington state institute  
2 for public policy.

3 (3) If the court finds that the respondent or an accomplice was  
4 armed with a firearm, the court shall determine the standard range  
5 disposition for the offense pursuant to RCW 13.40.160. If the  
6 offender or an accomplice was armed with a firearm when the offender  
7 committed any felony other than possession of a machine gun or bump-  
8 fire stock, possession of a stolen firearm, drive-by shooting, theft  
9 of a firearm, unlawful possession of a firearm in the first and  
10 second degree, or use of a machine gun or bump-fire stock in a  
11 felony, the following periods of total confinement must be added to  
12 the sentence: (a) Except for (b) of this subsection, for a class A  
13 felony, six months; for a class B felony, four months; and for a  
14 class C felony, two months; (b) for any violent offense as defined in  
15 RCW 9.94A.030, committed by a respondent who is sixteen or seventeen  
16 years old at the time of the offense, a period of twelve months. The  
17 additional time shall be imposed regardless of the offense's juvenile  
18 disposition offense category as designated in RCW 13.40.0357.

19 (4) (a) If the court finds that the respondent who is sixteen or  
20 seventeen years old and committed the offense of robbery in the first  
21 degree, drive-by shooting, rape of a child in the first degree,  
22 burglary in the first degree, or any violent offense as defined in  
23 RCW 9.94A.030 and was armed with a firearm, and the court finds that  
24 the respondent's participation was related to membership in a  
25 criminal street gang or advancing the benefit, aggrandizement, gain,  
26 profit, or other advantage for a criminal street gang, a period of  
27 three months total confinement must be added to the sentence. The  
28 additional time must be imposed regardless of the offense's juvenile  
29 disposition offense category as designated in RCW 13.40.0357 and must  
30 be served consecutively with any other sentencing enhancement.

31 (b) For the purposes of this section, "criminal street gang"  
32 means any ongoing organization, association, or group of three or  
33 more persons, whether formal or informal, having a common name or  
34 common identifying sign or symbol, having as one of its primary  
35 activities the commission of criminal acts, and whose members or  
36 associates individually or collectively engage in or have engaged in  
37 a pattern of criminal street gang activity. This definition does not  
38 apply to employees engaged in concerted activities for their mutual  
39 aid and protection, or to the activities of labor and bona fide  
40 nonprofit organizations or their members or agents.

1 (5) When a disposition under this section would effectuate a  
2 manifest injustice, the court may impose another disposition. When a  
3 judge finds a manifest injustice and imposes a disposition of  
4 confinement exceeding thirty days, the court shall commit the  
5 juvenile to a maximum term, and the provisions of RCW 13.40.030(2)  
6 shall be used to determine the range. When a judge finds a manifest  
7 injustice and imposes a disposition of confinement less than thirty  
8 days, the disposition shall be comprised of confinement or community  
9 supervision or both.

10 (6) Any term of confinement ordered pursuant to this section  
11 shall run consecutively to any term of confinement imposed in the  
12 same disposition for other offenses.

13 **Sec. 7.** RCW 13.40.265 and 2016 c 136 s 6 are each amended to  
14 read as follows:

15 (1) If a juvenile thirteen years of age or older is found by  
16 juvenile court to have committed an offense while armed with a  
17 firearm or an offense that is a violation of RCW 9.41.040(2)(a)  
18 (~~((iv))~~) (vi) or chapter 66.44, 69.41, 69.50, or 69.52 RCW, the court  
19 shall notify the department of licensing within twenty-four hours  
20 after entry of the judgment, unless the offense is the juvenile's  
21 first offense while armed with a firearm, first unlawful possession  
22 of a firearm offense, or first offense in violation of chapter 66.44,  
23 69.41, 69.50, or 69.52 RCW.

24 (2) Except as otherwise provided in subsection (3) of this  
25 section, upon petition of a juvenile who has been found by the court  
26 to have committed an offense that is a violation of chapter 66.44,  
27 69.41, 69.50, or 69.52 RCW, the court may at any time the court deems  
28 appropriate notify the department of licensing that the juvenile's  
29 driving privileges should be reinstated.

30 (3) If the offense is the juvenile's second or subsequent  
31 violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the juvenile  
32 may not petition the court for reinstatement of the juvenile's  
33 privilege to drive revoked pursuant to RCW 46.20.265 until the date  
34 the juvenile turns seventeen or one year after the date judgment was  
35 entered, whichever is later.

