

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1578

57th Legislature  
2001 Regular Legislative Session

Passed by the House April 16, 2001  
Yeas 94 Nays 0

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**Speaker of the House of Representatives**

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**Speaker of the House of Representatives**

Passed by the Senate April 11, 2001  
Yeas 46 Nays 0

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**President of the Senate**

Approved

\_\_\_\_\_  
Governor of the State of Washington

CERTIFICATE

We, Timothy A. Martin and Cynthia Zehnder, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1578** as passed by the House of Representatives and the Senate on the dates hereon set forth.

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**Chief Clerk**

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**Chief Clerk**

FILED

Secretary of State  
State of Washington

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HOUSE BILL 1578

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AS AMENDED BY THE SENATE

Passed Legislature - 2001 Regular Session

State of Washington                      57th Legislature                      2001 Regular Session

By Representatives Carrell, Hurst and Lantz

Read first time 01/30/2001. Referred to Committee on Judiciary.

1            AN ACT Relating to criminal profiteering; reenacting and amending  
2 RCW 9A.82.010, 9A.82.085, 9A.82.090, 9A.82.100, 9A.82.110, 9A.82.120,  
3 9A.82.130, 9A.82.140, 9A.82.150, 9A.82.160, 9A.82.170, and 9.94A.320;  
4 reenacting RCW 9A.82.001, 9A.82.020, 9A.82.030, 9A.82.040, 9A.82.045,  
5 9A.82.050, 9A.82.060, 9A.82.070, 9A.82.080, 9A.82.900, and 9A.82.901;  
6 creating a new section; prescribing penalties; and declaring an  
7 emergency.

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

9            NEW SECTION.    **Sec. 1.**    The purpose of this act is to respond to  
10 *State v. Thomas*, 103 Wn. App. 800, by reenacting, without substantive  
11 changes, the Washington laws relating to criminal profiteering, and the  
12 sentencing level ranking for criminal profiteering crimes as they  
13 existed prior to December 21, 2000.

14            **Sec. 2.**    RCW 9A.82.001 and 1985 c 455 s 1 are each reenacted to  
15 read as follows:

16            This chapter shall be known as the criminal profiteering act.

1       **Sec. 3.** RCW 9A.82.010 and 1999 c 143 s 40, 1995 c 285 s 34, 1995  
2 c 92 s 5, 1994 c 218 s 17, 1992 c 210 s 6, 1992 c 145 s 13, 1989 c 20  
3 s 17, 1988 c 33 s 5, 1986 c 78 s 1, 1985 c 455 s 2, and 1984 c 270 s 1  
4 are each reenacted and amended to read as follows:

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

7       (1)(a) "Beneficial interest" means:

8       (i) The interest of a person as a beneficiary under a trust  
9 established under Title 11 RCW in which the trustee for the trust holds  
10 legal or record title to real property;

11       (ii) The interest of a person as a beneficiary under any other  
12 trust arrangement under which a trustee holds legal or record title to  
13 real property for the benefit of the beneficiary; or

14       (iii) The interest of a person under any other form of express  
15 fiduciary arrangement under which one person holds legal or record  
16 title to real property for the benefit of the other person.

17       (b) "Beneficial interest" does not include the interest of a  
18 stockholder in a corporation or the interest of a partner in a general  
19 partnership or limited partnership.

20       (c) A beneficial interest is considered to be located where the  
21 real property owned by the trustee is located.

22       (2) "Control" means the possession of a sufficient interest to  
23 permit substantial direction over the affairs of an enterprise.

24       (3) "Creditor" means a person making an extension of credit or a  
25 person claiming by, under, or through a person making an extension of  
26 credit.

27       (4) "Criminal profiteering" means any act, including any  
28 anticipatory or completed offense, committed for financial gain, that  
29 is chargeable or indictable under the laws of the state in which the  
30 act occurred and, if the act occurred in a state other than this state,  
31 would be chargeable or indictable under the laws of this state had the  
32 act occurred in this state and punishable as a felony and by  
33 imprisonment for more than one year, regardless of whether the act is  
34 charged or indicted, as any of the following:

35       (a) Murder, as defined in RCW 9A.32.030 and 9A.32.050;

36       (b) Robbery, as defined in RCW 9A.56.200 and 9A.56.210;

37       (c) Kidnapping, as defined in RCW 9A.40.020 and 9A.40.030;

38       (d) Forgery, as defined in RCW 9A.60.020 and 9A.60.030;

1 (e) Theft, as defined in RCW 9A.56.030, 9A.56.040, 9A.56.060, and  
2 9A.56.080;

3 (f) Unlawful sale of subscription television services, as defined  
4 in RCW 9A.56.230;

5 (g) Theft of telecommunication services or unlawful manufacture of  
6 a telecommunication device, as defined in RCW 9A.56.262 and 9A.56.264;

7 (h) Child selling or child buying, as defined in RCW 9A.64.030;

8 (i) Bribery, as defined in RCW 9A.68.010, 9A.68.020, 9A.68.040, and  
9 9A.68.050;

10 (j) Gambling, as defined in RCW 9.46.220 and 9.46.215 and 9.46.217;

11 (k) Extortion, as defined in RCW 9A.56.120 and 9A.56.130;

12 (l) Extortionate extension of credit, as defined in RCW 9A.82.020  
13 (as reenacted by this act);

14 (m) Advancing money for use in an extortionate extension of credit,  
15 as defined in RCW 9A.82.030 (as reenacted by this act);

16 (n) Collection of an extortionate extension of credit, as defined  
17 in RCW 9A.82.040 (as reenacted by this act);

18 (o) Collection of an unlawful debt, as defined in RCW 9A.82.045 (as  
19 reenacted by this act);

20 (p) Delivery or manufacture of controlled substances or possession  
21 with intent to deliver or manufacture controlled substances under  
22 chapter 69.50 RCW;

23 (q) Trafficking in stolen property, as defined in RCW 9A.82.050 (as  
24 reenacted by this act);

25 (r) Leading organized crime, as defined in RCW 9A.82.060 (as  
26 reenacted by this act);

27 (s) Money laundering, as defined in RCW 9A.83.020;

28 (t) Obstructing criminal investigations or prosecutions in  
29 violation of RCW 9A.72.090, 9A.72.100, 9A.72.110, 9A.72.120, 9A.72.130,  
30 9A.76.070, or 9A.76.180;

31 (u) Fraud in the purchase or sale of securities, as defined in RCW  
32 21.20.010;

33 (v) Promoting pornography, as defined in RCW 9.68.140;

34 (w) Sexual exploitation of children, as defined in RCW 9.68A.040,  
35 9.68A.050, and 9.68A.060;

36 (x) Promoting prostitution, as defined in RCW 9A.88.070 and  
37 9A.88.080;

38 (y) Arson, as defined in RCW 9A.48.020 and 9A.48.030;

39 (z) Assault, as defined in RCW 9A.36.011 and 9A.36.021;

1 (aa) Assault of a child, as defined in RCW 9A.36.120 and 9A.36.130;  
2 (bb) A pattern of equity skimming, as defined in RCW 61.34.020;  
3 (cc) Commercial telephone solicitation in violation of RCW  
4 19.158.040(1);  
5 (dd) Trafficking in insurance claims, as defined in RCW 48.30A.015;  
6 (ee) Unlawful practice of law, as defined in RCW 2.48.180;  
7 (ff) Commercial bribery, as defined in RCW 9A.68.060;  
8 (gg) Health care false claims, as defined in RCW 48.80.030; or  
9 (hh) Unlicensed practice of a profession or business, as defined in  
10 RCW 18.130.190(7).

11 (5) "Dealer in property" means a person who buys and sells property  
12 as a business.

13 (6) "Debtor" means a person to whom an extension of credit is made  
14 or a person who guarantees the repayment of an extension of credit or  
15 in any manner undertakes to indemnify the creditor against loss  
16 resulting from the failure of a person to whom an extension is made to  
17 repay the same.

18 (7) "Documentary material" means any book, paper, document,  
19 writing, drawing, graph, chart, photograph, phonograph record, magnetic  
20 tape, computer printout, other data compilation from which information  
21 can be obtained or from which information can be translated into usable  
22 form, or other tangible item.

