
ENGROSSED SUBSTITUTE HOUSE BILL 1732

State of Washington

66th Legislature

2019 Regular Session

By House Public Safety (originally sponsored by Representatives Valdez, Entenman, Ramos, Wylie, Gregerson, Dolan, Frame, Jinkins, Ortiz-Self, Orwall, Peterson, Ryu, Stanford, Kilduff, Santos, Thai, Senn, Macri, and Pollet)

READ FIRST TIME 02/22/19.

1 AN ACT Relating to identifying and responding to bias-based
2 criminal offenses; amending RCW 9A.36.078, 9A.36.080, 9A.36.083,
3 2.56.030, 9.94A.030, 9A.46.060, 36.28A.030, 43.43.830, and 48.18.553;
4 reenacting and amending RCW 9.94A.515; and adding a new section to
5 chapter 43.10 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, gender expression or identity, or mental,
12 physical, or sensory (~~handicaps~~) disabilities are serious and
13 increasing. The legislature also finds that crimes and threats are
14 often directed against interracial couples and their children or
15 couples of mixed religions, colors, ancestries, or national origins
16 because of bias and bigotry against the race, color, religion,
17 ancestry, or national origin of one person in the couple or family.
18 The legislature finds that the state interest in preventing crimes
19 and threats motivated by bigotry and bias goes beyond the state
20 interest in preventing other felonies or misdemeanors such as
21 criminal trespass, malicious mischief, assault, or other crimes that

1 are not motivated by hatred, bigotry, and bias, and that prosecution
2 of those other crimes inadequately protects citizens from crimes and
3 threats motivated by bigotry and bias. Therefore, the legislature
4 finds that protection of those citizens from threats of harm due to
5 bias and bigotry is a 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 attacks on religious places of
28 worship and threatening defacement of religious texts have increased,
29 as have assaults and attacks on those who visibly self-identify as
30 members of a religious minority, such as by wearing religious head
31 covering or other visible articles of faith. The legislature finds
32 that any person who defaces religious real property with derogatory
33 words, symbols, or items, who places a vandalized or defaced
34 religious item or scripture on the property of a victim, or who
35 attacks or attempts to remove the religious garb or faith-based
36 attire of a victim, knows or reasonably should know that such actions
37 create a reasonable fear of harm in the mind of the victim.

38 The legislature also finds that a hate crime committed against a
39 victim because of the victim's gender may be identified in the same
40 manner that a hate crime committed against a victim of another

1 protected group is identified. Affirmative indications of hatred
2 towards gender as a class is the predominant factor to consider.
3 Other factors to consider include the perpetrator's use of language,
4 slurs, or symbols expressing hatred towards the victim's gender as a
5 class; the severity of the attack including mutilation of the
6 victim's sexual organs; a history of similar attacks against victims
7 of the same gender by the perpetrator or a history of similar
8 incidents in the same area; a lack of provocation; an absence of any
9 other apparent motivation; and common sense.

10 The legislature recognizes that, since 2015, Washington state has
11 experienced a sharp increase in malicious harassment offenses, and,
12 in response, the legislature intends to rename the offense to its
13 more commonly understood title of "hate crime offense" and create a
14 multidisciplinary working group to establish recommendations for best
15 practices for identifying and responding to hate crimes.

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

18 (1) A person is guilty of (~~malicious harassment~~) a hate crime
19 offense if he or she maliciously and intentionally commits one of the
20 following acts because of his or her perception of the victim's race,
21 color, religion, ancestry, national origin, gender, sexual
22 orientation, gender expression or identity, or mental, physical, or
23 sensory (~~handicap~~) disability:

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

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

27 (c) Threatens a specific person or group of persons and places
28 that person, or members of the specific group of persons, in
29 reasonable fear of harm to person or property. The fear must be a
30 fear that a reasonable person would have under all the circumstances.
31 For purposes of this section, a "reasonable person" is a reasonable
32 person who is a member of the victim's race, color, religion,
33 ancestry, national origin, gender, or sexual orientation, or who has
34 the same gender expression or identity, or the same mental, physical,
35 or sensory (~~handicap~~) disability as the victim. Words alone do not
36 constitute (~~malicious harassment~~) a hate crime offense unless the
37 context or circumstances surrounding the words indicate the words are
38 a threat. Threatening words do not constitute (~~malicious~~

1 harassment)) a hate crime offense if it is apparent to the victim
2 that the person does not have the ability to carry out the threat.

3 (2) In any prosecution for (~~malicious harassment~~) a hate crime
4 offense, unless evidence exists which explains to the trier of fact's
5 satisfaction that the person did not intend to threaten the victim or
6 victims, the trier of fact may infer that the person intended to
7 threaten a specific victim or group of victims because of the
8 person's perception of the victim's or victims' race, color,
9 religion, ancestry, national origin, gender, sexual orientation,
10 gender expression or identity, or mental, physical, or sensory
11 (~~handicap~~) disability if the person commits one of the following
12 acts:

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

15 (b) Defaces property of a victim who is or whom the actor
16 perceives to be of Jewish heritage by defacing the property with a
17 swastika;

18 (c) Defaces religious real property with words, symbols, or items
19 that are derogatory to persons of the faith associated with the
20 property;

21 (d) Places a vandalized or defaced religious item or scripture on
22 the property of a victim who is or whom the actor perceives to be of
23 the faith with which that item or scripture is associated; or

24 (e) Damages, destroys, or defaces religious garb or other faith-
25 based attire belonging to the victim or attempts to or successfully
26 removes religious garb or other faith-based attire from the victim's
27 person without the victim's authorization.

28 This subsection only applies to the creation of a reasonable
29 inference for evidentiary purposes. This subsection does not restrict
30 the state's ability to prosecute a person under subsection (1) of
31 this section when the facts of a particular case do not fall within
32 (a) (~~or (b)~~) through (e) of this subsection.

33 (3) It is not a defense that the accused was mistaken that the
34 victim was a member of a certain race, color, religion, ancestry,
35 national origin, gender, or sexual orientation, had a particular
36 gender expression or identity, or had a mental, physical, or sensory
37 (~~handicap~~) disability.

38 (4) Evidence of expressions or associations of the accused may
39 not be introduced as substantive evidence at trial unless the
40 evidence specifically relates to the crime charged. Nothing in this

1 chapter shall affect the rules of evidence governing impeachment of a
2 witness.

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

6 (6) For the purposes of this section:

7 (a) "Gender expression or identity" means having or being
8 perceived as having a gender identity, self-image, appearance,
9 behavior, or expression, whether or not that gender identity, self-
10 image, appearance, behavior, or expression is different from that
11 traditionally associated with the sex assigned to that person at
12 birth.