36 **Sec. 8.** RCW 70.02.230 and 2018 c 201 s 8002 are each amended to  
37 read as follows:

1 (1) Except as provided in this section, RCW 70.02.050, 71.05.445,  
2 74.09.295, 70.02.210, 70.02.240, 70.02.250, and 70.02.260, or  
3 pursuant to a valid authorization under RCW 70.02.030, the fact of  
4 admission to a provider for mental health services and all  
5 information and records compiled, obtained, or maintained in the  
6 course of providing mental health services to either voluntary or  
7 involuntary recipients of services at public or private agencies must  
8 be confidential.

9 (2) Information and records related to mental health services,  
10 other than those obtained through treatment under chapter 71.34 RCW,  
11 may be disclosed only:

12 (a) In communications between qualified professional persons to  
13 meet the requirements of chapter 71.05 RCW, in the provision of  
14 services or appropriate referrals, or in the course of guardianship  
15 proceedings if provided to a professional person:

16 (i) Employed by the facility;

17 (ii) Who has medical responsibility for the patient's care;

18 (iii) Who is a designated crisis responder;

19 (iv) Who is providing services under chapter 71.24 RCW;

20 (v) Who is employed by a state or local correctional facility  
21 where the person is confined or supervised; or

22 (vi) Who is providing evaluation, treatment, or follow-up  
23 services under chapter 10.77 RCW;

24 (b) When the communications regard the special needs of a patient  
25 and the necessary circumstances giving rise to such needs and the  
26 disclosure is made by a facility providing services to the operator  
27 of a facility in which the patient resides or will reside;

28 (c) (i) When the person receiving services, or his or her  
29 guardian, designates persons to whom information or records may be  
30 released, or if the person is a minor, when his or her parents make  
31 such a designation;

32 (ii) A public or private agency shall release to a person's next  
33 of kin, attorney, personal representative, guardian, or conservator,  
34 if any:

35 (A) The information that the person is presently a patient in the  
36 facility or that the person is seriously physically ill;

37 (B) A statement evaluating the mental and physical condition of  
38 the patient, and a statement of the probable duration of the  
39 patient's confinement, if such information is requested by the next

1 of kin, attorney, personal representative, guardian, or conservator;  
2 and

3 (iii) Other information requested by the next of kin or attorney  
4 as may be necessary to decide whether or not proceedings should be  
5 instituted to appoint a guardian or conservator;

6 (d)(i) To the courts as necessary to the administration of  
7 chapter 71.05 RCW or to a court ordering an evaluation or treatment  
8 under chapter 10.77 RCW solely for the purpose of preventing the  
9 entry of any evaluation or treatment order that is inconsistent with  
10 any order entered under chapter 71.05 RCW.

11 (ii) To a court or its designee in which a motion under chapter  
12 10.77 RCW has been made for involuntary medication of a defendant for  
13 the purpose of competency restoration.

14 (iii) Disclosure under this subsection is mandatory for the  
15 purpose of the federal health insurance portability and  
16 accountability act;

17 (e)(i) When a mental health professional or designated crisis  
18 responder is requested by a representative of a law enforcement or  
19 corrections agency, including a police officer, sheriff, community  
20 corrections officer, a municipal attorney, or prosecuting attorney to  
21 undertake an investigation or provide treatment under RCW 71.05.150,  
22 10.31.110, or 71.05.153, the mental health professional or designated  
23 crisis responder shall, if requested to do so, advise the  
24 representative in writing of the results of the investigation  
25 including a statement of reasons for the decision to detain or  
26 release the person investigated. The written report must be submitted  
27 within seventy-two hours of the completion of the investigation or  
28 the request from the law enforcement or corrections representative,  
29 whichever occurs later.

30 (ii) Disclosure under this subsection is mandatory for the  
31 purposes of the federal health insurance portability and  
32 accountability act;

33 (f) To the attorney of the detained person;

34 (g) To the prosecuting attorney as necessary to carry out the  
35 responsibilities of the office under RCW 71.05.330(2),  
36 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided  
37 access to records regarding the committed person's treatment and  
38 prognosis, medication, behavior problems, and other records relevant  
39 to the issue of whether treatment less restrictive than inpatient  
40 treatment is in the best interest of the committed person or others.