23 (8) "Enterprise" includes any individual, sole proprietorship,  
24 partnership, corporation, business trust, or other profit or nonprofit  
25 legal entity, and includes any union, association, or group of  
26 individuals associated in fact although not a legal entity, and both  
27 illicit and licit enterprises and governmental and nongovernmental  
28 entities.

29 (9) "Extortionate extension of credit" means an extension of credit  
30 with respect to which it is the understanding of the creditor and the  
31 debtor at the time the extension is made that delay in making repayment  
32 or failure to make repayment could result in the use of violence or  
33 other criminal means to cause harm to the person, reputation, or  
34 property of any person.

35 (10) "Extortionate means" means the use, or an express or implicit  
36 threat of use, of violence or other criminal means to cause harm to the  
37 person, reputation, or property of any person.

38 (11) "Financial institution" means any bank, trust company, savings  
39 and loan association, savings bank, mutual savings bank, credit union,

1 or loan company under the jurisdiction of the state or an agency of the  
2 United States.

3 (12) "Pattern of criminal profiteering activity" means engaging in  
4 at least three acts of criminal profiteering, one of which occurred  
5 after July 1, 1985, and the last of which occurred within five years,  
6 excluding any period of imprisonment, after the commission of the  
7 earliest act of criminal profiteering. In order to constitute a  
8 pattern, the three acts must have the same or similar intent, results,  
9 accomplices, principals, victims, or methods of commission, or be  
10 otherwise interrelated by distinguishing characteristics including a  
11 nexus to the same enterprise, and must not be isolated events.  
12 However, in any civil proceedings brought pursuant to RCW 9A.82.100 (as  
13 reenacted by this act) by any person other than the attorney general or  
14 county prosecuting attorney in which one or more acts of fraud in the  
15 purchase or sale of securities are asserted as acts of criminal  
16 profiteering activity, it is a condition to civil liability under RCW  
17 9A.82.100 (as reenacted by this act) that the defendant has been  
18 convicted in a criminal proceeding of fraud in the purchase or sale of  
19 securities under RCW 21.20.400 or under the laws of another state or of  
20 the United States requiring the same elements of proof, but such  
21 conviction need not relate to any act or acts asserted as acts of  
22 criminal profiteering activity in such civil action under RCW 9A.82.100  
23 (as reenacted by this act).

24 (13) "Real property" means any real property or interest in real  
25 property, including but not limited to a land sale contract, lease, or  
26 mortgage of real property.

27 (14) "Records" means any book, paper, writing, record, computer  
28 program, or other material.

29 (15) "Repayment of an extension of credit" means the repayment,  
30 satisfaction, or discharge in whole or in part of a debt or claim,  
31 acknowledged or disputed, valid or invalid, resulting from or in  
32 connection with that extension of credit.

33 (16) "Stolen property" means property that has been obtained by  
34 theft, robbery, or extortion.

35 (17) "To collect an extension of credit" means to induce in any way  
36 a person to make repayment thereof.

37 (18) "To extend credit" means to make or renew a loan or to enter  
38 into an agreement, tacit or express, whereby the repayment or

1 satisfaction of a debt or claim, whether acknowledged or disputed,  
2 valid or invalid, and however arising, may or shall be deferred.

3 (19) "Traffic" means to sell, transfer, distribute, dispense, or  
4 otherwise dispose of stolen property to another person, or to buy,  
5 receive, possess, or obtain control of stolen property, with intent to  
6 sell, transfer, distribute, dispense, or otherwise dispose of the  
7 property to another person.

8 (20)(a) "Trustee" means:

9 (i) A person acting as a trustee under a trust established under  
10 Title 11 RCW in which the trustee holds legal or record title to real  
11 property;

12 (ii) A person who holds legal or record title to real property in  
13 which another person has a beneficial interest; or

14 (iii) A successor trustee to a person who is a trustee under (a)(i)  
15 or (ii) of this subsection.

16 (b) "Trustee" does not mean a person appointed or acting as:

17 (i) A personal representative under Title 11 RCW;

18 (ii) A trustee of any testamentary trust;

19 (iii) A trustee of any indenture of trust under which a bond is  
20 issued; or

21 (iv) A trustee under a deed of trust.

22 (21) "Unlawful debt" means any money or other thing of value  
23 constituting principal or interest of a debt that is legally  
24 unenforceable in the state in full or in part because the debt was  
25 incurred or contracted:

26 (a) In violation of any one of the following:

27 (i) Chapter 67.16 RCW relating to horse racing;

28 (ii) Chapter 9.46 RCW relating to gambling;

29 (b) In a gambling activity in violation of federal law; or

30 (c) In connection with the business of lending money or a thing of  
31 value at a rate that is at least twice the permitted rate under the  
32 applicable state or federal law relating to usury.

33 **Sec. 4.** RCW 9A.82.020 and 1985 c 455 s 3 and 1984 c 270 s 2 are  
34 each reenacted to read as follows:

35 (1) A person who knowingly makes an extortionate extension of  
36 credit is guilty of a class B felony.

37 (2) In a prosecution under this section, if it is shown that all of  
38 the following factors are present in connection with the extension of

1 credit, there is prima facie evidence that the extension of credit was  
2 extortionate:

3 (a) The repayment of the extension of credit, or the performance of  
4 any promise given in consideration thereof, would be unenforceable at  
5 the time the extension of credit was made through civil judicial  
6 processes against the debtor in the county in which the debtor, if a  
7 natural person, resided or in every county in which the debtor, if  
8 other than a natural person, was incorporated or qualified to do  
9 business.

10 (b) The extension of credit was made at a rate of interest in  
11 excess of an annual rate of forty-five percent calculated according to  
12 the actuarial method of allocating payments made on a debt between  
13 principal and interest, pursuant to which a payment is applied first to  
14 the accumulated interest and the balance is applied to the unpaid  
15 principal.

16 (c) The creditor intended the debtor to believe that failure to  
17 comply with the terms of the extension of credit would be enforced by  
18 extortionate means.

19 (d) Upon the making of the extension of credit, the total of the  
20 extensions of credit by the creditor to the debtor then outstanding,  
21 including any unpaid interest or similar charges, exceeded one hundred  
22 dollars.

23 **Sec. 5.** RCW 9A.82.030 and 1985 c 455 s 4 and 1984 c 270 s 3 are  
24 each reenacted to read as follows:

25 A person who advances money or property, whether as a gift, loan,  
26 investment, or pursuant to a partnership or profit-sharing agreement or  
27 otherwise, to any person, with the knowledge that it is the intention  
28 of that person to use the money or property so advanced, directly or  
29 indirectly, for the purpose of making extortionate extensions of  
30 credit, is guilty of a class B felony.

31 **Sec. 6.** RCW 9A.82.040 and 1985 c 455 s 5 and 1984 c 270 s 4 are  
32 each reenacted to read as follows:

33 A person who knowingly participates in any way in the use of any  
34 extortionate means to collect or attempt to collect any extensions of  
35 credit or to punish any person for the nonrepayment thereof, is guilty  
36 of a class B felony.



1       **Sec. 7.** RCW 9A.82.045 and 1985 c 455 s 6 are each reenacted to  
2 read as follows:

3       It is unlawful for any person knowingly to collect any unlawful  
4 debt. A violation of this section is a class C felony.

5       **Sec. 8.** RCW 9A.82.050 and 1984 c 270 s 5 are each reenacted to  
6 read as follows:

7       (1) A person who recklessly traffics in stolen property is guilty  
8 of trafficking in stolen property in the second degree.

9       (2) A person who knowingly initiates, organizes, plans, finances,  
10 directs, manages, or supervises the theft of property for sale to  
11 others, or who knowingly traffics in stolen property, is guilty of  
12 trafficking in stolen property in the first degree.

13       (3) Trafficking in stolen property in the second degree is a class  
14 C felony. Trafficking in stolen property in the first degree is a  
15 class B felony.

16       **Sec. 9.** RCW 9A.82.060 and 1985 c 455 s 7 and 1984 c 270 s 6 are  
17 each reenacted to read as follows:

18       (1) A person commits the offense of leading organized crime by:

19       (a) Intentionally organizing, managing, directing, supervising, or  
20 financing any three or more persons with the intent to engage in a  
21 pattern of criminal profiteering activity; or

22       (b) Intentionally inciting or inducing others to engage in violence  
23 or intimidation with the intent to further or promote the  
24 accomplishment of a pattern of criminal profiteering activity.

