

SHB 1934 - S COMM AMD  
By Committee on Judiciary

ADOPTED 04/13/2005

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 9A.36.031 and 1999 c 328 s 1 are each amended to read  
4 as follows:

5 (1) A person is guilty of assault in the third degree if he or she,  
6 under circumstances not amounting to assault in the first or second  
7 degree:

8 (a) With intent to prevent or resist the execution of any lawful  
9 process or mandate of any court officer or the lawful apprehension or  
10 detention of himself or another person, assaults another; or

11 (b) Assaults a person employed as a transit operator or driver, the  
12 immediate supervisor of a transit operator or driver, a mechanic, or a  
13 security officer, by a public or private transit company or a  
14 contracted transit service provider, while that person is performing  
15 his or her official duties at the time of the assault; or

16 (c) Assaults a school bus driver, the immediate supervisor of a  
17 driver, a mechanic, or a security officer, employed by a school  
18 district transportation service or a private company under contract for  
19 transportation services with a school district, while the person is  
20 performing his or her official duties at the time of the assault; or

21 (d) With criminal negligence, causes bodily harm to another person  
22 by means of a weapon or other instrument or thing likely to produce  
23 bodily harm; or

24 (e) Assaults a fire fighter or other employee of a fire department,  
25 county fire marshal's office, county fire prevention bureau, or fire  
26 protection district who was performing his or her official duties at  
27 the time of the assault; or

28 (f) With criminal negligence, causes bodily harm accompanied by  
29 substantial pain that extends for a period sufficient to cause  
30 considerable suffering; or

1 (g) Assaults a law enforcement officer or other employee of a law  
2 enforcement agency who was performing his or her official duties at the  
3 time of the assault; or

4 (h) Assaults a peace officer with a projectile stun gun; or

5 (i) Assaults a nurse, physician, or health care provider who was  
6 performing his or her nursing or health care duties at the time of the  
7 assault. For purposes of this subsection: "Nurse" means a person  
8 licensed under chapter 18.79 RCW; "physician" means a person licensed  
9 under chapter 18.57 or 18.71 RCW; and "health care provider" means a  
10 person certified under chapter 18.71 or 18.73 RCW who performs  
11 emergency medical services or a person regulated under Title 18 RCW and  
12 employed by, or contracting with, a hospital licensed under chapter  
13 70.41 RCW.

14 (2) Assault in the third degree is a class C felony.

15 **Sec. 2.** RCW 9.94A.515 and 2004 c 176 s 2 and 2004 c 94 s 3 are  
16 each reenacted and amended to read as follows:

17 TABLE 2  
18 CRIMES INCLUDED WITHIN  
19 EACH SERIOUSNESS LEVEL

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

1 Rape 1 (RCW 9A.44.040)  
2 Rape of a Child 1 (RCW 9A.44.073)  
3 Trafficking 2 (RCW 9A.40.100(2))  
4 XI Manslaughter 1 (RCW 9A.32.060)  
5 Rape 2 (RCW 9A.44.050)  
6 Rape of a Child 2 (RCW 9A.44.076)  
7 X Child Molestation 1 (RCW 9A.44.083)  
8 Indecent Liberties (with forcible  
9 compulsion) (RCW  
10 9A.44.100(1)(a))  
11 Kidnapping 1 (RCW 9A.40.020)  
12 Leading Organized Crime (RCW  
13 9A.82.060(1)(a))  
14 Malicious explosion 3 (RCW  
15 70.74.280(3))  
16 Sexually Violent Predator Escape  
17 (RCW 9A.76.115)  
18 IX Assault of a Child 2 (RCW 9A.36.130)  
19 Explosive devices prohibited (RCW  
20 70.74.180)  
21 Hit and Run--Death (RCW  
22 46.52.020(4)(a))  
23 Homicide by Watercraft, by being  
24 under the influence of intoxicating  
25 liquor or any drug (RCW  
26 79A.60.050)  
27 Inciting Criminal Profiteering (RCW  
28 9A.82.060(1)(b))  
29 Malicious placement of an explosive 2  
30 (RCW 70.74.270(2))  
31 Robbery 1 (RCW 9A.56.200)  
32 Sexual Exploitation (RCW 9.68A.040)  
33 Vehicular Homicide, by being under  
34 the influence of intoxicating  
35 liquor or any drug (RCW  
36 46.61.520)  
37 VIII Arson 1 (RCW 9A.48.020)