13 (b) "Sexual orientation" ((has the same meaning as in RCW
14 49.60.040)) means heterosexuality, homosexuality, or bisexuality.

15 ((~~(b)~~)) (c) "Threat" means to communicate, directly or
16 indirectly, the intent to:

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

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

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

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

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

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

32 In addition to the criminal penalty provided in RCW 9A.36.080 for
33 committing a ((~~crime of malicious harassment~~)) hate crime offense,
34 the victim may bring a civil cause of action for ((~~malicious~~
35 ~~harassment~~)) the hate crime offense against the ((~~harasser~~)) person
36 who committed the offense. A person may be liable to the victim of
37 ((~~malicious harassment~~)) the hate crime offense for actual damages,
38 punitive damages of up to ((~~ten~~)) one hundred thousand dollars, and
39 reasonable attorneys' fees and costs incurred in bringing the action.

1 NEW SECTION. **Sec. 4.** 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.

7 (2) The group's membership must include:

8 (a) Four community members, one appointed by each of the two
9 largest caucuses of the senate and one appointed by each of the two
10 largest caucuses of the house of representatives;

11 (b) Two members appointed by the governor from organizations
12 representing groups protected under RCW 9A.36.080; and

13 (c) One member appointed by the governor representing law
14 enforcement.

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

16 (a) Preventing hate crimes, especially those occurring in public
17 K-12 schools and in the workplace, through public awareness and
18 antibias campaigns;

19 (b) Increasing identification and reporting of hate crimes,
20 including recommendations for standardization of data collection and
21 reporting;

22 (c) Strengthening law enforcement, prosecutorial, and public K-12
23 school responses to hate crime offenses through enhanced training and
24 other measures; and

25 (d) Supporting victims of hate crime offenses, and in particular,
26 ways of strengthening law enforcement, health care, and educational
27 collaboration with, and victim connection to, community advocacy and
28 support organizations.

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

32 (5) The working group must hold at least four meetings. By July
33 1, 2020, the office of the attorney general must report the working
34 group's recommendations to the governor and the legislature, in
35 compliance with RCW 43.01.036.

36 **Sec. 5.** RCW 2.56.030 and 2009 c 479 s 2 are each amended to read
37 as follows:

38 The administrator for the courts shall, under the supervision and
39 direction of the chief justice:

- 1 (1) Examine the administrative methods and systems employed in
2 the offices of the judges, clerks, stenographers, and employees of
3 the courts and make recommendations, through the chief justice, for
4 the improvement of the same;
- 5 (2) Examine the state of the dockets of the courts and determine
6 the need for assistance by any court;
- 7 (3) Make recommendations to the chief justice relating to the
8 assignment of judges where courts are in need of assistance and carry
9 out the direction of the chief justice as to the assignments of
10 judges to counties and districts where the courts are in need of
11 assistance;
- 12 (4) Collect and compile statistical and other data and make
13 reports of the business transacted by the courts and transmit the
14 same to the chief justice to the end that proper action may be taken
15 in respect thereto;
- 16 (5) Prepare and submit budget estimates of state appropriations
17 necessary for the maintenance and operation of the judicial system
18 and make recommendations in respect thereto;
- 19 (6) Collect statistical and other data and make reports relating
20 to the expenditure of public moneys, state and local, for the
21 maintenance and operation of the judicial system and the offices
22 connected therewith;
- 23 (7) Obtain reports from clerks of courts in accordance with law
24 or rules adopted by the supreme court of this state on cases and
25 other judicial business in which action has been delayed beyond
26 periods of time specified by law or rules of court and make report
27 thereof to supreme court of this state;
- 28 (8) Act as secretary of the judicial conference referred to in
29 RCW 2.56.060;
- 30 (9) Submit annually, as of February 1st, to the chief justice, a
31 report of the activities of the administrator's office for the
32 preceding calendar year including activities related to courthouse
33 security;
- 34 (10) Administer programs and standards for the training and
35 education of judicial personnel;
- 36 (11) Examine the need for new superior court and district court
37 judge positions under an objective workload analysis. The results of
38 the objective workload analysis shall be reviewed by the board for
39 judicial administration which shall make recommendations to the
40 legislature. It is the intent of the legislature that an objective

1 workload analysis become the basis for creating additional district
2 and superior court positions, and recommendations should address that
3 objective;

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

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

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

17 (15) Develop, in consultation with the entities set forth in RCW
18 2.56.150(3), a comprehensive statewide curriculum for persons who act
19 as guardians ad litem under Title 13 or 26 RCW. The curriculum shall
20 be made available July 1, 2008, and include specialty sections on
21 child development, child sexual abuse, child physical abuse, child
22 neglect, domestic violence, clinical and forensic investigative and
23 interviewing techniques, family reconciliation and mediation
24 services, and relevant statutory and legal requirements. The
25 curriculum shall be made available to all superior court judges,
26 court personnel, and all persons who act as guardians ad litem;

27 (16) Develop a curriculum for a general understanding of (~~crimes~~
28 ~~of malicious harassment~~) hate crime offenses, as well as specific
29 legal skills and knowledge of RCW 9A.36.080, relevant cases, court
30 rules, and the special needs of (~~malicious harassment~~) hate crime
31 offense victims. This curriculum shall be made available to all
32 superior court and court of appeals judges and to all justices of the
33 supreme court;

34 (17) Develop, in consultation with the criminal justice training
35 commission and the commissions established under chapters 43.113,
36 43.115, and 43.117 RCW, a curriculum for a general understanding of
37 ethnic and cultural diversity and its implications for working with
38 youth of color and their families. The curriculum shall be available
39 to all superior court judges and court commissioners assigned to
40 juvenile court, and other court personnel. Ethnic and cultural

1 diversity training shall be provided annually so as to incorporate
2 cultural sensitivity and awareness into the daily operation of
3 juvenile courts statewide;

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

8 (19) Develop a Washington family law handbook in accordance with
9 RCW 2.56.180;

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

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

15 (22)(a) Administer and distribute amounts appropriated under RCW
16 43.08.250(2) for district court judges' and qualifying elected
17 municipal court judges' salary contributions. The administrator for
18 the courts shall develop a distribution formula for these amounts
19 that does not differentiate between district and elected municipal
20 court judges.

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

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

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

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

32 (23) Subject to the availability of funds specifically
33 appropriated therefor, assist courts in the development and
34 implementation of language assistance plans required under RCW
35 2.43.090.