25       (2) Leading organized crime as defined in subsection (1)(a) of this  
26 section is a class A felony, and as defined in subsection (1)(b) of  
27 this section is a class B felony.

28       **Sec. 10.** RCW 9A.82.070 and 1984 c 270 s 7 are each reenacted to  
29 read as follows:

30       Whoever knowingly gives, promises, or offers to any professional or  
31 amateur baseball, football, hockey, polo, tennis, horse race, or  
32 basketball player or boxer or any player or referee or other official  
33 who participates or expects to participate in any professional or  
34 amateur game or sport, or to any manager, coach, or trainer of any team  
35 or participant or prospective participant in any such game, contest, or  
36 sport, any benefit with intent to influence the person to lose or try

1 to lose or cause to be lost or to limit the person's or person's team's  
2 margin of victory or defeat, or in the case of a referee or other  
3 official to affect the decisions or the performance of the official's  
4 duties in any way, in a baseball, football, hockey, or basketball game,  
5 boxing, tennis, horse race, or polo match, or any professional or  
6 amateur sport or game, in which the player or participant or referee or  
7 other official is taking part or expects to take part, or has any duty  
8 or connection therewith, is guilty of a class C felony.

9       **Sec. 11.** RCW 9A.82.080 and 1985 c 455 s 8 and 1984 c 270 s 8 are  
10 each reenacted to read as follows:

11       (1) It is unlawful for a person who has knowingly received any of  
12 the proceeds derived, directly or indirectly, from a pattern of  
13 criminal profiteering activity to use or invest, whether directly or  
14 indirectly, any part of the proceeds, or the proceeds derived from the  
15 investment or use thereof, in the acquisition of any title to, or any  
16 right, interest, or equity in, real property or in the establishment or  
17 operation of any enterprise.

18       (2) It is unlawful for a person knowingly to acquire or maintain,  
19 directly or indirectly, any interest in or control of any enterprise or  
20 real property through a pattern of criminal profiteering activity.

21       (3) It is unlawful for a person knowingly to conspire or attempt to  
22 violate subsection (1) or (2) of this section.

23       (4) A violation of subsection (1) or (2) of this section is a class  
24 B felony. A violation of subsection (3) of this section is a class C  
25 felony.

26       **Sec. 12.** RCW 9A.82.085 and 1985 c 455 s 9 are each reenacted and  
27 amended to read as follows:

28       In a criminal prosecution alleging a violation of RCW 9A.82.060 or  
29 9A.82.080 (as reenacted by this act), the state is barred from joining  
30 any offense other than the offenses alleged to be part of the pattern  
31 of criminal profiteering activity. When a defendant has been tried  
32 criminally for a violation of RCW 9A.82.060 or 9A.82.080 (as reenacted  
33 by this act), the state is barred from subsequently charging the  
34 defendant with an offense that was alleged to be part of the pattern of  
35 criminal profiteering activity for which he or she was tried.

1       **Sec. 13.** RCW 9A.82.090 and 1985 c 455 s 10 and 1984 c 270 s 9 are  
2 each reenacted and amended to read as follows:

3       During the pendency of any criminal case charging a violation of  
4 RCW 9A.82.060 (as reenacted by this act) or a violation of RCW  
5 9A.82.080 (as reenacted by this act), the superior court may, in  
6 addition to its other powers, issue an order pursuant to RCW 9A.82.100  
7 (2) or (3) (as reenacted by this act). Upon conviction of a person for  
8 a violation of RCW 9A.82.060 (as reenacted by this act) or a violation  
9 of RCW 9A.82.080 (as reenacted by this act), the superior court may, in  
10 addition to its other powers of disposition, issue an order pursuant to  
11 RCW 9A.82.100 (as reenacted by this act).

12       **Sec. 14.** RCW 9A.82.100 and 1989 c 271 s 111, 1985 c 455 s 11, and  
13 1984 c 270 s 10 are each reenacted and amended to read as follows:

14       (1)(a) A person who sustains injury to his or her person, business,  
15 or property by an act of criminal profiteering that is part of a  
16 pattern of criminal profiteering activity or by a violation of RCW  
17 9A.82.060 or 9A.82.080 (as reenacted by this act) may file an action in  
18 superior court for the recovery of damages and the costs of the suit,  
19 including reasonable investigative and attorney's fees.

20       (b) The attorney general or county prosecuting attorney may file an  
21 action: (i) On behalf of those persons injured or, respectively, on  
22 behalf of the state or county if the entity has sustained damages, or  
23 (ii) to prevent, restrain, or remedy a pattern of criminal profiteering  
24 activity or a violation of RCW 9A.82.060 or 9A.82.080 (as reenacted by  
25 this act).

26       (c) An action for damages filed by or on behalf of an injured  
27 person, the state, or the county shall be for the recovery of damages  
28 and the costs of the suit, including reasonable investigative and  
29 attorney's fees.

30       (d) In an action filed to prevent, restrain, or remedy a pattern of  
31 criminal profiteering activity or a violation of RCW 9A.82.060 or  
32 9A.82.080 (as reenacted by this act), the court, upon proof of the  
33 violation, may impose a civil penalty not exceeding two hundred fifty  
34 thousand dollars, in addition to awarding the cost of the suit,  
35 including reasonable investigative and attorney's fees.

36       (2) The superior court has jurisdiction to prevent, restrain, and  
37 remedy a pattern of criminal profiteering or a violation of RCW  
38 9A.82.060 or 9A.82.080 (as reenacted by this act) after making

1 provision for the rights of all innocent persons affected by the  
2 violation and after hearing or trial, as appropriate, by issuing  
3 appropriate orders.

4 (3) Prior to a determination of liability, orders issued under  
5 subsection (2) of this section may include, but are not limited to,  
6 entering restraining orders or prohibitions or taking such other  
7 actions, including the acceptance of satisfactory performance bonds, in  
8 connection with any property or other interest subject to damages,  
9 forfeiture, or other restraints pursuant to this section as the court  
10 deems proper. The orders may also include attachment, receivership, or  
11 injunctive relief in regard to personal or real property pursuant to  
12 Title 7 RCW. In shaping the reach or scope of receivership,  
13 attachment, or injunctive relief, the superior court shall provide for  
14 the protection of bona fide interests in property, including community  
15 property, of persons who were not involved in the violation of this  
16 chapter, except to the extent that such interests or property were  
17 acquired or used in such a way as to be subject to forfeiture under RCW  
18 9A.82.100(4)(f) (as reenacted by this act).

19 (4) Following a determination of liability, orders may include, but  
20 are not limited to:

21 (a) Ordering any person to divest himself or herself of any  
22 interest, direct or indirect, in any enterprise.

23 (b) Imposing reasonable restrictions on the future activities or  
24 investments of any person, including prohibiting any person from  
25 engaging in the same type of endeavor as the enterprise engaged in, the  
26 activities of which affect the laws of this state, to the extent the  
27 Constitutions of the United States and this state permit.

28 (c) Ordering dissolution or reorganization of any enterprise.

29 (d) Ordering the payment of actual damages sustained to those  
30 persons injured by a violation of RCW 9A.82.060 or 9A.82.080 (as  
31 reenacted by this act) or an act of criminal profiteering that is part  
32 of a pattern of criminal profiteering, and in the court's discretion,  
33 increasing the payment to an amount not exceeding three times the  
34 actual damages sustained.

35 (e) Ordering the payment of all costs and expenses of the  
36 prosecution and investigation of a pattern of criminal profiteering  
37 activity or a violation of RCW 9A.82.060 or 9A.82.080 (as reenacted by  
38 this act), civil and criminal, incurred by the state or county,  
39 including any costs of defense provided at public expense, as

1 appropriate to the state general fund or the antiprofitteering revolving  
2 fund of the county.

3 (f) Ordering forfeiture first as restitution to any person damaged  
4 by an act of criminal profiteering that is part of a pattern of  
5 criminal profiteering then to the state general fund or  
6 antiprofitteering revolving fund of the county, as appropriate, to the  
7 extent not already ordered to be paid in other damages, of the  
8 following:

9 (i) Any property or other interest acquired or maintained in  
10 violation of RCW 9A.82.060 or 9A.82.080 (as reenacted by this act) to  
11 the extent of the investment of funds, and any appreciation or income  
12 attributable to the investment, from a violation of RCW 9A.82.060 or  
13 9A.82.080 (as reenacted by this act).

