

SHB 1742 - S AMD 558
By Senator Padden

PULLED 04/10/2019

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

3 "NEW SECTION. **Sec. 1.** This act may be known and cited as the
4 responsible teen communications act.

5 NEW SECTION. **Sec. 2.** A new section is added to chapter 13.40
6 RCW to read as follows:

7 (1) The legislature finds that exchange of intimate images by
8 minors is increasingly common, and that such actions may lead to harm
9 and long-term consequences. The legislature intends to develop age-
10 appropriate prevention and interventions to prevent harm and to hold
11 accountable youth who harm others through exchange of intimate
12 images.

13 (2) The Washington coalition of sexual assault programs, in
14 consultation with the office of the superintendent of public
15 instruction, the Washington association for the treatment of sexual
16 abusers, the department of children, youth, and families, the
17 department of social and health services, the juvenile court
18 administrators, the Washington association of prosecuting attorneys,
19 representatives from public defense, youth representatives, and other
20 relevant stakeholders, shall convene a work group to make
21 recommendations to the legislature regarding age-appropriate
22 prevention and intervention strategies to address potential harms
23 caused by exchange of intimate images by minors.

24 (3) By December 1, 2019, the work group shall make a report to
25 the legislature identifying education, prevention, and other
26 responses to the harms that may be associated with exchange of
27 intimate images by minors.

28 **Sec. 3.** RCW 9.68A.050 and 2017 c 126 s 3 are each amended to
29 read as follows:

1 (1) (a) A person eighteen years of age or older commits the crime
2 of dealing in depictions of a minor engaged in sexually explicit
3 conduct in the first degree when he or she:

4 (i) Knowingly develops, duplicates, publishes, prints,
5 disseminates, exchanges, finances, attempts to finance, or sells a
6 visual or printed matter that depicts a minor engaged in an act of
7 sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through
8 (e); or

9 (ii) Possesses with intent to develop, duplicate, publish, print,
10 disseminate, exchange, or sell any visual or printed matter that
11 depicts a minor engaged in an act of sexually explicit conduct as
12 defined in RCW 9.68A.011(4) (a) through (e).

13 (b) Dealing in depictions of a minor engaged in sexually explicit
14 conduct in the first degree is a class B felony punishable under
15 chapter 9A.20 RCW.

16 (c) For the purposes of determining the unit of prosecution under
17 this subsection, each depiction or image of visual or printed matter
18 constitutes a separate offense.

19 (2) (a) A person eighteen years of age or older commits the crime
20 of dealing in depictions of a minor engaged in sexually explicit
21 conduct in the second degree when he or she:

22 (i) Knowingly develops, duplicates, publishes, prints,
23 disseminates, exchanges, finances, attempts to finance, or sells any
24 visual or printed matter that depicts a minor engaged in an act of
25 sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g);
26 or

27 (ii) Possesses with intent to develop, duplicate, publish, print,
28 disseminate, exchange, or sell any visual or printed matter that
29 depicts a minor engaged in an act of sexually explicit conduct as
30 defined in RCW 9.68A.011(4) (f) or (g).

31 (b) Dealing in depictions of a minor engaged in sexually explicit
32 conduct in the second degree is a class B felony punishable under
33 chapter 9A.20 RCW.

34 (c) For the purposes of determining the unit of prosecution under
35 this subsection, each incident of dealing in one or more depictions
36 or images of visual or printed matter constitutes a separate offense.

37 NEW SECTION. **Sec. 4.** A new section is added to chapter 9.68A
38 RCW to read as follows:

1 (1) (a) (i) A person under the age of eighteen commits the crime of
2 a minor dealing in depictions of another minor thirteen years of age
3 or older engaged in sexually explicit conduct in the first degree
4 when he or she knowingly distributes, publishes, transfers,
5 disseminates, or exchanges a visual or printed matter that depicts
6 another minor thirteen years of age or older engaged in an act of
7 sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through
8 (e).

9 (ii) Minor dealing in depictions of another minor thirteen years
10 of age or older engaged in sexually explicit conduct in the first
11 degree is a class B felony punishable under chapter 9A.20 RCW.