36 **Sec. 6.** RCW 9.94A.030 and 2018 c 166 s 3 are each amended to
37 read as follows:

38 Unless the context clearly requires otherwise, the definitions in
39 this section apply throughout this chapter.

- 1 (1) "Board" means the indeterminate sentence review board created
2 under chapter 9.95 RCW.
- 3 (2) "Collect," or any derivative thereof, "collect and remit," or
4 "collect and deliver," when used with reference to the department,
5 means that the department, either directly or through a collection
6 agreement authorized by RCW 9.94A.760, is responsible for monitoring
7 and enforcing the offender's sentence with regard to the legal
8 financial obligation, receiving payment thereof from the offender,
9 and, consistent with current law, delivering daily the entire payment
10 to the superior court clerk without depositing it in a departmental
11 account.
- 12 (3) "Commission" means the sentencing guidelines commission.
- 13 (4) "Community corrections officer" means an employee of the
14 department who is responsible for carrying out specific duties in
15 supervision of sentenced offenders and monitoring of sentence
16 conditions.
- 17 (5) "Community custody" means that portion of an offender's
18 sentence of confinement in lieu of earned release time or imposed as
19 part of a sentence under this chapter and served in the community
20 subject to controls placed on the offender's movement and activities
21 by the department.
- 22 (6) "Community protection zone" means the area within eight
23 hundred eighty feet of the facilities and grounds of a public or
24 private school.
- 25 (7) "Community restitution" means compulsory service, without
26 compensation, performed for the benefit of the community by the
27 offender.
- 28 (8) "Confinement" means total or partial confinement.
- 29 (9) "Conviction" means an adjudication of guilt pursuant to Title
30 10 or 13 RCW and includes a verdict of guilty, a finding of guilty,
31 and acceptance of a plea of guilty.
- 32 (10) "Crime-related prohibition" means an order of a court
33 prohibiting conduct that directly relates to the circumstances of the
34 crime for which the offender has been convicted, and shall not be
35 construed to mean orders directing an offender affirmatively to
36 participate in rehabilitative programs or to otherwise perform
37 affirmative conduct. However, affirmative acts necessary to monitor
38 compliance with the order of a court may be required by the
39 department.

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

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

9 (b) A conviction may be removed from a defendant's criminal
10 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,
11 9.95.240, or a similar out-of-state statute, or if the conviction has
12 been vacated pursuant to a governor's pardon.

13 (c) The determination of a defendant's criminal history is
14 distinct from the determination of an offender score. A prior
15 conviction that was not included in an offender score calculated
16 pursuant to a former version of the sentencing reform act remains
17 part of the defendant's criminal history.

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

28 (13) "Criminal street gang associate or member" means any person
29 who actively participates in any criminal street gang and who
30 intentionally promotes, furthers, or assists in any criminal act by
31 the criminal street gang.

32 (14) "Criminal street gang-related offense" means any felony or
33 misdemeanor offense, whether in this state or elsewhere, that is
34 committed for the benefit of, at the direction of, or in association
35 with any criminal street gang, or is committed with the intent to
36 promote, further, or assist in any criminal conduct by the gang, or
37 is committed for one or more of the following reasons:

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

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

1 (c) To exact revenge or retribution for the gang or any member of
2 the gang;

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

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

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

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

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

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

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

34 (19) "Disposable earnings" means that part of the earnings of an
35 offender remaining after the deduction from those earnings of any
36 amount required by law to be withheld. For the purposes of this
37 definition, "earnings" means compensation paid or payable for
38 personal services, whether denominated as wages, salary, commission,
39 bonuses, or otherwise, and, notwithstanding any other provision of
40 law making the payments exempt from garnishment, attachment, or other

1 process to satisfy a court-ordered legal financial obligation,
2 specifically includes periodic payments pursuant to pension or
3 retirement programs, or insurance policies of any type, but does not
4 include payments made under Title 50 RCW, except as provided in RCW
5 50.40.020 and 50.40.050, or Title 74 RCW.

6 (20) "Domestic violence" has the same meaning as defined in RCW
7 10.99.020 and 26.50.010.

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

12 (22) "Drug offense" means:

13 (a) Any felony violation of chapter 69.50 RCW except possession
14 of a controlled substance (RCW 69.50.4013) or forged prescription for
15 a controlled substance (RCW 69.50.403);

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

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

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

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

29 (a) Radio frequency signaling technology, which detects if the
30 monitored individual is or is not at an approved location and
31 notifies the monitoring agency of the time that the monitored
32 individual either leaves the approved location or tampers with or
33 removes the monitoring device; or

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

37 (25) "Escape" means:

38 (a) Sexually violent predator escape (RCW 9A.76.115), escape in
39 the first degree (RCW 9A.76.110), escape in the second degree (RCW
40 9A.76.120), willful failure to return from furlough (RCW 72.66.060),

1 willful failure to return from work release (RCW 72.65.070), or
2 willful failure to be available for supervision by the department
3 while in community custody (RCW 72.09.310); or

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

7 (26) "Felony traffic offense" means:

8 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
9 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-
10 run injury-accident (RCW 46.52.020(4)), felony driving while under
11 the influence of intoxicating liquor or any drug (RCW 46.61.502(6)),
12 or felony physical control of a vehicle while under the influence of
13 intoxicating liquor or any drug (RCW 46.61.504(6)); or

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

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

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

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

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

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

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

37 (c) A private residence where the individual stays as a transient
38 invitee.

39 (31) "Legal financial obligation" means a sum of money that is
40 ordered by a superior court of the state of Washington for legal

1 financial obligations which may include restitution to the victim,
2 statutorily imposed crime victims' compensation fees as assessed
3 pursuant to RCW 7.68.035, court costs, county or interlocal drug
4 funds, court-appointed attorneys' fees, and costs of defense, fines,
5 and any other financial obligation that is assessed to the offender
6 as a result of a felony conviction. Upon conviction for vehicular
7 assault while under the influence of intoxicating liquor or any drug,
8 RCW 46.61.522(1)(b), or vehicular homicide while under the influence
9 of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal
10 financial obligations may also include payment to a public agency of
11 the expense of an emergency response to the incident resulting in the
12 conviction, subject to RCW 38.52.430.