14 (ii) Any property, contractual right, or claim against property  
15 used to influence any enterprise that a person has established,  
16 operated, controlled, conducted, or participated in the conduct of, in  
17 violation of RCW 9A.82.060 or 9A.82.080 (as reenacted by this act).

18 (iii) All proceeds traceable to or derived from an offense included  
19 in the pattern of criminal profiteering activity and all moneys,  
20 negotiable instruments, securities, and other things of value  
21 significantly used or intended to be used significantly to facilitate  
22 commission of the offense.

23 (g) Ordering payment to the state general fund or antiprofitteering  
24 revolving fund of the county, as appropriate, of an amount equal to the  
25 gain a person has acquired or maintained through an offense included in  
26 the definition of criminal profiteering.

27 (5) In addition to or in lieu of an action under this section, the  
28 attorney general or county prosecuting attorney may file an action for  
29 forfeiture to the state general fund or antiprofitteering revolving fund  
30 of the county, as appropriate, to the extent not already ordered paid  
31 pursuant to this section, of the following:

32 (a) Any interest acquired or maintained by a person in violation of  
33 RCW 9A.82.060 or 9A.82.080 (as reenacted by this act) to the extent of  
34 the investment of funds obtained from a violation of RCW 9A.82.060 or  
35 9A.82.080 (as reenacted by this act) and any appreciation or income  
36 attributable to the investment.

37 (b) Any property, contractual right, or claim against property used  
38 to influence any enterprise that a person has established, operated,

1 controlled, conducted, or participated in the conduct of, in violation  
2 of RCW 9A.82.060 or 9A.82.080 (as reenacted by this act).

3 (c) All proceeds traceable to or derived from an offense included  
4 in the pattern of criminal profiteering activity and all moneys,  
5 negotiable instruments, securities, and other things of value  
6 significantly used or intended to be used significantly to facilitate  
7 the commission of the offense.

8 (6) A defendant convicted in any criminal proceeding is precluded  
9 in any civil proceeding from denying the essential allegations of the  
10 criminal offense proven in the criminal trial in which the defendant  
11 was convicted. For the purposes of this subsection, a conviction shall  
12 be deemed to have occurred upon a verdict, finding, or plea of guilty,  
13 notwithstanding the fact that appellate review of the conviction and  
14 sentence has been or may be sought. If a subsequent reversal of the  
15 conviction occurs, any judgment that was based upon that conviction may  
16 be reopened upon motion of the defendant.

17 (7) The initiation of civil proceedings under this section shall be  
18 commenced within three years after discovery of the pattern of criminal  
19 profiteering activity or after the pattern should reasonably have been  
20 discovered.

21 (8) The attorney general or county prosecuting attorney may, in a  
22 civil action brought pursuant to this section, file with the clerk of  
23 the superior court a certificate stating that the case is of special  
24 public importance. A copy of that certificate shall be furnished  
25 immediately by the clerk to the presiding chief judge of the superior  
26 court in which the action is pending and, upon receipt of the copy, the  
27 judge shall immediately designate a judge to hear and determine the  
28 action. The judge so designated shall promptly assign the action for  
29 hearing, participate in the hearings and determination, and cause the  
30 action to be expedited.

31 (9) The standard of proof in actions brought pursuant to this  
32 section is the preponderance of the evidence test.

33 (10) A person other than the attorney general or county prosecuting  
34 attorney who files an action under this section shall serve notice and  
35 one copy of the pleading on the attorney general within thirty days  
36 after the action is filed with the superior court. The notice shall  
37 identify the action, the person, and the person's attorney. Service of  
38 the notice does not limit or otherwise affect the right of the state to  
39 maintain an action under this section or intervene in a pending action

1 nor does it authorize the person to name the state or the attorney  
2 general as a party to the action.

3 (11) Except in cases filed by a county prosecuting attorney, the  
4 attorney general may, upon timely application, intervene in any civil  
5 action or proceeding brought under this section if the attorney general  
6 certifies that in the attorney general's opinion the action is of  
7 special public importance. Upon intervention, the attorney general may  
8 assert any available claim and is entitled to the same relief as if the  
9 attorney general had instituted a separate action.

10 (12) In addition to the attorney general's right to intervene as a  
11 party in any action under this section, the attorney general may appear  
12 as amicus curiae in any proceeding in which a claim under this section  
13 has been asserted or in which a court is interpreting RCW 9A.82.010,  
14 9A.82.080, 9A.82.090, 9A.82.110, or 9A.82.120 (as reenacted by this  
15 act), or this section.

16 (13) A private civil action under this section does not limit any  
17 other civil or criminal action under this chapter or any other  
18 provision. Private civil remedies provided under this section are  
19 supplemental and not mutually exclusive.

20 (14) Upon motion by the defendant, the court may authorize the sale  
21 or transfer of assets subject to an order or lien authorized by this  
22 chapter for the purpose of paying actual attorney's fees and costs of  
23 defense. The motion shall specify the assets for which sale or  
24 transfer is sought and shall be accompanied by the defendant's sworn  
25 statement that the defendant has no other assets available for such  
26 purposes. No order authorizing such sale or transfer may be entered  
27 unless the court finds that the assets involved are not subject to  
28 possible forfeiture under RCW 9A.82.100(4)(f) (as reenacted by this  
29 act). Prior to disposition of the motion, the court shall notify the  
30 state of the assets sought to be sold or transferred and shall hear  
31 argument on the issue of whether the assets are subject to forfeiture  
32 under RCW 9A.82.100(4)(f) (as reenacted by this act). Such a motion  
33 may be made from time to time and shall be heard by the court on an  
34 expedited basis.

35 (15) In an action brought under subsection (1)(a) and (b)(i) of  
36 this section, either party has the right to a jury trial.

37 **Sec. 15.** RCW 9A.82.110 and 1985 c 455 s 12 and 1984 c 270 s 11 are  
38 each reenacted and amended to read as follows:

1 (1) Any payments or forfeiture to the state general fund ordered  
2 under RCW 9A.82.100 (4) or (5) (as reenacted by this act) shall be  
3 deposited in the public safety and education account.

4 (2) In an action brought by the attorney general on behalf of the  
5 state under RCW 9A.82.100(1)(b)(i) (as reenacted by this act) in which  
6 the state prevails, any payments ordered in excess of the actual  
7 damages sustained shall be deposited in the public safety and education  
8 account.

9 (3) It is the intent of the legislature that the money deposited in  
10 the public safety and education account pursuant to this chapter be  
11 appropriated to promote crime victims' compensation.

12 (4)(a) The county legislative authority may establish an  
13 antiprofitteering revolving fund to be administered by the county  
14 prosecuting attorney under the conditions and for the purposes provided  
15 by this subsection. Disbursements from the fund shall be on  
16 authorization of the county prosecuting attorney. No appropriation is  
17 required for disbursements.

18 (b) Any prosecution and investigation costs, including attorney's  
19 fees, recovered for the state by the county prosecuting attorney as a  
20 result of enforcement of civil and criminal statutes pertaining to any  
21 offense included in the definition of criminal profiteering, whether by  
22 final judgment, settlement, or otherwise, shall be deposited, as  
23 directed by a court of competent jurisdiction, in the fund established  
24 by this subsection. In an action brought by a prosecuting attorney on  
25 behalf of the county under RCW 9A.82.100(1)(b)(i) (as reenacted by this  
26 act) in which the county prevails, any payments ordered in excess of  
27 the actual damages sustained shall be deposited in the public safety  
28 and education account in the state general fund.

29 (c) The county legislative authority may prescribe a maximum level  
30 of moneys in the antiprofitteering revolving fund. Moneys exceeding the  
31 prescribed maximum shall be transferred to the county current expense  
32 fund.

33 (d) The moneys in the fund shall be used by the county prosecuting  
34 attorney for the investigation and prosecution of any offense, within  
35 the jurisdiction of the county prosecuting attorney, included in the  
36 definition of criminal profiteering, including civil enforcement.