12 (b) (i) A person under the age of eighteen commits the crime of a
13 minor dealing in depictions of another minor thirteen years of age or
14 older engaged in sexually explicit conduct in the second degree when
15 he or she knowingly distributes, publishes, transfers, disseminates,
16 or exchanges a visual or printed matter that depicts another minor
17 thirteen years of age or older engaged in an act of sexually explicit
18 conduct as defined in RCW 9.68A.011(4) (f) or (g).

19 (ii) Minor dealing in depictions of another minor thirteen years
20 of age or older engaged in sexually explicit conduct in the second
21 degree is a gross misdemeanor.

22 (2) (a) A person under age eighteen commits the crime of minor
23 dealing in depictions of another minor twelve years of age or younger
24 engaged in sexually explicit conduct in the first degree when he or
25 she:

26 (i) Knowingly develops, duplicates, publishes, prints,
27 disseminates, exchanges, finances, attempts to finance, or sells a
28 visual or printed matter that depicts another minor twelve years of
29 age or younger engaged in an act of sexually explicit conduct as
30 defined in RCW 9.68A.011(4) (a) through (e); or

31 (ii) Possesses with intent to develop, duplicate, publish, print,
32 disseminate, exchange, or sell any visual or printed matter that
33 depicts another minor twelve years of age or younger engaged in an
34 act of sexually explicit conduct as defined in RCW 9.68A.011(4) (a)
35 through (e).

36 (b) Minor dealing in depictions of another minor twelve years of
37 age or younger engaged in sexually explicit conduct in the first
38 degree is a class B felony punishable under chapter 9A.20 RCW.

39 (3) (a) A person under age eighteen commits the crime of minor
40 dealing in depictions of another minor twelve years of age or younger

1 engaged in sexually explicit conduct in the second degree when he or
2 she:

3 (i) Knowingly develops, duplicates, publishes, prints,
4 disseminates, exchanges, finances, attempts to finance, or sells any
5 visual or printed matter that depicts another minor twelve years of
6 age or younger engaged in an act of sexually explicit conduct as
7 defined in RCW 9.68A.011(4) (f) or (g); or

8 (ii) Possesses with intent to develop, duplicate, publish, print,
9 disseminate, exchange, or sell any visual or printed matter that
10 depicts another minor twelve years of age or younger engaged in an
11 act of sexually explicit conduct as defined in RCW 9.68A.011(4) (f)
12 or (g).

13 (b) Minor dealing in depictions of a minor twelve years of age or
14 younger engaged in sexually explicit conduct in the second degree is
15 a class B felony punishable under chapter 9A.20 RCW.

16 (4) (a) Any person under the age of eighteen commits the crime of
17 minor financing or selling depictions of another minor engaged in
18 sexually explicit conduct when he or she finances, attempts to
19 finance, or sells a visual or printed matter that depicts a minor
20 engaged in an act of sexually explicit conduct as defined in RCW
21 9.68A.011(4) (a) through (g).

22 (b) Minor financing or selling depictions of another minor
23 engaged in sexually explicit conduct is a class B felony punishable
24 under chapter 9A.20 RCW.

25 (5) (a) A person under the age of eighteen commits the crime of
26 minor selling depictions of himself or herself engaged in sexually
27 explicit conduct when he or she sells a visual or printed matter that
28 depicts himself or herself engaged in an act of sexually explicit
29 conduct as defined in RCW 9.68A.011(4) (a) through (g).

30 (b) Minor selling depictions of himself or herself engaged in
31 sexually explicit conduct is a misdemeanor.

32 (6) This section does not apply to a person under eighteen years
33 of age who finances, attempts to finance, develops, duplicates,
34 publishes, prints, disseminates, exchanges, or possesses a visual or
35 printed matter that depicts himself or herself engaged in an act of
36 sexually explicit conduct as defined in RCW 9.68A.011(4).

37 (7) For the purposes of determining the unit of prosecution under
38 this section, each depiction or image of visual or printed matter
39 constitutes a separate offense.