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

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

18 (a) Any felony defined under any law as a class A felony or
19 criminal solicitation of or criminal conspiracy to commit a class A
20 felony;

21 (b) Assault in the second degree;

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

23 (d) Child molestation in the second degree;

24 (e) Controlled substance homicide;

25 (f) Extortion in the first degree;

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

27 (h) Indecent liberties;

28 (i) Kidnapping in the second degree;

29 (j) Leading organized crime;

30 (k) Manslaughter in the first degree;

31 (l) Manslaughter in the second degree;

32 (m) Promoting prostitution in the first degree;

33 (n) Rape in the third degree;

34 (o) Robbery in the second degree;

35 (p) Sexual exploitation;

36 (q) Vehicular assault, when caused by the operation or driving of
37 a vehicle by a person while under the influence of intoxicating
38 liquor or any drug or by the operation or driving of a vehicle in a
39 reckless manner;

1 (r) Vehicular homicide, when proximately caused by the driving of
2 any vehicle by any person while under the influence of intoxicating
3 liquor or any drug as defined by RCW 46.61.502, or by the operation
4 of any vehicle in a reckless manner;

5 (s) Any other class B felony offense with a finding of sexual
6 motivation;

7 (t) Any other felony with a deadly weapon verdict under RCW
8 9.94A.825;

9 (u) Any felony offense in effect at any time prior to December 2,
10 1993, that is comparable to a most serious offense under this
11 subsection, or any federal or out-of-state conviction for an offense
12 that under the laws of this state would be a felony classified as a
13 most serious offense under this subsection;

14 (v)(i) A prior conviction for indecent liberties under RCW
15 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex.
16 sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b),
17 and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW
18 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986,
19 until July 1, 1988;

20 (ii) A prior conviction for indecent liberties under RCW
21 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
22 if: (A) The crime was committed against a child under the age of
23 fourteen; or (B) the relationship between the victim and perpetrator
24 is included in the definition of indecent liberties under RCW
25 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27,
26 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25,
27 1993, through July 27, 1997;

28 (w) Any out-of-state conviction for a felony offense with a
29 finding of sexual motivation if the minimum sentence imposed was ten
30 years or more; provided that the out-of-state felony offense must be
31 comparable to a felony offense under this title and Title 9A RCW and
32 the out-of-state definition of sexual motivation must be comparable
33 to the definition of sexual motivation contained in this section.

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

36 (35) "Offender" means a person who has committed a felony
37 established by state law and is eighteen years of age or older or is
38 less than eighteen years of age but whose case is under superior
39 court jurisdiction under RCW 13.04.030 or has been transferred by the
40 appropriate juvenile court to a criminal court pursuant to RCW

1 13.40.110. In addition, for the purpose of community custody
2 requirements under this chapter, "offender" also means a misdemeanor
3 or gross misdemeanor probationer ordered by a superior court to
4 probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and
5 supervised by the department pursuant to RCW 9.94A.501 and
6 9.94A.5011. Throughout this chapter, the terms "offender" and
7 "defendant" are used interchangeably.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (xii) Burglary 2 (RCW 9A.52.030);
2 (xiii) Malicious Mischief 1 (RCW 9A.48.070);
3 (xiv) Malicious Mischief 2 (RCW 9A.48.080);
4 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);
5 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);
6 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW
7 9A.56.070);
8 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
9 9A.56.075);
10 (xix) Extortion 1 (RCW 9A.56.120);
11 (xx) Extortion 2 (RCW 9A.56.130);
12 (xxi) Intimidating a Witness (RCW 9A.72.110);
13 (xxii) Tampering with a Witness (RCW 9A.72.120);
14 (xxiii) Reckless Endangerment (RCW 9A.36.050);
15 (xxiv) Coercion (RCW 9A.36.070);
16 (xxv) Harassment (RCW 9A.46.020); or
17 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);

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

20 (c) That the most recent committed offense listed in (a) of this
21 subsection occurred within three years of a prior offense listed in
22 (a) of this subsection; and

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

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

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

29 (ii) Has, before the commission of the offense under (a) of this
30 subsection, been convicted as an offender on at least two separate
31 occasions, whether in this state or elsewhere, of felonies that under
32 the laws of this state would be considered most serious offenses and
33 would be included in the offender score under RCW 9.94A.525; provided
34 that of the two or more previous convictions, at least one conviction
35 must have occurred before the commission of any of the other most
36 serious offenses for which the offender was previously convicted; or

37 (b) (i) Has been convicted of: (A) Rape in the first degree, rape
38 of a child in the first degree, child molestation in the first
39 degree, rape in the second degree, rape of a child in the second
40 degree, or indecent liberties by forcible compulsion; (B) any of the

1 following offenses with a finding of sexual motivation: Murder in the
2 first degree, murder in the second degree, homicide by abuse,
3 kidnapping in the first degree, kidnapping in the second degree,
4 assault in the first degree, assault in the second degree, assault of
5 a child in the first degree, assault of a child in the second degree,
6 or burglary in the first degree; or (C) an attempt to commit any
7 crime listed in this subsection (38)(b)(i); and

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

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

1 28A.225.010; and (B) "teacher, counselor, volunteer, or other person
2 in authority" does not include the parent or legal guardian of the
3 victim.

4 (40) "Private school" means a school regulated under chapter
5 28A.195 or 28A.205 RCW.

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

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

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

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

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

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

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

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

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

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

31 (45) "Serious traffic offense" means:

32 (a) Nonfelony driving while under the influence of intoxicating
33 liquor or any drug (RCW 46.61.502), nonfelony actual physical control
34 while under the influence of intoxicating liquor or any drug (RCW
35 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an
36 attended vehicle (RCW 46.52.020(5)); or

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

1 (46) "Serious violent offense" is a subcategory of violent
2 offense and means:

- 3 (a) (i) Murder in the first degree;
4 (ii) Homicide by abuse;
5 (iii) Murder in the second degree;
6 (iv) Manslaughter in the first degree;
7 (v) Assault in the first degree;
8 (vi) Kidnapping in the first degree;
9 (vii) Rape in the first degree;
10 (viii) Assault of a child in the first degree; or
11 (ix) An attempt, criminal solicitation, or criminal conspiracy to
12 commit one of these felonies; or
13 (b) Any federal or out-of-state conviction for an offense that
14 under the laws of this state would be a felony classified as a
15 serious violent offense under (a) of this subsection.

16 (47) "Sex offense" means:

- 17 (a) (i) A felony that is a violation of chapter 9A.44 RCW other
18 than RCW 9A.44.132;
19 (ii) A violation of RCW 9A.64.020;
20 (iii) A felony that is a violation of chapter 9.68A RCW other
21 than RCW 9.68A.080;
22 (iv) A felony that is, under chapter 9A.28 RCW, a criminal
23 attempt, criminal solicitation, or criminal conspiracy to commit such
24 crimes; or
25 (v) A felony violation of RCW 9A.44.132(1) (failure to register
26 as a sex offender) if the person has been convicted of violating RCW
27 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130
28 prior to June 10, 2010, on at least one prior occasion;
29 (b) Any conviction for a felony offense in effect at any time
30 prior to July 1, 1976, that is comparable to a felony classified as a
31 sex offense in (a) of this subsection;
32 (c) A felony with a finding of sexual motivation under RCW
33 9.94A.835 or 13.40.135; or
34 (d) Any federal or out-of-state conviction for an offense that
35 under the laws of this state would be a felony classified as a sex
36 offense under (a) of this subsection.