1 Homicide by Watercraft, by the  
2 operation of any vessel in a  
3 reckless manner (RCW  
4 79A.60.050)  
5 Manslaughter 2 (RCW 9A.32.070)  
6 Promoting Prostitution 1 (RCW  
7 9A.88.070)  
8 Theft of Ammonia (RCW 69.55.010)  
9 Vehicular Homicide, by the operation  
10 of any vehicle in a reckless  
11 manner (RCW 46.61.520)  
12 VII Burglary 1 (RCW 9A.52.020)  
13 Child Molestation 2 (RCW 9A.44.086)  
14 Civil Disorder Training (RCW  
15 9A.48.120)  
16 Dealing in depictions of minor  
17 engaged in sexually explicit  
18 conduct (RCW 9.68A.050)  
19 Drive-by Shooting (RCW 9A.36.045)  
20 Homicide by Watercraft, by disregard  
21 for the safety of others (RCW  
22 79A.60.050)  
23 Indecent Liberties (without forcible  
24 compulsion) (RCW 9A.44.100(1)  
25 (b) and (c))  
26 Introducing Contraband 1 (RCW  
27 9A.76.140)  
28 Malicious placement of an explosive 3  
29 (RCW 70.74.270(3))  
30 Sending, bringing into state depictions  
31 of minor engaged in sexually  
32 explicit conduct (RCW  
33 9.68A.060)  
34 Unlawful Possession of a Firearm in  
35 the first degree (RCW  
36 9.41.040(1))

1 Use of a Machine Gun in Commission  
2 of a Felony (RCW 9A.41.225)  
3 Vehicular Homicide, by disregard for  
4 the safety of others (RCW  
5 46.61.520)  
6 VI Bail Jumping with Murder 1 (RCW  
7 9A.76.170(3)(a))  
8 Bribery (RCW 9A.68.010)  
9 Incest 1 (RCW 9A.64.020(1))  
10 Intimidating a Judge (RCW  
11 9A.72.160)  
12 Intimidating a Juror/Witness (RCW  
13 9A.72.110, 9A.72.130)  
14 Malicious placement of an imitation  
15 device 2 (RCW 70.74.272(1)(b))  
16 Rape of a Child 3 (RCW 9A.44.079)  
17 Theft of a Firearm (RCW 9A.56.300)  
18 Unlawful Storage of Ammonia (RCW  
19 69.55.020)  
20 V Abandonment of dependent person 1  
21 (RCW 9A.42.060)  
22 Advancing money or property for  
23 extortionate extension of credit  
24 (RCW 9A.82.030)  
25 Bail Jumping with class A Felony  
26 (RCW 9A.76.170(3)(b))  
27 Child Molestation 3 (RCW 9A.44.089)  
28 Criminal Mistreatment 1 (RCW  
29 9A.42.020)  
30 Custodial Sexual Misconduct 1 (RCW  
31 9A.44.160)  
32 Domestic Violence Court Order  
33 Violation (RCW 10.99.040,  
34 10.99.050, 26.09.300, 26.10.220,  
35 26.26.138, 26.50.110, 26.52.070,  
36 or 74.34.145)  
37 Extortion 1 (RCW 9A.56.120)