1 **Sec. 5.** RCW 9.68A.060 and 2017 c 126 s 4 are each amended to
2 read as follows:

3 (1) (a) A person commits the crime of sending or bringing into the
4 state depictions of a minor engaged in sexually explicit conduct in
5 the first degree when he or she knowingly sends or causes to be sent,
6 or brings or causes to be brought, into this state for sale or
7 distribution, a visual or printed matter that depicts a minor engaged
8 in sexually explicit conduct as defined in RCW 9.68A.011(4) (a)
9 through (e).

10 (b) Sending or bringing into the state depictions of a minor
11 engaged in sexually explicit conduct in the first degree is a class B
12 felony punishable under chapter 9A.20 RCW.

13 (c) For the purposes of determining the unit of prosecution under
14 this subsection, each depiction or image of visual or printed matter
15 constitutes a separate offense.

16 (2) (a) Except as provided in subsections (3) and (4) of this
17 section, a person commits the crime of sending or bringing into the
18 state depictions of a minor engaged in sexually explicit conduct in
19 the second degree when he or she knowingly sends or causes to be
20 sent, or brings or causes to be brought, into this state for sale or
21 distribution, any visual or printed matter that depicts a minor
22 engaged in sexually explicit conduct as defined in RCW 9.68A.011(4)
23 (f) or (g).

24 (b) Sending or bringing into the state depictions of a minor
25 engaged in sexually explicit conduct in the second degree is a class
26 B felony punishable under chapter 9A.20 RCW.

27 (c) For the purposes of determining the unit of prosecution under
28 this subsection, each incident of sending or bringing into the state
29 one or more depictions or images of visual or printed matter
30 constitutes a separate offense.

31 (3) This section does not apply to a minor who knowingly sends or
32 causes to be sent, or brings or causes to be brought, into this state
33 for distribution, visual or printed matter depicting any minor
34 thirteen years of age or older engaged in sexually explicit conduct
35 as defined in RCW 9.68A.011(4) (f) or (g).

36 (4) This section does not apply to a person under thirteen years
37 of age who knowingly sends or causes to be sent, or brings or causes
38 to be brought, into this state for distribution, visual or printed
39 matter depicting himself or herself engaged in sexually explicit
40 conduct.

1 **Sec. 6.** RCW 9.68A.070 and 2017 c 126 s 2 are each amended to
2 read as follows:

3 (1) (a) A person commits the crime of possession of depictions of
4 a minor engaged in sexually explicit conduct in the first degree when
5 he or she knowingly possesses a visual or printed matter depicting a
6 minor engaged in sexually explicit conduct as defined in RCW
7 9.68A.011(4) (a) through (e).

8 (b) Possession of depictions of a minor engaged in sexually
9 explicit conduct in the first degree is a class B felony punishable
10 under chapter 9A.20 RCW.

11 (c) For the purposes of determining the unit of prosecution under
12 this subsection, each depiction or image of visual or printed matter
13 constitutes a separate offense.

14 (2) (a) Except as provided in subsections (3) and (4) of this
15 section, a person commits the crime of possession of depictions of a
16 minor engaged in sexually explicit conduct in the second degree when
17 he or she knowingly possesses any visual or printed matter depicting
18 a minor engaged in sexually explicit conduct as defined in RCW
19 9.68A.011(4) (f) or (g).

20 (b) Possession of depictions of a minor engaged in sexually
21 explicit conduct in the second degree is a class B felony punishable
22 under chapter 9A.20 RCW.

23 (c) For the purposes of determining the unit of prosecution under
24 this subsection, each incident of possession of one or more
25 depictions or images of visual or printed matter constitutes a
26 separate offense.

27 (3) This section does not apply to a minor's possession of visual
28 or printed matter depicting any minor thirteen years of age or older
29 engaged in sexually explicit conduct as defined in RCW 9.68A.011(4)
30 (f) or (g).

31 (4) This section does not apply to a person under thirteen years
32 of age in possession of visual or printed matter depicting himself or
33 herself engaged in sexually explicit conduct.

34 **Sec. 7.** RCW 9.68A.075 and 2010 c 227 s 7 are each amended to
35 read as follows:

36 (1) A person who intentionally views over the internet visual or
37 printed matter depicting a minor engaged in sexually explicit conduct
38 as defined in RCW 9.68A.011(4) (a) through (e) is guilty of viewing

1 depictions of a minor engaged in sexually explicit conduct in the
2 first degree, a class B felony punishable under chapter 9A.20 RCW.