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

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

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

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

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

14 (53) "Transition training" means written and verbal instructions
15 and assistance provided by the department to the offender during the
16 two weeks prior to the offender's successful completion of the work
17 ethic camp program. The transition training shall include
18 instructions in the offender's requirements and obligations during
19 the offender's period of community custody.

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

23 (55) "Violent offense" means:

24 (a) Any of the following felonies:

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

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

29 (iii) Manslaughter in the first degree;

30 (iv) Manslaughter in the second degree;

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

32 (vi) Kidnapping in the second degree;

33 (vii) Arson in the second degree;

34 (viii) Assault in the second degree;

35 (ix) Assault of a child in the second degree;

36 (x) Extortion in the first degree;

37 (xi) Robbery in the second degree;

38 (xii) Drive-by shooting;

39 (xiii) Vehicular assault, when caused by the operation or driving
40 of a vehicle by a person while under the influence of intoxicating

1 liquor or any drug or by the operation or driving of a vehicle in a
2 reckless manner; and

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

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

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

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

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

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

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

28 TABLE 2

29 CRIMES INCLUDED WITHIN EACH
30 SERIOUSNESS LEVEL

31 XVI Aggravated Murder 1 (RCW 10.95.020)

32 XV Homicide by abuse (RCW 9A.32.055)

33 Malicious explosion 1 (RCW
34 70.74.280(1))

35 Murder 1 (RCW 9A.32.030)

36 XIV Murder 2 (RCW 9A.32.050)

37 Trafficking 1 (RCW 9A.40.100(1))

1 XIII Malicious explosion 2 (RCW
2 70.74.280(2))
3 Malicious placement of an explosive 1
4 (RCW 70.74.270(1))
5 XII Assault 1 (RCW 9A.36.011)
6 Assault of a Child 1 (RCW 9A.36.120)
7 Malicious placement of an imitation
8 device 1 (RCW 70.74.272(1)(a))
9 Promoting Commercial Sexual Abuse of
10 a Minor (RCW 9.68A.101)
11 Rape 1 (RCW 9A.44.040)
12 Rape of a Child 1 (RCW 9A.44.073)
13 Trafficking 2 (RCW 9A.40.100(3))
14 XI Manslaughter 1 (RCW 9A.32.060)
15 Rape 2 (RCW 9A.44.050)
16 Rape of a Child 2 (RCW 9A.44.076)
17 Vehicular Homicide, by being under the
18 influence of intoxicating liquor or
19 any drug (RCW 46.61.520)
20 Vehicular Homicide, by the operation of
21 any vehicle in a reckless manner
22 (RCW 46.61.520)
23 X Child Molestation 1 (RCW 9A.44.083)
24 Criminal Mistreatment 1 (RCW
25 9A.42.020)
26 Indecent Liberties (with forcible
27 compulsion) (RCW
28 9A.44.100(1)(a))
29 Kidnapping 1 (RCW 9A.40.020)
30 Leading Organized Crime (RCW
31 9A.82.060(1)(a))
32 Malicious explosion 3 (RCW
33 70.74.280(3))
34 Sexually Violent Predator Escape (RCW
35 9A.76.115)

1 IX Abandonment of Dependent Person 1
2 (RCW 9A.42.060)
3 Assault of a Child 2 (RCW 9A.36.130)
4 Explosive devices prohibited (RCW
5 70.74.180)
6 Hit and Run—Death (RCW
7 46.52.020(4)(a))
8 Homicide by Watercraft, by being under
9 the influence of intoxicating liquor
10 or any drug (RCW 79A.60.050)
11 Inciting Criminal Profiteering (RCW
12 9A.82.060(1)(b))
13 Malicious placement of an explosive 2
14 (RCW 70.74.270(2))
15 Robbery 1 (RCW 9A.56.200)
16 Sexual Exploitation (RCW 9.68A.040)
17 VIII Arson 1 (RCW 9A.48.020)
18 Commercial Sexual Abuse of a Minor
19 (RCW 9.68A.100)
20 Homicide by Watercraft, by the
21 operation of any vessel in a reckless
22 manner (RCW 79A.60.050)
23 Manslaughter 2 (RCW 9A.32.070)
24 Promoting Prostitution 1 (RCW
25 9A.88.070)
26 Theft of Ammonia (RCW 69.55.010)
27 VII Air bag diagnostic systems (causing
28 bodily injury or death) (RCW
29 46.37.660(2)(b))
30 Air bag replacement requirements
31 (causing bodily injury or death)
32 (RCW 46.37.660(1)(b))
33 Burglary 1 (RCW 9A.52.020)
34 Child Molestation 2 (RCW 9A.44.086)

1 Civil Disorder Training (RCW
2 9A.48.120)

3 Dealing in depictions of minor engaged
4 in sexually explicit conduct 1
5 (RCW 9.68A.050(1))

6 Drive-by Shooting (RCW 9A.36.045)

7 Homicide by Watercraft, by disregard
8 for the safety of others (RCW
9 79A.60.050)

10 Indecent Liberties (without forcible
11 compulsion) (RCW 9A.44.100(1)
12 (b) and (c))

13 Introducing Contraband 1 (RCW
14 9A.76.140)

15 Malicious placement of an explosive 3
16 (RCW 70.74.270(3))

17 Manufacture or import counterfeit,
18 nonfunctional, damaged, or
19 previously deployed air bag
20 (causing bodily injury or death)
21 (RCW 46.37.650(1)(b))

22 Negligently Causing Death By Use of a
23 Signal Preemption Device (RCW
24 46.37.675)

25 Sell, install, or reinstall counterfeit,
26 nonfunctional, damaged, or
27 previously deployed airbag (RCW
28 46.37.650(2)(b))

29 Sending, bringing into state depictions
30 of minor engaged in sexually
31 explicit conduct 1 (RCW
32 9.68A.060(1))

33 Unlawful Possession of a Firearm in the
34 first degree (RCW 9.41.040(1))

35 Use of a Machine Gun or Bump-fire
36 Stock in Commission of a Felony
37 (RCW 9.41.225)

1 Vehicular Homicide, by disregard for
2 the safety of others (RCW
3 46.61.520)

4 VI Bail Jumping with Murder 1 (RCW
5 9A.76.170(3)(a))
6 Bribery (RCW 9A.68.010)
7 Incest 1 (RCW 9A.64.020(1))
8 Intimidating a Judge (RCW 9A.72.160)
9 Intimidating a Juror/Witness (RCW
10 9A.72.110, 9A.72.130)
11 Malicious placement of an imitation
12 device 2 (RCW 70.74.272(1)(b))
13 Possession of Depictions of a Minor
14 Engaged in Sexually Explicit
15 Conduct 1 (RCW 9.68A.070(1))
16 Rape of a Child 3 (RCW 9A.44.079)
17 Theft of a Firearm (RCW 9A.56.300)
18 Theft from a Vulnerable Adult 1 (RCW
19 9A.56.400(1))
20 Unlawful Storage of Ammonia (RCW
21 69.55.020)