1 Information must be disclosed only after giving notice to the  
2 committed person and the person's counsel;

3 (h)(i) To appropriate law enforcement agencies and to a person,  
4 when the identity of the person is known to the public or private  
5 agency, whose health and safety has been threatened, or who is known  
6 to have been repeatedly harassed, by the patient. The person may  
7 designate a representative to receive the disclosure. The disclosure  
8 must be made by the professional person in charge of the public or  
9 private agency or his or her designee and must include the dates of  
10 commitment, admission, discharge, or release, authorized or  
11 unauthorized absence from the agency's facility, and only any other  
12 information that is pertinent to the threat or harassment. The agency  
13 or its employees are not civilly liable for the decision to disclose  
14 or not, so long as the decision was reached in good faith and without  
15 gross negligence.

16 (ii) Disclosure under this subsection is mandatory for the  
17 purposes of the federal health insurance portability and  
18 accountability act;

19 (i)(i) To appropriate corrections and law enforcement agencies  
20 all necessary and relevant information in the event of a crisis or  
21 emergent situation that poses a significant and imminent risk to the  
22 public. The mental health service agency or its employees are not  
23 civilly liable for the decision to disclose or not so long as the  
24 decision was reached in good faith and without gross negligence.

25 (ii) Disclosure under this subsection is mandatory for the  
26 purposes of the health insurance portability and accountability act;

27 (j) To the persons designated in RCW 71.05.425 for the purposes  
28 described in those sections;

29 (k) Upon the death of a person. The person's next of kin,  
30 personal representative, guardian, or conservator, if any, must be  
31 notified. Next of kin who are of legal age and competent must be  
32 notified under this section in the following order: Spouse, parents,  
33 children, brothers and sisters, and other relatives according to the  
34 degree of relation. Access to all records and information compiled,  
35 obtained, or maintained in the course of providing services to a  
36 deceased patient are governed by RCW 70.02.140;

37 (l) To mark headstones or otherwise memorialize patients interred  
38 at state hospital cemeteries. The department of social and health  
39 services shall make available the name, date of birth, and date of



1 death of patients buried in state hospital cemeteries fifty years  
2 after the death of a patient;

3 (m) To law enforcement officers and to prosecuting attorneys as  
4 are necessary to enforce RCW 9.41.040(2)(a) (~~(iii)~~) (vi). The extent  
5 of information that may be released is limited as follows:

6 (i) Only the fact, place, and date of involuntary commitment, an  
7 official copy of any order or orders of commitment, and an official  
8 copy of any written or oral notice of ineligibility to possess a  
9 firearm that was provided to the person pursuant to RCW 9.41.047(1),  
10 must be disclosed upon request;

11 (ii) The law enforcement and prosecuting attorneys may only  
12 release the information obtained to the person's attorney as required  
13 by court rule and to a jury or judge, if a jury is waived, that  
14 presides over any trial at which the person is charged with violating  
15 RCW 9.41.040(2)(a) (~~(iii)~~) (vi);

16 (iii) Disclosure under this subsection is mandatory for the  
17 purposes of the federal health insurance portability and  
18 accountability act;

19 (n) When a patient would otherwise be subject to the provisions  
20 of this section and disclosure is necessary for the protection of the  
21 patient or others due to his or her unauthorized disappearance from  
22 the facility, and his or her whereabouts is unknown, notice of the  
23 disappearance, along with relevant information, may be made to  
24 relatives, the department of corrections when the person is under the  
25 supervision of the department, and governmental law enforcement  
26 agencies designated by the physician or psychiatric advanced  
27 registered nurse practitioner in charge of the patient or the  
28 professional person in charge of the facility, or his or her  
29 professional designee;

30 (o) Pursuant to lawful order of a court;

31 (p) To qualified staff members of the department, to the  
32 authority, to the director of behavioral health organizations, to  
33 resource management services responsible for serving a patient, or to  
34 service providers designated by resource management services as  
35 necessary to determine the progress and adequacy of treatment and to  
36 determine whether the person should be transferred to a less  
37 restrictive or more appropriate treatment modality or facility;

38 (q) Within the mental health service agency where the patient is  
39 receiving treatment, confidential information may be disclosed to  
40 persons employed, serving in bona fide training programs, or

1 participating in supervised volunteer programs, at the facility when  
2 it is necessary to perform their duties;

3 (r) Within the department and the authority as necessary to  
4 coordinate treatment for mental illness, developmental disabilities,  
5 alcoholism, or substance use disorder of persons who are under the  
6 supervision of the department;