37 (e) If a county has not established an antiprofitteering revolving  
38 fund, any payments or forfeitures ordered to the county under this  
39 chapter shall be deposited to the county current expense fund.



1       **Sec. 16.** RCW 9A.82.120 and 1985 c 455 s 13 and 1984 c 270 s 12 are  
2 each reenacted and amended to read as follows:

3       (1) The state, upon filing a criminal action under RCW 9A.82.060 or  
4 9A.82.080 (as reenacted by this act) or a civil action under RCW  
5 9A.82.100 (as reenacted by this act), may file in accordance with this  
6 section a criminal profiteering lien. A filing fee or other charge is  
7 not required for filing a criminal profiteering lien.

8       (2) A criminal profiteering lien shall be signed by the attorney  
9 general or the county prosecuting attorney representing the state in  
10 the action and shall set forth the following information:

11       (a) The name of the defendant whose property or other interests are  
12 to be subject to the lien;

13       (b) In the discretion of the attorney general or county prosecuting  
14 attorney filing the lien, any aliases or fictitious names of the  
15 defendant named in the lien;

16       (c) If known to the attorney general or county prosecuting attorney  
17 filing the lien, the present residence or principal place of business  
18 of the person named in the lien;

19       (d) A reference to the proceeding pursuant to which the lien is  
20 filed, including the name of the court, the title of the action, and  
21 the court's file number for the proceeding;

22       (e) The name and address of the attorney representing the state in  
23 the proceeding pursuant to which the lien is filed;

24       (f) A statement that the notice is being filed pursuant to this  
25 section;

26       (g) The amount that the state claims in the action or, with respect  
27 to property or other interests that the state has requested forfeiture  
28 to the state or county, a description of the property or interests  
29 sought to be paid or forfeited;

30       (h) If known to the attorney general or county prosecuting attorney  
31 filing the lien, a description of property that is subject to  
32 forfeiture to the state or property in which the defendant has an  
33 interest that is available to satisfy a judgment entered in favor of  
34 the state; and

35       (i) Such other information as the attorney general or county  
36 prosecuting attorney filing the lien deems appropriate.

37       (3) The attorney general or the county prosecuting attorney filing  
38 the lien may amend a lien filed under this section at any time by

1 filing an amended criminal profiteering lien in accordance with this  
2 section that identifies the prior lien amended.

3 (4) The attorney general or the county prosecuting attorney filing  
4 the lien shall, as soon as practical after filing a criminal  
5 profiteering lien, furnish to any person named in the lien a notice of  
6 the filing of the lien. Failure to furnish notice under this  
7 subsection does not invalidate or otherwise affect a criminal  
8 profiteering lien filed in accordance with this section.

9 (5)(a) A criminal profiteering lien is perfected against interests  
10 in personal property in the same manner (~~(as)~~) as a security interest  
11 in like property pursuant to RCW 62A.9-302, 62A.9-303, 62A.9-304,  
12 62A.9-305, and 62A.9-306 or as otherwise required to perfect a security  
13 interest in like property under applicable law. In the case of  
14 perfection by filing, the state shall file, in lieu of a financing  
15 statement in the form prescribed by RCW 62A.9-402, a notice of lien in  
16 substantially the following form:

17 NOTICE OF LIEN

18 Pursuant to RCW 9A.82.120 (as reenacted by this act), the state of  
19 Washington claims a criminal profiteering lien on all real and  
20 personal property of:

21 Name: . . . . .  
22 Address: . . . . .  
23  
24  
25 . . . . .

26 State of Washington  
27 . . . . .  
28 By (authorized signature)

29 On receipt of such a notice from the state, a filing officer shall,  
30 without payment of filing fee, file and index the notice as if it were  
31 a financing statement naming the state as secured party and the  
32 defendant as debtor.

33 (b) A criminal profiteering lien is perfected against interests in  
34 real property by filing the lien in the office where a mortgage on the  
35 real estate would be filed or recorded. The filing officer shall file  
36 and index the criminal profiteering lien, without payment of a filing  
37 fee, in the same manner as a mortgage.

1 (6) The filing of a criminal profiteering lien in accordance with  
2 this section creates a lien in favor of the state in:

3 (a) Any interest of the defendant, in real property situated in the  
4 county in which the lien is filed, then maintained, or thereafter  
5 acquired in the name of the defendant identified in the lien;

6 (b) Any interest of the defendant, in personal property situated in  
7 this state, then maintained or thereafter acquired in the name of the  
8 defendant identified in the lien; and

9 (c) Any property identified in the lien to the extent of the  
10 defendant's interest therein.

11 (7) The lien created in favor of the state in accordance with this  
12 section, when filed or otherwise perfected as provided in subsection  
13 (5) of this section, has, with respect to any of the property described  
14 in subsection (6) of this section, the same priority determined  
15 pursuant to the laws of this state as a mortgage or security interest  
16 given for value (but not a purchase money security interest) and  
17 perfected in the same manner with respect to such property; except that  
18 any lien perfected pursuant to Title 60 RCW by any person who, in the  
19 ordinary course of his business, furnishes labor, services, or  
20 materials, or rents, leases, or otherwise supplies equipment, without  
21 knowledge of the criminal profiteering lien, is superior to the  
22 criminal profiteering lien.

23 (8) Upon entry of judgment in favor of the state, the state may  
24 proceed to execute thereon as in the case of any other judgment, except  
25 that in order to preserve the state's lien priority as provided in this  
26 section the state shall, in addition to such other notice as is  
27 required by law, give at least thirty days' notice of the execution to  
28 any person possessing at the time the notice is given, an interest  
29 recorded subsequent to the date the state's lien was perfected.

30 (9) Upon the entry of a final judgment in favor of the state  
31 providing for forfeiture of property to the state, the title of the  
32 state to the property:

33 (a) In the case of real property or a beneficial interest in real  
34 property, relates back to the date of filing the criminal profiteering  
35 lien or, if no criminal profiteering lien is filed, then to the date of  
36 recording of the final judgment or the abstract thereof; or

37 (b) In the case of personal property or a beneficial interest in  
38 personal property, relates back to the date the personal property was  
39 seized by the state, or the date of filing of a criminal profiteering

1 lien in accordance with this section, whichever is earlier, but if the  
2 property was not seized and no criminal profiteering lien was filed  
3 then to the date the final judgment was filed with the department of  
4 licensing and, if the personal property is an aircraft, with the  
5 federal aviation administration.

6 (10) This section does not limit the right of the state to obtain  
7 any order or injunction, receivership, writ, attachment, garnishment,  
8 or other remedy authorized under RCW 9A.82.100 (as reenacted by this  
9 act) or appropriate to protect the interests of the state or available  
10 under other applicable law.

11 (11) In a civil or criminal action under this chapter, the superior  
12 court shall provide for the protection of bona fide interests in  
13 property, including community property, subject to liens of persons who  
14 were not involved in the violation of this chapter, except to the  
15 extent that such interests or property were acquired or used in such a  
16 way as to be subject to forfeiture pursuant to RCW 9A.82.100(4)(f) (as  
17 reenacted by this act).

18 **Sec. 17.** RCW 9A.82.130 and 1985 c 455 s 14 and 1984 c 270 s 13 are  
19 each reenacted and amended to read as follows:

20 (1) A trustee who is personally served in the manner provided for  
21 service of legal process with written notice that a lien notice has  
22 been recorded or a civil proceeding or criminal proceeding has been  
23 instituted under this chapter against any person for whom the trustee  
24 holds legal or record title to real property, shall immediately furnish  
25 to the attorney general or county prosecuting attorney the following:

26 (a) The name and address of the person, as known to the trustee;

27 (b) To the extent known to the trustee, the name and address of all  
28 other persons for whose benefit the trustee holds title to the real  
29 property; and

30 (c) If requested by the attorney general or county prosecuting  
31 attorney, a copy of the trust agreement or other instrument under which  
32 the trustee holds legal or record title to the real property.

33 (2) The recording of a lien notice shall not constitute a lien on  
34 the record title to real property owned by a trustee at the time of  
35 recording except to the extent that trustee is named in and served with  
36 the lien notice as provided in subsection (1) of this section. The  
37 attorney general or county prosecuting attorney may bring a civil  
38 proceeding in superior court against the trustee to recover from the

1 trustee the amounts set forth in RCW 9A.82.150 (as reenacted by this  
2 act). In addition to amounts recovered under RCW 9A.82.150 (as  
3 reenacted by this act), the attorney general or county prosecuting  
4 attorney also may recover its investigative costs and attorneys' fees.