22 V Abandonment of Dependent Person 2
23 (RCW 9A.42.070)
24 Advancing money or property for
25 extortionate extension of credit
26 (RCW 9A.82.030)
27 Air bag diagnostic systems (RCW
28 46.37.660(2)(c))
29 Air bag replacement requirements
30 (RCW 46.37.660(1)(c))
31 Bail Jumping with class A Felony
32 (RCW 9A.76.170(3)(b))
33 Child Molestation 3 (RCW 9A.44.089)
34 Criminal Mistreatment 2 (RCW
35 9A.42.030)

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

1 Sending, Bringing into State Depictions
2 of Minor Engaged in Sexually
3 Explicit Conduct 2 (RCW
4 9.68A.060(2))
5 Sexual Misconduct with a Minor 1
6 (RCW 9A.44.093)
7 Sexually Violating Human Remains
8 (RCW 9A.44.105)
9 Stalking (RCW 9A.46.110)
10 Taking Motor Vehicle Without
11 Permission 1 (RCW 9A.56.070)
12 IV Arson 2 (RCW 9A.48.030)
13 Assault 2 (RCW 9A.36.021)
14 Assault 3 (of a Peace Officer with a
15 Projectile Stun Gun) (RCW
16 9A.36.031(1)(h))
17 Assault 4 (third domestic violence
18 offense) (RCW 9A.36.041(3))
19 Assault by Watercraft (RCW
20 79A.60.060)
21 Bribing a Witness/Bribe Received by
22 Witness (RCW 9A.72.090,
23 9A.72.100)
24 Cheating 1 (RCW 9.46.1961)
25 Commercial Bribery (RCW 9A.68.060)
26 Counterfeiting (RCW 9.16.035(4))
27 Driving While Under the Influence
28 (RCW 46.61.502(6))
29 Endangerment with a Controlled
30 Substance (RCW 9A.42.100)
31 Escape 1 (RCW 9A.76.110)
32 Hate Crime (RCW 9A.36.080)
33 Hit and Run—Injury (RCW
34 46.52.020(4)(b))

1 Hit and Run with Vessel—Injury
2 Accident (RCW 79A.60.200(3))
3 Identity Theft 1 (RCW 9.35.020(2))
4 Indecent Exposure to Person Under Age
5 Fourteen (subsequent sex offense)
6 (RCW 9A.88.010)
7 Influencing Outcome of Sporting Event
8 (RCW 9A.82.070)
9 ~~((Malicious Harassment (RCW
10 9A.36.080)))~~
11 Physical Control of a Vehicle While
12 Under the Influence (RCW
13 46.61.504(6))
14 Possession of Depictions of a Minor
15 Engaged in Sexually Explicit
16 Conduct 2 (RCW 9.68A.070(2))
17 Residential Burglary (RCW 9A.52.025)
18 Robbery 2 (RCW 9A.56.210)
19 Theft of Livestock 1 (RCW 9A.56.080)
20 Threats to Bomb (RCW 9.61.160)
21 Trafficking in Stolen Property 1 (RCW
22 9A.82.050)
23 Unlawful factoring of a credit card or
24 payment card transaction (RCW
25 9A.56.290(4)(b))
26 Unlawful transaction of health coverage
27 as a health care service contractor
28 (RCW 48.44.016(3))
29 Unlawful transaction of health coverage
30 as a health maintenance
31 organization (RCW 48.46.033(3))
32 Unlawful transaction of insurance
33 business (RCW 48.15.023(3))
34 Unlicensed practice as an insurance
35 professional (RCW 48.17.063(2))

1 Use of Proceeds of Criminal
2 Profiteering (RCW 9A.82.080 (1)
3 and (2))
4 Vehicle Prowling 2 (third or subsequent
5 offense) (RCW 9A.52.100(3))
6 Vehicular Assault, by being under the
7 influence of intoxicating liquor or
8 any drug, or by the operation or
9 driving of a vehicle in a reckless
10 manner (RCW 46.61.522)
11 Viewing of Depictions of a Minor
12 Engaged in Sexually Explicit
13 Conduct 1 (RCW 9.68A.075(1))
14 Willful Failure to Return from Furlough
15 (RCW 72.66.060)
16 III Animal Cruelty 1 (Sexual Conduct or
17 Contact) (RCW 16.52.205(3))
18 Assault 3 (Except Assault 3 of a Peace
19 Officer With a Projectile Stun Gun)
20 (RCW 9A.36.031 except subsection
21 (1)(h))
22 Assault of a Child 3 (RCW 9A.36.140)
23 Bail Jumping with class B or C Felony
24 (RCW 9A.76.170(3)(c))
25 Burglary 2 (RCW 9A.52.030)
26 Communication with a Minor for
27 Immoral Purposes (RCW
28 9.68A.090)
29 Criminal Gang Intimidation (RCW
30 9A.46.120)
31 Custodial Assault (RCW 9A.36.100)
32 Cyberstalking (subsequent conviction or
33 threat of death) (RCW 9.61.260(3))
34 Escape 2 (RCW 9A.76.120)
35 Extortion 2 (RCW 9A.56.130)
36 Harassment (RCW 9A.46.020)

1 Intimidating a Public Servant (RCW
2 9A.76.180)
3 Introducing Contraband 2 (RCW
4 9A.76.150)
5 Malicious Injury to Railroad Property
6 (RCW 81.60.070)
7 Mortgage Fraud (RCW 19.144.080)
8 Negligently Causing Substantial Bodily
9 Harm By Use of a Signal
10 Preemption Device (RCW
11 46.37.674)
12 Organized Retail Theft 1 (RCW
13 9A.56.350(2))
14 Perjury 2 (RCW 9A.72.030)
15 Possession of Incendiary Device (RCW
16 9.40.120)
17 Possession of Machine Gun, Bump-fire
18 Stock, or Short-Barreled Shotgun or
19 Rifle (RCW 9.41.190)
20 Promoting Prostitution 2 (RCW
21 9A.88.080)
22 Retail Theft with Special Circumstances
23 1 (RCW 9A.56.360(2))
24 Securities Act violation (RCW
25 21.20.400)
26 Tampering with a Witness (RCW
27 9A.72.120)
28 Telephone Harassment (subsequent
29 conviction or threat of death) (RCW
30 9.61.230(2))
31 Theft of Livestock 2 (RCW 9A.56.083)
32 Theft with the Intent to Resell 1 (RCW
33 9A.56.340(2))
34 Trafficking in Stolen Property 2 (RCW
35 9A.82.055)