7 (s) Between the department of social and health services, the  
8 department of children, youth, and families, and the health care  
9 authority as necessary to coordinate treatment for mental illness,  
10 developmental disabilities, alcoholism, or drug abuse of persons who  
11 are under the supervision of the department of social and health  
12 services or the department of children, youth, and families;

13 (t) To a licensed physician or psychiatric advanced registered  
14 nurse practitioner who has determined that the life or health of the  
15 person is in danger and that treatment without the information and  
16 records related to mental health services could be injurious to the  
17 patient's health. Disclosure must be limited to the portions of the  
18 records necessary to meet the medical emergency;

19 (u)(i) Consistent with the requirements of the federal health  
20 insurance portability and accountability act, to:

21 (A) A health care provider who is providing care to a patient, or  
22 to whom a patient has been referred for evaluation or treatment; or

23 (B) Any other person who is working in a care coordinator role  
24 for a health care facility or health care provider or is under an  
25 agreement pursuant to the federal health insurance portability and  
26 accountability act with a health care facility or a health care  
27 provider and requires the information and records to assure  
28 coordinated care and treatment of that patient.

29 (ii) A person authorized to use or disclose information and  
30 records related to mental health services under this subsection  
31 (2)(u) must take appropriate steps to protect the information and  
32 records relating to mental health services.

33 (iii) Psychotherapy notes may not be released without  
34 authorization of the patient who is the subject of the request for  
35 release of information;

36 (v) To administrative and office support staff designated to  
37 obtain medical records for those licensed professionals listed in (u)  
38 of this subsection;

39 (w) To a facility that is to receive a person who is  
40 involuntarily committed under chapter 71.05 RCW, or upon transfer of

1 the person from one evaluation and treatment facility to another. The  
2 release of records under this subsection is limited to the  
3 information and records related to mental health services required by  
4 law, a record or summary of all somatic treatments, and a discharge  
5 summary. The discharge summary may include a statement of the  
6 patient's problem, the treatment goals, the type of treatment which  
7 has been provided, and recommendation for future treatment, but may  
8 not include the patient's complete treatment record;

9 (x) To the person's counsel or guardian ad litem, without  
10 modification, at any time in order to prepare for involuntary  
11 commitment or recommitment proceedings, reexaminations, appeals, or  
12 other actions relating to detention, admission, commitment, or  
13 patient's rights under chapter 71.05 RCW;

14 (y) To staff members of the protection and advocacy agency or to  
15 staff members of a private, nonprofit corporation for the purpose of  
16 protecting and advocating the rights of persons with mental disorders  
17 or developmental disabilities. Resource management services may limit  
18 the release of information to the name, birthdate, and county of  
19 residence of the patient, information regarding whether the patient  
20 was voluntarily admitted, or involuntarily committed, the date and  
21 place of admission, placement, or commitment, the name and address of  
22 a guardian of the patient, and the date and place of the guardian's  
23 appointment. Any staff member who wishes to obtain additional  
24 information must notify the patient's resource management services in  
25 writing of the request and of the resource management services' right  
26 to object. The staff member shall send the notice by mail to the  
27 guardian's address. If the guardian does not object in writing within  
28 fifteen days after the notice is mailed, the staff member may obtain  
29 the additional information. If the guardian objects in writing within  
30 fifteen days after the notice is mailed, the staff member may not  
31 obtain the additional information;

32 (z) To all current treating providers of the patient with  
33 prescriptive authority who have written a prescription for the  
34 patient within the last twelve months. For purposes of coordinating  
35 health care, the department or the authority may release without  
36 written authorization of the patient, information acquired for  
37 billing and collection purposes as described in RCW 70.02.050(1)(d).  
38 The department, or the authority, if applicable, shall notify the  
39 patient that billing and collection information has been released to  
40 named providers, and provide the substance of the information

1 released and the dates of such release. Neither the department nor  
2 the authority may release counseling, inpatient psychiatric  
3 hospitalization, or drug and alcohol treatment information without a  
4 signed written release from the client;

5 (aa)(i) To the secretary of social and health services and the  
6 director of the health care authority for either program evaluation  
7 or research, or both so long as the secretary or director, where  
8 applicable, adopts rules for the conduct of the evaluation or  
9 research, or both. Such rules must include, but need not be limited  
10 to, the requirement that all evaluators and researchers sign an oath  
11 of confidentiality substantially as follows:

12 "As a condition of conducting evaluation or research concerning  
13 persons who have received services from (fill in the facility,  
14 agency, or person) I, . . . . ., agree not to divulge, publish, or  
15 otherwise make known to unauthorized persons or the public any  
16 information obtained in the course of such evaluation or research  
17 regarding persons who have received services such that the person who  
18 received such services is identifiable.