3 (2) Except as provided in subsections (5) and (6) of this
4 section, a person who intentionally views over the internet visual or
5 printed matter depicting a minor engaged in sexually explicit conduct
6 as defined in RCW 9.68A.011(4) (f) or (g) is guilty of viewing
7 depictions of a minor engaged in sexually explicit conduct in the
8 second degree, a class C felony punishable under chapter 9A.20 RCW.

9 (3) For the purposes of determining whether a person
10 intentionally viewed over the internet a visual or printed matter
11 depicting a minor engaged in sexually explicit conduct in subsection
12 (1) or (2) of this section, the trier of fact shall consider the
13 title, text, and content of the visual or printed matter, as well as
14 the internet history, search terms, thumbnail images, downloading
15 activity, expert computer forensic testimony, number of visual or
16 printed matter depicting minors engaged in sexually explicit conduct,
17 defendant's access to and control over the electronic device and its
18 contents upon which the visual or printed matter was found, or any
19 other relevant evidence. The state must prove beyond a reasonable
20 doubt that the viewing was initiated by the user of the computer
21 where the viewing occurred.

22 (4) For the purposes of this section, each separate internet
23 session of intentionally viewing over the internet visual or printed
24 matter depicting a minor engaged in sexually explicit conduct
25 constitutes a separate offense.

26 (5) This section does not apply to a minor who intentionally
27 views over the internet visual or printed matter depicting a minor
28 thirteen years of age or older engaged in sexually explicit conduct
29 as defined in RCW 9.68A.011(4) (f) or (g).

30 (6) This section does not apply to a person under thirteen years
31 of age who intentionally views over the internet visual or printed
32 matter depicting himself or herself engaged in sexually explicit
33 conduct.

34 **Sec. 8.** RCW 13.40.070 and 2018 c 82 s 1 are each amended to read
35 as follows:

36 (1) Complaints referred to the juvenile court alleging the
37 commission of an offense shall be referred directly to the
38 prosecutor. The prosecutor, upon receipt of a complaint, shall screen
39 the complaint to determine whether:

1 (a) The alleged facts bring the case within the jurisdiction of
2 the court; and

3 (b) On a basis of available evidence there is probable cause to
4 believe that the juvenile did commit the offense.

5 (2) If the identical alleged acts constitute an offense under
6 both the law of this state and an ordinance of any city or county of
7 this state, state law shall govern the prosecutor's screening and
8 charging decision for both filed and diverted cases.

9 (3) If the requirements of subsection (1)(a) and (b) of this
10 section are met, the prosecutor shall either file an information in
11 juvenile court or divert the case, as set forth in subsections (5),
12 (6), and (8) of this section. If the prosecutor finds that the
13 requirements of subsection (1)(a) and (b) of this section are not
14 met, the prosecutor shall maintain a record, for one year, of such
15 decision and the reasons therefor. In lieu of filing an information
16 or diverting an offense a prosecutor may file a motion to modify
17 community supervision where such offense constitutes a violation of
18 community supervision.

19 (4) An information shall be a plain, concise, and definite
20 written statement of the essential facts constituting the offense
21 charged. It shall be signed by the prosecuting attorney and conform
22 to chapter 10.37 RCW.

23 (5) The prosecutor shall file an information with the juvenile
24 court if (a) an alleged offender is accused of an offense that is
25 defined as a sex offense or violent offense under RCW 9.94A.030,
26 other than assault in the second degree or robbery in the second
27 degree; or (b) an alleged offender has been referred by a diversion
28 unit for prosecution or desires prosecution instead of diversion.

29 (6) Where a case is legally sufficient the prosecutor shall
30 divert the case if the alleged offense is a misdemeanor or gross
31 misdemeanor or violation and the alleged offense is the offender's
32 first offense or violation. If the alleged offender is charged with a
33 related offense that may be filed under subsections (5) and (8) of
34 this section, a case under this subsection may also be filed.