1 Extortionate Extension of Credit  
2 (RCW 9A.82.020)  
3 Extortionate Means to Collect  
4 Extensions of Credit (RCW  
5 9A.82.040)  
6 Incest 2 (RCW 9A.64.020(2))  
7 Kidnapping 2 (RCW 9A.40.030)  
8 Perjury 1 (RCW 9A.72.020)  
9 Persistent prison misbehavior (RCW  
10 9.94.070)  
11 Possession of a Stolen Firearm (RCW  
12 9A.56.310)  
13 Rape 3 (RCW 9A.44.060)  
14 Rendering Criminal Assistance 1  
15 (RCW 9A.76.070)  
16 Sexual Misconduct with a Minor 1  
17 (RCW 9A.44.093)  
18 Sexually Violating Human Remains  
19 (RCW 9A.44.105)  
20 Stalking (RCW 9A.46.110)  
21 Taking Motor Vehicle Without  
22 Permission 1 (RCW 9A.56.070)  
23 IV Arson 2 (RCW 9A.48.030)  
24 Assault 2 (RCW 9A.36.021)  
25 Assault 3 (of a Peace Officer with a  
26 Projectile Stun Gun) (RCW  
27 9A.36.031(1)(h))  
28 Assault by Watercraft (RCW  
29 79A.60.060)  
30 Bribing a Witness/Bribe Received by  
31 Witness (RCW 9A.72.090,  
32 9A.72.100)  
33 Cheating 1 (RCW 9.46.1961)  
34 Commercial Bribery (RCW  
35 9A.68.060)  
36 Counterfeiting (RCW 9.16.035(4))



1 Use of Proceeds of Criminal  
2 Profiteering (RCW 9A.82.080 (1)  
3 and (2))  
4 Vehicular Assault, by being under the  
5 influence of intoxicating liquor or  
6 any drug, or by the operation or  
7 driving of a vehicle in a reckless  
8 manner (RCW 46.61.522)  
9 Willful Failure to Return from  
10 Furlough (RCW 72.66.060)  
11 III Abandonment of dependent person 2  
12 (RCW 9A.42.070)  
13 Assault 3 (Except Assault 3 of a Peace  
14 Officer With a Projectile Stun  
15 Gun) (RCW 9A.36.031 except  
16 subsection (1)(h))  
17 Assault of a Child 3 (RCW 9A.36.140)  
18 Bail Jumping with class B or C Felony  
19 (RCW 9A.76.170(3)(c))  
20 Burglary 2 (RCW 9A.52.030)  
21 Communication with a Minor for  
22 Immoral Purposes (RCW  
23 9.68A.090)  
24 Criminal Gang Intimidation (RCW  
25 9A.46.120)  
26 Criminal Mistreatment 2 (RCW  
27 9A.42.030)  
28 Custodial Assault (RCW 9A.36.100)  
29 Cyberstalking (subsequent conviction  
30 or threat of death) (RCW  
31 9.61.260(3))  
32 Escape 2 (RCW 9A.76.120)  
33 Extortion 2 (RCW 9A.56.130)  
34 Harassment (RCW 9A.46.020)  
35 Intimidating a Public Servant (RCW  
36 9A.76.180)



1 Introducing Contraband 2 (RCW  
2 9A.76.150)  
3 Malicious Injury to Railroad Property  
4 (RCW 81.60.070)  
5 Patronizing a Juvenile Prostitute  
6 (RCW 9.68A.100)  
7 Perjury 2 (RCW 9A.72.030)  
8 Possession of Incendiary Device (RCW  
9 9.40.120)  
10 Possession of Machine Gun or Short-  
11 Barreled Shotgun or Rifle (RCW  
12 9.41.190)  
13 Promoting Prostitution 2 (RCW  
14 9A.88.080)  
15 Securities Act violation (RCW  
16 21.20.400)  
17 Tampering with a Witness (RCW  
18 9A.72.120)  
19 Telephone Harassment (subsequent  
20 conviction or threat of death)  
21 (RCW 9.61.230(2))  
22 Theft of Livestock 2 (RCW 9A.56.083)  
23 Trafficking in Stolen Property 2 (RCW  
24 9A.82.055)  
25 Unlawful Imprisonment (RCW  
26 9A.40.040)  
27 Unlawful possession of firearm in the  
28 second degree (RCW 9.41.040(2))  
29 Vehicular Assault, by the operation or  
30 driving of a vehicle with disregard  
31 for the safety of others (RCW  
32 46.61.522)  
33 Willful Failure to Return from Work  
34 Release (RCW 72.65.070)  
35 II Computer Trespass 1 (RCW  
36 9A.52.110)  
37 Counterfeiting (RCW 9.16.035(3))