1 Unlawful Hunting of Big Game 1 (RCW
2 77.15.410(3)(b))
3 Unlawful Imprisonment (RCW
4 9A.40.040)
5 Unlawful Misbranding of (~~Food~~) Fish
6 or Shellfish 1 (RCW 77.140.060(3))
7 Unlawful possession of firearm in the
8 second degree (RCW 9.41.040(2))
9 Unlawful Taking of Endangered Fish or
10 Wildlife 1 (RCW 77.15.120(3)(b))
11 Unlawful Trafficking in Fish, Shellfish,
12 or Wildlife 1 (RCW
13 77.15.260(3)(b))
14 Unlawful Use of a Nondesignated
15 Vessel (RCW 77.15.530(4))
16 Vehicular Assault, by the operation or
17 driving of a vehicle with disregard
18 for the safety of others (RCW
19 46.61.522)
20 Willful Failure to Return from Work
21 Release (RCW 72.65.070)
22 II Commercial Fishing Without a License
23 1 (RCW 77.15.500(3)(b))
24 Computer Trespass 1 (RCW 9A.90.040)
25 Counterfeiting (RCW 9.16.035(3))
26 Electronic Data Service Interference
27 (RCW 9A.90.060)
28 Electronic Data Tampering 1 (RCW
29 9A.90.080)
30 Electronic Data Theft (RCW 9A.90.100)
31 Engaging in Fish Dealing Activity
32 Unlicensed 1 (RCW 77.15.620(3))
33 Escape from Community Custody
34 (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. 8.** RCW 9A.46.060 and 2006 c 138 s 21 are each amended to
5 read as follows:

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

- 8 (1) Harassment (RCW 9A.46.020);
- 9 (2) (~~Malicious harassment~~) Hate crime (RCW 9A.36.080);
- 10 (3) Telephone harassment (RCW 9.61.230);
- 11 (4) Assault in the first degree (RCW 9A.36.011);
- 12 (5) Assault of a child in the first degree (RCW 9A.36.120);
- 13 (6) Assault in the second degree (RCW 9A.36.021);
- 14 (7) Assault of a child in the second degree (RCW 9A.36.130);
- 15 (8) Assault in the fourth degree (RCW 9A.36.041);
- 16 (9) Reckless endangerment (RCW 9A.36.050);
- 17 (10) Extortion in the first degree (RCW 9A.56.120);
- 18 (11) Extortion in the second degree (RCW 9A.56.130);
- 19 (12) Coercion (RCW 9A.36.070);
- 20 (13) Burglary in the first degree (RCW 9A.52.020);
- 21 (14) Burglary in the second degree (RCW 9A.52.030);
- 22 (15) Criminal trespass in the first degree (RCW 9A.52.070);
- 23 (16) Criminal trespass in the second degree (RCW 9A.52.080);
- 24 (17) Malicious mischief in the first degree (RCW 9A.48.070);
- 25 (18) Malicious mischief in the second degree (RCW 9A.48.080);
- 26 (19) Malicious mischief in the third degree (RCW 9A.48.090);
- 27 (20) Kidnapping in the first degree (RCW 9A.40.020);
- 28 (21) Kidnapping in the second degree (RCW 9A.40.030);
- 29 (22) Unlawful imprisonment (RCW 9A.40.040);
- 30 (23) Rape in the first degree (RCW 9A.44.040);
- 31 (24) Rape in the second degree (RCW 9A.44.050);
- 32 (25) Rape in the third degree (RCW 9A.44.060);
- 33 (26) Indecent liberties (RCW 9A.44.100);
- 34 (27) Rape of a child in the first degree (RCW 9A.44.073);
- 35 (28) Rape of a child in the second degree (RCW 9A.44.076);
- 36 (29) Rape of a child in the third degree (RCW 9A.44.079);
- 37 (30) Child molestation in the first degree (RCW 9A.44.083);
- 38 (31) Child molestation in the second degree (RCW 9A.44.086);

- 1 (32) Child molestation in the third degree (RCW 9A.44.089);
2 (33) Stalking (RCW 9A.46.110);
3 (34) Cyberstalking (RCW 9.61.260);
4 (35) Residential burglary (RCW 9A.52.025);
5 (36) Violation of a temporary, permanent, or final protective
6 order issued pursuant to chapter 7.90, 9A.46, 10.14, 10.99, 26.09, or
7 26.50 RCW;
8 (37) Unlawful discharge of a laser in the first degree (RCW
9 9A.49.020); and
10 (38) Unlawful discharge of a laser in the second degree (RCW
11 9A.49.030).

12 **Sec. 9.** RCW 36.28A.030 and 1993 c 127 s 4 are each amended to
13 read as follows:

14 (1) The Washington association of sheriffs and police chiefs
15 shall establish and maintain a central repository for the collection
16 and classification of information regarding violations of RCW
17 9A.36.080. Upon establishing such a repository, the association shall
18 develop a procedure to monitor, record, and classify information
19 relating to violations of RCW 9A.36.080 and any other crimes of
20 bigotry or bias apparently directed against other persons because the
21 people committing the crimes perceived that their victims were of a
22 particular race, color, religion, ancestry, national origin, gender,
23 sexual orientation, had a particular gender expression or identity,
24 or had a mental, physical, or sensory (~~handicap~~) disability.

25 (2) All local law enforcement agencies shall report monthly to
26 the association concerning all violations of RCW 9A.36.080 and any
27 other crimes of bigotry or bias in such form and in such manner as
28 prescribed by rules adopted by the association. Agency participation
29 in the association's reporting programs, with regard to the specific
30 data requirements associated with violations of RCW 9A.36.080 and any
31 other crimes of bigotry or bias, shall be deemed to meet agency
32 reporting requirements. The association must summarize the
33 information received and file an annual report with the governor and
34 the senate law and justice committee and the house of representatives
35 judiciary committee.

36 (3) The association shall disseminate the information according
37 to the provisions of chapters 10.97 and 10.98 RCW, and all other
38 confidentiality requirements imposed by federal or Washington law.