5 (3) The recording of a lien notice does not affect the use to which  
6 real property or a beneficial interest owned by the person named in the  
7 lien notice may be put or the right of the person to receive any  
8 avails, rents, or other proceeds resulting from the use and ownership  
9 except the sale of the property, until a judgment of forfeiture is  
10 entered.

11 (4) This section does not apply to any conveyance by a trustee  
12 under a court order unless the court order is entered in an action  
13 between the trustee and the beneficiary.

14 (5) Notwithstanding that a trustee is served with notice as  
15 provided in subsection (1) of this section, this section does not apply  
16 to a conveyance by a trustee required under the terms of any trust  
17 agreement in effect before service of such notice on the trustee.

18 **Sec. 18.** RCW 9A.82.140 and 1985 c 455 s 15 and 1984 c 270 s 14 are  
19 each reenacted and amended to read as follows:

20 (1) The term of a lien notice shall be six years from the date the  
21 lien notice is recorded. If a renewal lien notice is filed by the  
22 attorney general or county prosecuting attorney, the term of the  
23 renewal lien notice shall be for six years from the date the renewal  
24 lien notice is recorded. The attorney general or county prosecuting  
25 attorney is entitled to only one renewal of the lien notice.

26 (2) The attorney general or county prosecuting attorney filing the  
27 lien notice may release in whole or in part any lien notice or may  
28 release any specific property or beneficial interest from the lien  
29 notice upon such terms and conditions as the attorney general or county  
30 prosecuting attorney considers appropriate and shall release any lien  
31 upon the dismissal of the action which is the basis of the lien or  
32 satisfaction of the judgment of the court in the action or other final  
33 disposition of the claim evidenced by the lien. A release of a lien  
34 notice executed by the attorney general or county prosecuting attorney  
35 shall be recorded in the official records in which the lien notice  
36 covering that property was recorded. No charge or fee may be imposed  
37 for recording any release of a lien notice.

1 (3)(a) A person named in the lien notice may move the court in  
2 which the civil proceeding giving rise to the lien notice is pending  
3 for an order extinguishing the lien notice.

4 (b) Upon the motion of a person under (a) of this subsection, the  
5 court immediately shall enter an order setting a date for hearing,  
6 which shall be not less than five nor more than ten days after the  
7 motion is filed. The order and a copy of the motion shall be served on  
8 the attorney general or county prosecuting attorney within three days  
9 after the entry of the court's order. At the hearing, the court shall  
10 take evidence on the issue of whether any property or beneficial  
11 interest owned by the person is covered by the lien notice or otherwise  
12 subject to forfeiture under RCW 9A.82.120 (as reenacted by this act).  
13 If the person shows by a preponderance of the evidence that the lien  
14 notice is not applicable to the person or that any property or  
15 beneficial interest owned by the person is not subject to forfeiture  
16 under RCW 9A.82.120 (as reenacted by this act), the court shall enter  
17 a judgment extinguishing the lien notice or releasing the property or  
18 beneficial interest from the lien notice.

19 (c) The court may enter an order releasing from the lien notice any  
20 specific real property or beneficial interest if, at the time the lien  
21 notice is recorded, there is pending an arms length sale of the real  
22 property or beneficial interest in which the parties are under no undue  
23 compulsion to sell or buy and are able, willing, and reasonably well  
24 informed and the sale is for the fair market value of the real property  
25 or beneficial interest and the recording of the lien notice prevents  
26 the sale of the property or interest. The proceeds resulting from the  
27 sale of the real property or beneficial interest shall be deposited  
28 with the court, subject to the further order of the court.

29 (d) At any time after filing of a lien, the court may release from  
30 the lien any property upon application by the defendant and posting of  
31 security equal to the value of the property to be released.

32 **Sec. 19.** RCW 9A.82.150 and 1985 c 455 s 16 and 1984 c 270 s 15 are  
33 each reenacted and amended to read as follows:

34 (1) If a trustee conveys title to real property for which, at the  
35 time of the conveyance, the trustee has been personally served with  
36 notice as provided in RCW 9A.82.130(1) (as reenacted by this act) of a  
37 lien under this chapter, the trustee shall be liable to the state for  
38 the greater of:

1 (a) The amount of proceeds received by the person named in the lien  
2 notice as a result of the conveyance;

3 (b) The amount of proceeds received by the trustee as a result of  
4 the conveyance and distributed by the trustee to the person named in  
5 the lien notice; or

6 (c) The fair market value of the interest of the person named in  
7 the lien notice in the real property so conveyed.

8 (2) If the trustee conveys the real property for which a lien  
9 notice has been served on the trustee at the time of the conveyance and  
10 holds the proceeds that would otherwise be paid or distributed to the  
11 beneficiary or at the direction of the beneficiary or beneficiary's  
12 designee, the trustee's liability shall not exceed the amount of the  
13 proceeds so held so long as the trustee continues to hold the proceeds.

14 **Sec. 20.** RCW 9A.82.160 and 1985 c 455 s 17 and 1984 c 270 s 16 are  
15 each reenacted and amended to read as follows:

16 A trustee who knowingly fails to comply with RCW 9A.82.130(1) (as  
17 reenacted by this act) is guilty of a gross misdemeanor. A trustee who  
18 conveys title to real property after service of the notice as provided  
19 in RCW 9A.82.130(1) (as reenacted by this act) with the intent to evade  
20 the provisions of RCW 9A.82.100 or 9A.82.120 (as reenacted by this act)  
21 with respect to such property is guilty of a class C felony.

22 **Sec. 21.** RCW 9A.82.170 and 1985 c 455 s 18 and 1984 c 270 s 17 are  
23 each reenacted and amended to read as follows:

24 (1) Upon request of the attorney general or prosecuting attorney,  
25 a subpoena for the production of records of a financial institution may  
26 be signed and issued by a superior court judge if there is reason to  
27 believe that an act of criminal profiteering or a violation of RCW  
28 9A.82.060 or 9A.82.080 (as reenacted by this act) has occurred or is  
29 occurring and that the records sought will materially aid in the  
30 investigation of such activity or appears reasonably calculated to lead  
31 to the discovery of information that will do so. The subpoena shall be  
32 served on the financial institution as in civil actions. The court  
33 may, upon motion timely made and in any event before the time specified  
34 for compliance with the subpoena, condition compliance upon advancement  
35 by the attorney general or prosecuting attorney of the reasonable costs  
36 of producing the records specified in the subpoena.

1 (2) A response to a subpoena issued under this section is  
2 sufficient if a copy or printout, duly authenticated by an officer of  
3 the financial institution as a true and correct copy or printout of its  
4 records, is provided, unless otherwise provided in the subpoena for  
5 good cause shown.

6 (3) Except as provided in this subsection, a financial institution  
7 served with a subpoena under this section shall not disclose to the  
8 customer the fact that a subpoena seeking records relating to the  
9 customer has been served. A judge of the superior court may order the  
10 attorney general, prosecuting attorney, or financial institution to  
11 advise the financial institution's customer of the subpoena. Unless  
12 ordered to do so by the court, disclosure of the subpoena by the  
13 financial institution or any of its employees to the customer is a  
14 misdemeanor.

15 (~~((3)-(4)))~~) (4) A financial institution shall be reimbursed in an  
16 amount set by the court for reasonable costs incurred in providing  
17 information pursuant to this section.

18 (~~((4)-(5)))~~) (5) This section does not preclude the use of other  
19 legally authorized means of obtaining records, nor preclude the  
20 assertion of any legally recognized privileges.

21 (~~((5)-(6)))~~) (6) Disclosure by the attorney general, county  
22 prosecuting attorney, or any peace officer or other person designated  
23 by the attorney general or the county prosecuting attorney, of  
24 information obtained under this section, except in the proper discharge  
25 of official duties, is punishable as a misdemeanor.

26 (~~((6)-(7)))~~) (7) Upon filing of any civil or criminal action, the  
27 nondisclosure requirements of any subpoena or order under this section  
28 shall terminate, and the attorney general or prosecuting attorney  
29 filing the action shall provide to the defendant copies of all  
30 subpoenas or other orders issued under this section.