1 Escape from Community Custody  
2 (RCW 72.09.310)  
3 Health Care False Claims (RCW  
4 48.80.030)  
5 Identity Theft 2 (RCW 9.35.020(3))  
6 Improperly Obtaining Financial  
7 Information (RCW 9.35.010)  
8 Malicious Mischief 1 (RCW  
9 9A.48.070)  
10 Possession of Stolen Property 1 (RCW  
11 9A.56.150)  
12 Theft 1 (RCW 9A.56.030)  
13 Theft of Rental, Leased, or Lease-  
14 purchased Property (valued at one  
15 thousand five hundred dollars or  
16 more) (RCW 9A.56.096(5)(a))  
17 Trafficking in Insurance Claims (RCW  
18 48.30A.015)  
19 Unlawful factoring of a credit card or  
20 payment card transaction (RCW  
21 9A.56.290(4)(a))  
22 Unlawful Practice of Law (RCW  
23 2.48.180)  
24 Unlicensed Practice of a Profession or  
25 Business (RCW 18.130.190(7))  
26 I Attempting to Elude a Pursuing Police  
27 Vehicle (RCW 46.61.024)  
28 False Verification for Welfare (RCW  
29 74.08.055)  
30 Forgery (RCW 9A.60.020)  
31 Fraudulent Creation or Revocation of a  
32 Mental Health Advance Directive  
33 (RCW 9A.60.060)  
34 Malicious Mischief 2 (RCW  
35 9A.48.080)  
36 Mineral Trespass (RCW 78.44.330)

1 Possession of Stolen Property 2 (RCW  
2 9A.56.160)  
3 Reckless Burning 1 (RCW 9A.48.040)  
4 Taking Motor Vehicle Without  
5 Permission 2 (RCW 9A.56.075)  
6 Theft 2 (RCW 9A.56.040)  
7 Theft of Rental, Leased, or Lease-  
8 purchased Property (valued at two  
9 hundred fifty dollars or more but  
10 less than one thousand five  
11 hundred dollars) (RCW  
12 9A.56.096(5)(b))  
13 Transaction of insurance business  
14 beyond the scope of licensure  
15 (RCW 48.17.063(4))  
16 Unlawful Issuance of Checks or Drafts  
17 (RCW 9A.56.060)  
18 Unlawful Possession of Fictitious  
19 Identification (RCW 9A.56.320)  
20 Unlawful Possession of Instruments of  
21 Financial Fraud (RCW  
22 9A.56.320)  
23 Unlawful Possession of Payment  
24 Instruments (RCW 9A.56.320)  
25 Unlawful Possession of a Personal  
26 Identification Device (RCW  
27 9A.56.320)  
28 Unlawful Production of Payment  
29 Instruments (RCW 9A.56.320)  
30 Unlawful Trafficking in Food Stamps  
31 (RCW 9.91.142)  
32 Unlawful Use of Food Stamps (RCW  
33 9.91.144)  
34 Vehicle Prowl 1 (RCW 9A.52.095)

35 **Sec. 3.** RCW 9A.04.110 and 1988 c 158 s 1 are each amended to read  
36 as follows:

37 In this title unless a different meaning plainly is required:

1 (1) "Acted" includes, where relevant, omitted to act;

2 (2) "Actor" includes, where relevant, a person failing to act;

3 (3) "Benefit" is any gain or advantage to the beneficiary,  
4 including any gain or advantage to a third person pursuant to the  
5 desire or consent of the beneficiary;

6 (4)(a) "Bodily injury," "physical injury," or "bodily harm" means  
7 physical pain or injury, illness, or an impairment of physical  
8 condition;

9 (b) "Substantial bodily harm" means bodily injury which involves a  
10 temporary but substantial disfigurement, or which causes a temporary  
11 but substantial loss or impairment of the function of any bodily part  
12 or organ, or which causes a fracture of any bodily part;

13 (c) "Great bodily harm" means bodily injury which creates a  
14 probability of death, or which causes significant serious permanent  
15 disfigurement, or which causes a significant permanent loss or  
16 impairment of the function of any bodily part or organ;