19 I recognize that unauthorized release of confidential information  
20 may subject me to civil liability under the provisions of state law.

21 /s/ . . . . ."

22 (ii) Nothing in this chapter may be construed to prohibit the  
23 compilation and publication of statistical data for use by government  
24 or researchers under standards, including standards to assure  
25 maintenance of confidentiality, set forth by the secretary, or  
26 director, where applicable;

27 (bb) To any person if the conditions in RCW 70.02.205 are met.

28 (3) Whenever federal law or federal regulations restrict the  
29 release of information contained in the information and records  
30 related to mental health services of any patient who receives  
31 treatment for chemical dependency, the department or the authority  
32 may restrict the release of the information as necessary to comply  
33 with federal law and regulations.

34 (4) Civil liability and immunity for the release of information  
35 about a particular person who is committed to the department of  
36 social and health services or the authority under RCW 71.05.280(3)  
37 and 71.05.320(4)(c) after dismissal of a sex offense as defined in  
38 RCW 9.94A.030, is governed by RCW 4.24.550.

1 (5) The fact of admission to a provider of mental health  
2 services, as well as all records, files, evidence, findings, or  
3 orders made, prepared, collected, or maintained pursuant to chapter  
4 71.05 RCW are not admissible as evidence in any legal proceeding  
5 outside that chapter without the written authorization of the person  
6 who was the subject of the proceeding except as provided in RCW  
7 70.02.260, in a subsequent criminal prosecution of a person committed  
8 pursuant to RCW 71.05.280(3) or 71.05.320(4)(c) on charges that were  
9 dismissed pursuant to chapter 10.77 RCW due to incompetency to stand  
10 trial, in a civil commitment proceeding pursuant to chapter 71.09  
11 RCW, or, in the case of a minor, a guardianship or dependency  
12 proceeding. The records and files maintained in any court proceeding  
13 pursuant to chapter 71.05 RCW must be confidential and available  
14 subsequent to such proceedings only to the person who was the subject  
15 of the proceeding or his or her attorney. In addition, the court may  
16 order the subsequent release or use of such records or files only  
17 upon good cause shown if the court finds that appropriate safeguards  
18 for strict confidentiality are and will be maintained.

19 (6)(a) Except as provided in RCW 4.24.550, any person may bring  
20 an action against an individual who has willfully released  
21 confidential information or records concerning him or her in  
22 violation of the provisions of this section, for the greater of the  
23 following amounts:

24 (i) One thousand dollars; or

25 (ii) Three times the amount of actual damages sustained, if any.

26 (b) It is not a prerequisite to recovery under this subsection  
27 that the plaintiff suffered or was threatened with special, as  
28 contrasted with general, damages.

29 (c) Any person may bring an action to enjoin the release of  
30 confidential information or records concerning him or her or his or  
31 her ward, in violation of the provisions of this section, and may in  
32 the same action seek damages as provided in this subsection.

33 (d) The court may award to the plaintiff, should he or she  
34 prevail in any action authorized by this subsection, reasonable  
35 attorney fees in addition to those otherwise provided by law.

36 (e) If an action is brought under this subsection, no action may  
37 be brought under RCW 70.02.170.

38 **Sec. 9.** RCW 70.02.240 and 2018 c 201 s 8003 are each amended to  
39 read as follows:

1       The fact of admission and all information and records related to  
2 mental health services obtained through treatment under chapter 71.34  
3 RCW is confidential, except as authorized in RCW 70.02.050,  
4 70.02.210, 70.02.230, 70.02.250, and 70.02.260. Such confidential  
5 information may be disclosed only:

6       (1) In communications between mental health professionals to meet  
7 the requirements of chapter 71.34 RCW, in the provision of services  
8 to the minor, or in making appropriate referrals;

9       (2) In the course of guardianship or dependency proceedings;

10       (3) To the minor, the minor's parent, and the minor's attorney,  
11 subject to RCW 13.50.100;

12       (4) To the courts as necessary to administer chapter 71.34 RCW;

13       (5) To law enforcement officers or public health officers as  
14 necessary to carry out the responsibilities of their office. However,  
15 only the fact and date of admission, and the date of discharge, the  
16 name and address of the treatment provider, if any, and the last  
17 known address must be disclosed upon request;