31 (~~((7)-(8)))~~) (8) A financial institution shall not be civilly  
32 liable for harm resulting from its compliance with the provisions of  
33 this chapter.

34 **Sec. 22.** RCW 9A.82.900 and 1984 c 270 s 20 are each reenacted to  
35 read as follows:

36 If any provision of this act or its application to any person or  
37 circumstance is held invalid, the remainder of the act or the



1 application of the provision to other persons or circumstances is not  
2 affected.

3 **Sec. 23.** RCW 9A.82.901 and 1985 c 455 s 20 and 1984 c 270 s 21 are  
4 each reenacted to read as follows:

5 Sections 12, 13, 14, 15, and 16, chapter 270, Laws of 1984 as  
6 amended by sections 13, 14, 15, 16, and 17 of this 1985 act shall take  
7 effect on July 1, 1986, and the remainder of chapter 270, Laws of 1984  
8 shall take effect on July 1, 1985.

9 **Sec. 24.** RCW 9.94A.320 and 2000 c 225 s 5, 2000 c 119 s 17, and  
10 2000 c 66 s 2 are each reenacted and amended to read as follows:

11 TABLE 2

12 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

13	XVI	Aggravated Murder 1 (RCW 10.95.020)
14	XV	Homicide by abuse (RCW 9A.32.055)
15		Malicious explosion 1 (RCW 70.74.280(1))
16		Murder 1 (RCW 9A.32.030)
17	XIV	Murder 2 (RCW 9A.32.050)
18	XIII	Malicious explosion 2 (RCW 70.74.280(2))
19		Malicious placement of an explosive 1 (RCW
20		70.74.270(1))
21	XII	Assault 1 (RCW 9A.36.011)
22		Assault of a Child 1 (RCW 9A.36.120)
23		Malicious placement of an imitation device
24		1 (RCW 70.74.272(1)(a))
25		Rape 1 (RCW 9A.44.040)
26		Rape of a Child 1 (RCW 9A.44.073)
27	XI	Manslaughter 1 (RCW 9A.32.060)
28		Rape 2 (RCW 9A.44.050)
29		Rape of a Child 2 (RCW 9A.44.076)
30	X	Child Molestation 1 (RCW 9A.44.083)
31		Indecent Liberties (with forcible
32		compulsion) (RCW 9A.44.100(1)(a))
33		Kidnapping 1 (RCW 9A.40.020)

1           Leading     Organized     Crime     (RCW  
2                     9A.82.060(1)(a) (as reenacted by this  
3                     act))  
4           Malicious explosion 3 (RCW 70.74.280(3))  
5           Manufacture of methamphetamine (RCW  
6                     69.50.401(a)(1)(ii))  
7           Over 18 and deliver heroin,  
8                     methamphetamine, a narcotic from  
9                     Schedule I or II, or flunitrazepam  
10                    from Schedule IV to someone under 18  
11                    (RCW 69.50.406)

12    IX           Assault of a Child 2 (RCW 9A.36.130)  
13           Controlled Substance Homicide (RCW  
14                     69.50.415)  
15           Explosive devices prohibited (RCW  
16                     70.74.180)  
17           Homicide by Watercraft, by being under the  
18                     influence of intoxicating liquor or  
19                     any drug (RCW 79A.60.050)  
20           Inciting Criminal Profiteering (RCW  
21                     9A.82.060(1)(b) (as reenacted by this  
22                     act))  
23           Malicious placement of an explosive 2 (RCW  
24                     70.74.270(2))  
25           Over 18 and deliver narcotic from Schedule  
26                     III, IV, or V or a nonnarcotic, except  
27                     flunitrazepam or methamphetamine, from  
28                     Schedule I-V to someone under 18 and 3  
29                     years junior (RCW 69.50.406)  
30           Robbery 1 (RCW 9A.56.200)  
31           Sexual Exploitation (RCW 9.68A.040)  
32           Vehicular Homicide, by being under the  
33                     influence of intoxicating liquor or  
34                     any drug (RCW 46.61.520)

35    VIII         Arson 1 (RCW 9A.48.020)  
36           Deliver or possess with intent to deliver  
37                     m e t h a m p h e t a m i n e     ( R C W  
38                     69.50.401(a)(1)(ii))

1 Hit and Run--Death (RCW 46.52.020(4)(a))  
2 Homicide by Watercraft, by the operation of  
3 any vessel in a reckless manner (RCW  
4 79A.60.050)  
5 Manslaughter 2 (RCW 9A.32.070)  
6 Manufacture, deliver, or possess with  
7 intent to deliver amphetamine (RCW  
8 69.50.401(a)(1)(ii))  
9 Manufacture, deliver, or possess with  
10 intent to deliver heroin or cocaine  
11 (RCW 69.50.401(a)(1)(i))  
12 Possession of Ephedrine, Pseudoephedrine,  
13 or Anhydrous Ammonia with intent to  
14 manufacture methamphetamine (RCW  
15 69.50.440)  
16 Promoting Prostitution 1 (RCW 9A.88.070)  
17 Selling for profit (controlled or  
18 counterfeit) any controlled substance  
19 (RCW 69.50.410)  
20 Theft of Anhydrous Ammonia (RCW 69.55.010)  
21 Vehicular Homicide, by the operation of any  
22 vehicle in a reckless manner (RCW  
23 46.61.520)  
24 VII Burglary 1 (RCW 9A.52.020)  
25 Child Molestation 2 (RCW 9A.44.086)  
26 Dealing in depictions of minor engaged in  
27 sexually explicit conduct (RCW  
28 9.68A.050)  
29 Drive-by Shooting (RCW 9A.36.045)  
30 Homicide by Watercraft, by disregard for  
31 the safety of others (RCW 79A.60.050)  
32 Indecent Liberties (without forcible  
33 compulsion) (RCW 9A.44.100(1) (b) and  
34 (c))  
35 Introducing Contraband 1 (RCW 9A.76.140)  
36 Involving a minor in drug dealing (RCW  
37 69.50.401(f))  
38 Malicious placement of an explosive 3 (RCW  
39 70.74.270(3))

1 Sending, bringing into state depictions of  
2 minor engaged in sexually explicit  
3 conduct (RCW 9.68A.060)  
4 Unlawful Possession of a Firearm in the  
5 first degree (RCW 9.41.040(1)(a))  
6 Use of a Machine Gun in Commission of a  
7 Felony (RCW 9.41.225)  
8 Vehicular Homicide, by disregard for the  
9 safety of others (RCW 46.61.520)

10 VI Bail Jumping with Murder 1 (RCW  
11 9A.76.170(2)(a))  
12 Bribery (RCW 9A.68.010)  
13 Incest 1 (RCW 9A.64.020(1))  
14 Intimidating a Judge (RCW 9A.72.160)  
15 Intimidating a Juror/Witness (RCW  
16 9A.72.110, 9A.72.130)  
17 Malicious placement of an imitation device  
18 2 (RCW 70.74.272(1)(b))  
19 Manufacture, deliver, or possess with  
20 intent to deliver narcotics from  
21 Schedule I or II (except heroin or  
22 cocaine) or flunitrazepam from  
23 Schedule IV (RCW 69.50.401(a)(1)(i))  
24 Rape of a Child 3 (RCW 9A.44.079)  
25 Theft of a Firearm (RCW 9A.56.300)  
26 Unlawful Storage of Anhydrous Ammonia (RCW  
27 69.55.020)

28 V Abandonment of dependent person 1 (RCW  
29 9A.42.060)  
30 Advancing money or property for  
31 extortionate extension of credit (RCW  
32 9A.82.030 (as reenacted by this act))  
33 Bail Jumping with class A Felony (RCW  
34 9A.76.170(2)(b))  
35 Child Molestation 3 (RCW 9A.44.089)  
36 Criminal Mistreatment 1 (RCW 9A.42.020)  
37 Custodial Sexual Misconduct 1 (RCW  
38 9A.44.160)