17 (5) "Building", in addition to its ordinary meaning, includes any  
18 dwelling, fenced area, vehicle, railway car, cargo container, or any  
19 other structure used for lodging of persons or for carrying on business  
20 therein, or for the use, sale or deposit of goods; each unit of a  
21 building consisting of two or more units separately secured or occupied  
22 is a separate building;

23 (6) "Deadly weapon" means any explosive or loaded or unloaded  
24 firearm, and shall include any other weapon, device, instrument,  
25 article, or substance, including a "vehicle" as defined in this  
26 section, which, under the circumstances in which it is used, attempted  
27 to be used, or threatened to be used, is readily capable of causing  
28 death or substantial bodily harm;

29 (7) "Dwelling" means any building or structure, though movable or  
30 temporary, or a portion thereof, which is used or ordinarily used by a  
31 person for lodging;

32 (8) "Government" includes any branch, subdivision, or agency of the  
33 government of this state and any county, city, district, or other local  
34 governmental unit;

35 (9) "Governmental function" includes any activity which a public  
36 servant is legally authorized or permitted to undertake on behalf of a  
37 government;

1 (10) "Indicted" and "indictment" include "informed against" and  
2 "information", and "informed against" and "information" include  
3 "indicted" and "indictment";

4 (11) "Judge" includes every judicial officer authorized alone or  
5 with others, to hold or preside over a court;

6 (12) "Malice" and "maliciously" shall import an evil intent, wish,  
7 or design to vex, annoy, or injure another person. Malice may be  
8 inferred from an act done in wilful disregard of the rights of another,  
9 or an act wrongfully done without just cause or excuse, or an act or  
10 omission of duty betraying a wilful disregard of social duty;

11 (13) "Officer" and "public officer" means a person holding office  
12 under a city, county, or state government, or the federal government  
13 who performs a public function and in so doing is vested with the  
14 exercise of some sovereign power of government, and includes all  
15 assistants, deputies, clerks, and employees of any public officer and  
16 all persons lawfully exercising or assuming to exercise any of the  
17 powers or functions of a public officer;

18 (14) "Omission" means a failure to act;

19 (15) "Peace officer" means a duly appointed city, county, or state  
20 law enforcement officer;

21 (16) "Pecuniary benefit" means any gain or advantage in the form of  
22 money, property, commercial interest, or anything else the primary  
23 significance of which is economic gain;

24 (17) "Person", "he", and "actor" include any natural person and,  
25 where relevant, a corporation, joint stock association, or an  
26 unincorporated association;

27 (18) "Place of work" includes but is not limited to all the lands  
28 and other real property of a farm or ranch in the case of an actor who  
29 owns, operates, or is employed to work on such a farm or ranch;

30 (19) "Prison" means any place designated by law for the keeping of  
31 persons held in custody under process of law, or under lawful arrest,  
32 including but not limited to any state correctional institution or any  
33 county or city jail;

34 (20) "Prisoner" includes any person held in custody under process  
35 of law, or under lawful arrest;

36 (21) "Projectile stun gun" means an electronic device that projects  
37 wired probes attached to the device that emit an electrical charge and

1 that is designed and primarily employed to incapacitate a person or  
2 animal;  
3 (22) "Property" means anything of value, whether tangible or  
4 intangible, real or personal;  
5 ~~((+22+))~~ (23) "Public servant" means any person other than a  
6 witness who presently occupies the position of or has been elected,  
7 appointed, or designated to become any officer or employee of  
8 government, including a legislator, judge, judicial officer, juror, and  
9 any person participating as an advisor, consultant, or otherwise in  
10 performing a governmental function;  
11 ~~((+23+))~~ (24) "Signature" includes any memorandum, mark, or sign  
12 made with intent to authenticate any instrument or writing, or the  
13 subscription of any person thereto;  
14 ~~((+24+))~~ (25) "Statute" means the Constitution or an act of the  
15 legislature or initiative or referendum of this state;  
16 ~~((+25+))~~ (26) "Threat" means to communicate, directly or indirectly  
17 the intent:  
18 (a) To cause bodily injury in the future to the person threatened  
19 or to any other person; or  
20 (b) To cause physical damage to the property of a person other than  
21 the actor; or  
22 (c) To subject the person threatened or any other person to  
23 physical confinement or restraint; or  
24 (d) To accuse any person of a crime or cause criminal charges to be  
25 instituted against any person; or  
26 (e) To expose a secret or publicize an asserted fact, whether true  
27 or false, tending to subject any person to hatred, contempt, or  
28 ridicule; or  
29 (f) To reveal any information sought to be concealed by the person  
30 threatened; or  
31 (g) To testify or provide information or withhold testimony or  
32 information with respect to another's legal claim or defense; or  
33 (h) To take wrongful action as an official against anyone or  
34 anything, or wrongfully withhold official action, or cause such action  
35 or withholding; or  
36 (i) To bring about or continue a strike, boycott, or other similar  
37 collective action to obtain property which is not demanded or received  
38 for the benefit of the group which the actor purports to represent; or