18       (6) To law enforcement officers, public health officers,  
19 relatives, and other governmental law enforcement agencies, if a  
20 minor has escaped from custody, disappeared from an evaluation and  
21 treatment facility, violated conditions of a less restrictive  
22 treatment order, or failed to return from an authorized leave, and  
23 then only such information as may be necessary to provide for public  
24 safety or to assist in the apprehension of the minor. The officers  
25 are obligated to keep the information confidential in accordance with  
26 this chapter;

27       (7) To the secretary of social and health services and the  
28 director of the health care authority for assistance in data  
29 collection and program evaluation or research so long as the  
30 secretary or director, where applicable, adopts rules for the conduct  
31 of such evaluation and research. The rules must include, but need not  
32 be limited to, the requirement that all evaluators and researchers  
33 sign an oath of confidentiality substantially as follows:

34       "As a condition of conducting evaluation or research concerning  
35 persons who have received services from (fill in the facility,  
36 agency, or person) I, . . . ., agree not to divulge, publish, or  
37 otherwise make known to unauthorized persons or the public any  
38 information obtained in the course of such evaluation or research

1 regarding minors who have received services in a manner such that the  
2 minor is identifiable.

3 I recognize that unauthorized release of confidential information  
4 may subject me to civil liability under state law.

5 /s/ . . . . .";

6 (8) To appropriate law enforcement agencies, upon request, all  
7 necessary and relevant information in the event of a crisis or  
8 emergent situation that poses a significant and imminent risk to the  
9 public. The mental health service agency or its employees are not  
10 civilly liable for the decision to disclose or not, so long as the  
11 decision was reached in good faith and without gross negligence;

12 (9) To appropriate law enforcement agencies and to a person, when  
13 the identity of the person is known to the public or private agency,  
14 whose health and safety has been threatened, or who is known to have  
15 been repeatedly harassed, by the patient. The person may designate a  
16 representative to receive the disclosure. The disclosure must be made  
17 by the professional person in charge of the public or private agency  
18 or his or her designee and must include the dates of admission,  
19 discharge, authorized or unauthorized absence from the agency's  
20 facility, and only any other information that is pertinent to the  
21 threat or harassment. The agency or its employees are not civilly  
22 liable for the decision to disclose or not, so long as the decision  
23 was reached in good faith and without gross negligence;

24 (10) To a minor's next of kin, attorney, guardian, or  
25 conservator, if any, the information that the minor is presently in  
26 the facility or that the minor is seriously physically ill and a  
27 statement evaluating the mental and physical condition of the minor  
28 as well as a statement of the probable duration of the minor's  
29 confinement;

30 (11) Upon the death of a minor, to the minor's next of kin;

31 (12) To a facility in which the minor resides or will reside;

32 (13) To law enforcement officers and to prosecuting attorneys as  
33 are necessary to enforce RCW 9.41.040(2)(a)(~~(iii)~~) (vi). The extent  
34 of information that may be released is limited as follows:

35 (a) Only the fact, place, and date of involuntary commitment, an  
36 official copy of any order or orders of commitment, and an official  
37 copy of any written or oral notice of ineligibility to possess a  
38 firearm that was provided to the person pursuant to RCW 9.41.047(1),  
39 must be disclosed upon request;

1 (b) The law enforcement and prosecuting attorneys may only  
2 release the information obtained to the person's attorney as required  
3 by court rule and to a jury or judge, if a jury is waived, that  
4 presides over any trial at which the person is charged with violating  
5 RCW 9.41.040(2) (a) (~~(iii)~~) (vi);

6 (c) Disclosure under this subsection is mandatory for the  
7 purposes of the federal health insurance portability and  
8 accountability act;

9 (14) This section may not be construed to prohibit the  
10 compilation and publication of statistical data for use by government  
11 or researchers under standards, including standards to assure  
12 maintenance of confidentiality, set forth by the director of the  
13 health care authority or the secretary of the department of social  
14 and health services, where applicable. The fact of admission and all  
15 information obtained pursuant to chapter 71.34 RCW are not admissible  
16 as evidence in any legal proceeding outside chapter 71.34 RCW, except  
17 guardianship or dependency, without the written consent of the minor  
18 or the minor's parent;

19 (15) For the purpose of a correctional facility participating in  
20 the postinstitutional medical assistance system supporting the  
21 expedited medical determinations and medical suspensions as provided  
22 in RCW 74.09.555 and 74.09.295;

23 (16) Pursuant to a lawful order of a court.

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