1 **Sec. 10.** RCW 43.43.830 and 2017 c 272 s 5 are each amended to
2 read as follows:

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

5 (1) "Agency" means any person, firm, partnership, association,
6 corporation, or facility which receives, provides services to, houses
7 or otherwise cares for vulnerable adults, juveniles, or children, or
8 which provides child day care, early learning, or early childhood
9 education services.

10 (2) "Applicant" means:

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

15 (b) Any prospective volunteer who will have regularly scheduled
16 unsupervised access to children under sixteen years of age,
17 developmentally disabled persons, or vulnerable adults during the
18 course of his or her employment or involvement with the business or
19 organization under circumstances where such access will or may
20 involve groups of (i) five or fewer children under twelve years of
21 age, (ii) three or fewer children between twelve and sixteen years of
22 age, (iii) developmentally disabled persons, or (iv) vulnerable
23 adults;

24 (c) Any prospective adoptive parent, as defined in RCW 26.33.020;
25 or

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

28 (3) "Business or organization" means a person, business, or
29 organization licensed in this state, any agency of the state, or
30 other governmental entity, that educates, trains, treats, supervises,
31 houses, or provides recreation to developmentally disabled persons,
32 vulnerable adults, or children under sixteen years of age, or that
33 provides child day care, early learning, or early learning childhood
34 education services, including but not limited to public housing
35 authorities, school districts, and educational service districts.

36 (4) "Civil adjudication proceeding" is a judicial or
37 administrative adjudicative proceeding that results in a finding of,
38 or upholds an agency finding of, domestic violence, abuse, sexual
39 abuse, neglect, abandonment, violation of a professional licensing
40 standard regarding a child or vulnerable adult, or exploitation or

1 financial exploitation of a child or vulnerable adult under any
2 provision of law, including but not limited to chapter 13.34, 26.44,
3 or 74.34 RCW, or rules adopted under chapters 18.51 and 74.42 RCW.
4 "Civil adjudication proceeding" also includes judicial or
5 administrative findings that become final due to the failure of the
6 alleged perpetrator to timely exercise a legal right to
7 administratively challenge such findings.

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

11 (6) "Conviction record" means "conviction record" information as
12 defined in RCW 10.97.030 and 10.97.050 relating to a crime committed
13 by either an adult or a juvenile. It does not include a conviction
14 for an offense that has been the subject of an expungement, pardon,
15 annulment, certificate of rehabilitation, or other equivalent
16 procedure based on a finding of the rehabilitation of the person
17 convicted, or a conviction that has been the subject of a pardon,
18 annulment, or other equivalent procedure based on a finding of
19 innocence. It does include convictions for offenses for which the
20 defendant received a deferred or suspended sentence, unless the
21 record has been expunged according to law.

22 (7) "Crime against children or other persons" means a conviction
23 of any of the following offenses: Aggravated murder; first or second
24 degree murder; first or second degree kidnapping; first, second, or
25 third degree assault; fourth degree assault (if a violation of RCW
26 9A.36.041(3)); first, second, or third degree assault of a child;
27 first, second, or third degree rape; first, second, or third degree
28 rape of a child; first or second degree robbery; first degree arson;
29 first degree burglary; first or second degree manslaughter; first or
30 second degree extortion; indecent liberties; incest; vehicular
31 homicide; first degree promoting prostitution; communication with a
32 minor; unlawful imprisonment; simple assault; sexual exploitation of
33 minors; first or second degree criminal mistreatment; endangerment
34 with a controlled substance; child abuse or neglect as defined in RCW
35 26.44.020; first or second degree custodial interference; first or
36 second degree custodial sexual misconduct; (~~malicious harassment~~)
37 hate crime; first, second, or third degree child molestation; first
38 or second degree sexual misconduct with a minor; commercial sexual
39 abuse of a minor; child abandonment; promoting pornography; selling
40 or distributing erotic material to a minor; custodial assault;

1 violation of child abuse restraining order; child buying or selling;
2 prostitution; felony indecent exposure; criminal abandonment; or any
3 of these crimes as they may be renamed in the future.

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

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

11 (10) "Financial exploitation" means "financial exploitation" as
12 defined in RCW 74.34.020.

13 (11) "Health care facility" means a nursing home licensed under
14 chapter 18.51 RCW, (~~(a—[an])~~) an assisted living facility licensed
15 under chapter 18.20 RCW, or an adult family home licensed under
16 chapter 70.128 RCW.

17 (12) "Peer counselor" means a nonprofessional person who has
18 equal standing with another person, providing advice on a topic about
19 which the nonprofessional person is more experienced or
20 knowledgeable, and who is a counselor for a peer counseling program
21 that contracts with or is otherwise approved by the department,
22 another state or local agency, or the court.

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

24 (a) Another employee or volunteer from the same business or
25 organization as the applicant; or

26 (b) Any relative or guardian of any of the children or
27 developmentally disabled persons or vulnerable adults to which the
28 applicant has access during the course of his or her employment or
29 involvement with the business or organization.

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

37 (14) "Vulnerable adult" means "vulnerable adult" as defined in
38 chapter 74.34 RCW, except that for the purposes of requesting and
39 receiving background checks pursuant to RCW 43.43.832, it shall also

1 include adults of any age who lack the functional, mental, or
2 physical ability to care for themselves.

3 **Sec. 11.** RCW 48.18.553 and 2003 c 117 s 1 are each amended to
4 read as follows:

5 (1) For the purposes of this section:

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

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

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

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

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

15 (2) This section applies to property insurance policies if the
16 insured is:

17 (a) An individual;

18 (b) A religious organization;

19 (c) An educational organization; or

20 (d) Any other nonprofit organization that is organized and
21 operated for religious, charitable, or educational purposes.

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

29 (4) If an insured sustains a loss that is the result of
30 (~~(malicious harassment)~~) a hate crime offense, the insured must file
31 a report with the police or other law enforcement authority within
32 thirty days of discovery of the incident, and a law enforcement
33 authority must determine that a crime has occurred. The report must
34 contain sufficient information to provide an insurer with reasonable
35 notice that the loss was the result of (~~(malicious harassment)~~) a
36 hate crime offense. The insured has a duty to cooperate with any law
37 enforcement official or insurer investigation. (~~(For incidents of~~
38 ~~malicious harassment occurring prior to July 27, 2003, the insured~~

1 ~~must file the report within six months of the discovery of the~~
2 ~~incident.))~~

3 (5) Annually, each insurer must report underwriting actions to
4 the commissioner if the insurer has taken an underwriting action
5 against any insured who has filed a claim during the preceding sixty
6 months that was the result of (~~malicious harassment~~) a hate crime
7 offense. The report must include the policy number, name of the
8 insured, location of the property, and the reason for the
9 underwriting action.

--- END ---