1 (j) To do any other act which is intended to harm substantially the  
2 person threatened or another with respect to his health, safety,  
3 business, financial condition, or personal relationships;

4 ~~((+26+))~~ (27) "Vehicle" means a "motor vehicle" as defined in the  
5 vehicle and traffic laws, any aircraft, or any vessel equipped for  
6 propulsion by mechanical means or by sail;

7 ~~((+27+))~~ (28) Words in the present tense shall include the future  
8 tense; and in the masculine shall include the feminine and neuter  
9 genders; and in the singular shall include the plural; and in the  
10 plural shall include the singular.

11 NEW SECTION. **Sec. 4.** (1) The projectile stun gun study committee  
12 is established to review the sale and use of projectile stun guns  
13 within Washington state. The committee shall be composed of:

14 (a) Two senators, one from each caucus in the senate;

15 (b) Two representatives, one from each caucus in the house of  
16 representatives;

17 (c) One police chief appointed by the Washington association of  
18 sheriffs and police chiefs;

19 (d) One elected sheriff appointed by the Washington association of  
20 sheriffs and police chiefs;

21 (e) One representative appointed by the association of Washington  
22 cities;

23 (f) One representative appointed by the Washington state  
24 association of counties; and

25 (g) One representative appointed by the department of health.

26 (2) The committee shall evaluate public safety issues created by  
27 projectile stun guns and make recommendations regarding whether they  
28 should be regulated and, if so, how. Specifically, the committee shall  
29 review:

30 (a) Public safety issues related to projectile stun guns when used  
31 by the general public;

32 (b) Ownership limitations, such as age and criminal record  
33 restrictions;

34 (c) The practicality of requiring criminal background checks prior  
35 to allowing the purchase of a projectile stun gun and who would perform  
36 such criminal background checks;

1 (d) Manufacturing requirements, such as voltage limits and whether  
2 to require that projectile stun guns disperse traceable coded  
3 materials;  
4 (e) What use and possession limitations should be placed on  
5 projectile stun guns;  
6 (f) Whether mandatory training should be required to purchase a  
7 projectile stun gun;  
8 (g) What penalties shall be assessed to individuals that unlawfully  
9 sell, possess, or use projectile stun guns;  
10 (h) The feelings of the general public about the use of projectile  
11 stun guns as an alternative to traditional firearms as means of  
12 self-protection; and  
13 (i) Any other issue the committee finds relevant to the regulation  
14 of projectile stun guns in Washington.  
15 (3) Staff support shall be provided by senate committee services  
16 and the office of program research.  
17 (4) Legislative members of the study committee shall be reimbursed  
18 for travel expenses in accordance with RCW 44.04.120. Nonlegislative  
19 members, except those representing an employer or organization, are  
20 entitled to be reimbursed for travel expenses in accordance with RCW  
21 43.03.050 and 43.03.060.  
22 (5) A committee report, containing findings and proposed  
23 legislation, if any, shall be delivered to the full legislature, not  
24 later than December 31, 2005."

**SHB 1934** - S COMM AMD  
By Committee on Judiciary

**ADOPTED 04/13/2005**

25 On page 1, line 2 of the title, after "gun;" strike the remainder  
26 of the title and insert "amending RCW 9A.36.031 and 9A.04.110;  
27 reenacting and amending RCW 9.94A.515; creating a new section; and  
28 prescribing penalties."

--- END ---