1 Delivery of imitation controlled substance  
2 by person eighteen or over to person  
3 under eighteen (RCW 69.52.030(2))  
4 Domestic Violence Court Order Violation  
5 (RCW 10.99.040, 10.99.050, 26.09.300,  
6 26.10.220, 26.26.138, 26.50.110,  
7 26.52.070, or 74.34.145)  
8 Extortion 1 (RCW 9A.56.120)  
9 Extortionate Extension of Credit (RCW  
10 9A.82.020 (as reenacted by this act))  
11 Extortionate Means to Collect Extensions of  
12 Credit (RCW 9A.82.040 (as reenacted by  
13 this act))  
14 Incest 2 (RCW 9A.64.020(2))  
15 Kidnapping 2 (RCW 9A.40.030)  
16 Perjury 1 (RCW 9A.72.020)  
17 Persistent prison misbehavior (RCW  
18 9.94.070)  
19 Possession of a Stolen Firearm (RCW  
20 9A.56.310)  
21 Rape 3 (RCW 9A.44.060)  
22 Rendering Criminal Assistance 1 (RCW  
23 9A.76.070)  
24 Sexual Misconduct with a Minor 1 (RCW  
25 9A.44.093)  
26 Sexually Violating Human Remains (RCW  
27 9A.44.105)  
28 Stalking (RCW 9A.46.110)  
29 IV Arson 2 (RCW 9A.48.030)  
30 Assault 2 (RCW 9A.36.021)  
31 Assault by Watercraft (RCW 79A.60.060)  
32 Bribing a Witness/Bribe Received by Witness  
33 (RCW 9A.72.090, 9A.72.100)  
34 Commercial Bribery (RCW 9A.68.060)  
35 Counterfeiting (RCW 9.16.035(4))  
36 Escape 1 (RCW 9A.76.110)  
37 Hit and Run--Injury (RCW 46.52.020(4)(b))  
38 Hit and Run with Vessel--Injury Accident  
39 (RCW 79A.60.200(3))

1 Indecent Exposure to Person Under Age  
2 Fourteen (subsequent sex offense) (RCW  
3 9A.88.010)  
4 Influencing Outcome of Sporting Event (RCW  
5 9A.82.070 (as reenacted by this act))  
6 Knowingly Trafficking in Stolen Property  
7 (RCW 9A.82.050(2) (as reenacted by  
8 this act))  
9 Malicious Harassment (RCW 9A.36.080)  
10 Manufacture, deliver, or possess with  
11 intent to deliver narcotics from  
12 Schedule III, IV, or V or nonnarcotics  
13 from Schedule I-V (except marijuana,  
14 amphetamine, methamphetamines, or  
15 flunitrazepam) (RCW 69.50.401(a)(1)  
16 (iii) through (v))  
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 Use of Proceeds of Criminal Profiteering  
22 (RCW 9A.82.080 (1) and (2) (as  
23 reenacted by this act))  
24 Vehicular Assault (RCW 46.61.522)  
25 Willful Failure to Return from Furlough  
26 (RCW 72.66.060)  
27 III Abandonment of dependent person 2 (RCW  
28 9A.42.070)  
29 Assault 3 (RCW 9A.36.031)  
30 Assault of a Child 3 (RCW 9A.36.140)  
31 Bail Jumping with class B or C Felony (RCW  
32 9A.76.170(2)(c))  
33 Burglary 2 (RCW 9A.52.030)  
34 Communication with a Minor for Immoral  
35 Purposes (RCW 9.68A.090)  
36 Criminal Gang Intimidation (RCW 9A.46.120)  
37 Criminal Mistreatment 2 (RCW 9A.42.030)  
38 Custodial Assault (RCW 9A.36.100)

1 Delivery of a material in lieu of a  
2 controlled substance (RCW  
3 69.50.401(c))  
4 Escape 2 (RCW 9A.76.120)  
5 Extortion 2 (RCW 9A.56.130)  
6 Harassment (RCW 9A.46.020)  
7 Intimidating a Public Servant (RCW  
8 9A.76.180)  
9 Introducing Contraband 2 (RCW 9A.76.150)  
10 Maintaining a Dwelling or Place for  
11 Controlled Substances (RCW  
12 69.50.402(a)(6))  
13 Malicious Injury to Railroad Property (RCW  
14 81.60.070)  
15 Manufacture, deliver, or possess with  
16 intent to deliver marijuana (RCW  
17 69.50.401(a)(1)(iii))  
18 Manufacture, distribute, or possess with  
19 intent to distribute an imitation  
20 controlled substance (RCW  
21 69.52.030(1))  
22 Patronizing a Juvenile Prostitute (RCW  
23 9.68A.100)  
24 Perjury 2 (RCW 9A.72.030)  
25 Possession of Incendiary Device (RCW  
26 9.40.120)  
27 Possession of Machine Gun or Short-Barreled  
28 Shotgun or Rifle (RCW 9.41.190)  
29 Promoting Prostitution 2 (RCW 9A.88.080)  
30 Recklessly Trafficking in Stolen Property  
31 (RCW 9A.82.050(1) as reenacted by  
32 this act)  
33 Securities Act violation (RCW 21.20.400)  
34 Tampering with a Witness (RCW 9A.72.120)  
35 Telephone Harassment (subsequent conviction  
36 or threat of death) (RCW 9.61.230)  
37 Theft of Livestock 2 (RCW 9A.56.080)  
38 Unlawful Imprisonment (RCW 9A.40.040)

1 Unlawful possession of firearm in the  
2 second degree (RCW 9.41.040(1)(b))  
3 Unlawful Use of Building for Drug Purposes  
4 (RCW 69.53.010)  
5 Willful Failure to Return from Work Release  
6 (RCW 72.65.070)

7 II Computer Trespass 1 (RCW 9A.52.110)  
8 Counterfeiting (RCW 9.16.035(3))  
9 Create, deliver, or possess a counterfeit  
10 controlled substance (RCW  
11 69.50.401(b))  
12 Escape from Community Custody (RCW  
13 72.09.310)  
14 Health Care False Claims (RCW 48.80.030)  
15 Malicious Mischief 1 (RCW 9A.48.070)  
16 Possession of controlled substance that is  
17 either heroin or narcotics from  
18 Schedule I or II or flunitrazepam from  
19 Schedule IV (RCW 69.50.401(d))  
20 Possession of phencyclidine (PCP) (RCW  
21 69.50.401(d))  
22 Possession of Stolen Property 1 (RCW  
23 9A.56.150)  
24 Theft 1 (RCW 9A.56.030)  
25 Theft of Rental, Leased, or Lease-purchased  
26 Property (valued at one thousand five  
27 hundred dollars or more) (RCW  
28 9A.56.096(4))  
29 Trafficking in Insurance Claims (RCW  
30 48.30A.015)  
31 Unlawful Practice of Law (RCW 2.48.180)  
32 Unlicensed Practice of a Profession or  
33 Business (RCW 18.130.190(7))

34 I Attempting to Elude a Pursuing Police  
35 Vehicle (RCW 46.61.024)  
36 False Verification for Welfare (RCW  
37 74.08.055)  
38 Forged Prescription (RCW 69.41.020)



1 Forged Prescription for a Controlled  
2 Substance (RCW 69.50.403)  
3 Forgery (RCW 9A.60.020)  
4 Malicious Mischief 2 (RCW 9A.48.080)  
5 Possess Controlled Substance that is a  
6 Narcotic from Schedule III, IV, or V  
7 or Non-narcotic from Schedule I-V  
8 (except phencyclidine or  
9 flunitrazepam) (RCW 69.50.401(d))  
10 Possession of Stolen Property 2 (RCW  
11 9A.56.160)  
12 Reckless Burning 1 (RCW 9A.48.040)  
13 Taking Motor Vehicle Without Permission  
14 (RCW 9A.56.070)  
15 Theft 2 (RCW 9A.56.040)  
16 Theft of Rental, Leased, or Lease-purchased  
17 Property (valued at two hundred fifty  
18 dollars or more but less than one  
19 thousand five hundred dollars) (RCW  
20 9A.56.096(4))  
21 Unlawful Issuance of Checks or Drafts (RCW  
22 9A.56.060)  
23 Unlawful Use of Food Stamps (RCW 9.91.140  
24 (2) and (3))  
25 Vehicle Prowl 1 (RCW 9A.52.095)

26 NEW SECTION. **Sec. 25.** This act is necessary for the immediate  
27 preservation of the public peace, health, or safety, or support of the  
28 state government and its existing public institutions, and takes effect  
29 immediately.

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