35 (7) Where a case is legally sufficient to charge an alleged
36 offender with:

37 (a) Either prostitution or prostitution loitering and the alleged
38 offense is the offender's first prostitution or prostitution
39 loitering offense, the prosecutor shall divert the case; ((~~or~~))

1 (b) Voyeurism in the second degree, the offender is under
2 seventeen years of age, and the alleged offense is the offender's
3 first voyeurism in the second degree offense, the prosecutor shall
4 divert the case, unless the offender has received two diversions for
5 any offense in the previous two years;

6 (c) A minor selling depictions of himself or herself engaged in
7 sexually explicit conduct under section 4(5) of this act and the
8 alleged offense is the offender's first violation of section 4(5) of
9 this act, the prosecutor shall divert the case;

10 (d) A distribution, transfer, dissemination, or exchange of
11 sexually explicit images of other minors thirteen years of age or
12 older offense as provided in section 4(1) of this act and the alleged
13 offense is the offender's first violation of section 4(1) of this
14 act, the prosecutor shall divert the case;

15 (e) A minor who knowingly sends or causes to be sent, or brings
16 or causes to be brought, into this state for distribution, visual or
17 printed matter depicting any minor thirteen years of age or older
18 engaged in sexually explicit conduct under RCW 9.68A.060(1) and the
19 alleged offense is the offender's first violation of RCW
20 9.68A.060(1), the prosecutor shall divert the case;

21 (f) A minor in possession of visual or printed matter depicting
22 any minor thirteen years of age or older engaged in sexually explicit
23 conduct under RCW 9.68A.070(1) and the alleged offense is the
24 offender's first violation of RCW 9.68A.070(1), the prosecutor shall
25 divert the case; or

26 (g) A minor who intentionally views over the internet visual or
27 printed matter depicting a minor thirteen years of age or older
28 engaged in sexually explicit conduct under RCW 9.68A.075(1) and the
29 alleged offense is the offender's first violation of RCW
30 9.68A.075(1), the prosecutor shall divert the case.

31 (8) Where a case is legally sufficient and falls into neither
32 subsection (5) nor (6) of this section, it may be filed or diverted.
33 In deciding whether to file or divert an offense under this section
34 the prosecutor may be guided by the length, seriousness, and recency
35 of the alleged offender's criminal history and the circumstances
36 surrounding the commission of the alleged offense.

37 (9) Whenever a juvenile is placed in custody or, where not placed
38 in custody, referred to a diversion interview, the parent or legal
39 guardian of the juvenile shall be notified as soon as possible
40 concerning the allegation made against the juvenile and the current

1 status of the juvenile. Where a case involves victims of crimes
2 against persons or victims whose property has not been recovered at
3 the time a juvenile is referred to a diversion unit, the victim shall
4 be notified of the referral and informed how to contact the unit.

5 (10) The responsibilities of the prosecutor under subsections (1)
6 through (9) of this section may be performed by a juvenile court
7 probation counselor for any complaint referred to the court alleging
8 the commission of an offense which would not be a felony if committed
9 by an adult, if the prosecutor has given sufficient written notice to
10 the juvenile court that the prosecutor will not review such
11 complaints.

12 (11) The prosecutor, juvenile court probation counselor, or
13 diversion unit may, in exercising their authority under this section
14 or RCW 13.40.080, refer juveniles to community-based programs,
15 restorative justice programs, mediation, or victim offender
16 reconciliation programs. Such mediation or victim offender
17 reconciliation programs shall be voluntary for victims.

18 (12) Prosecutors and juvenile courts are encouraged to engage
19 with and partner with community-based programs to expand, improve,
20 and increase options to divert youth from formal processing in
21 juvenile court. Nothing in this chapter should be read to limit
22 partnership with community-based programs to create diversion
23 opportunities for juveniles.

24 NEW SECTION. **Sec. 9.** A new section is added to chapter 9.68A
25 RCW to read as follows:

26 A minor who possesses any depiction or depictions of any other
27 minor engaged in an act of sexually explicit conduct as defined in
28 RCW 9.68A.011 forfeits any right to continued possession of the
29 depiction or depictions and any court exercising jurisdiction over
30 such depiction or depictions shall order forfeiture of the depiction
31 or depictions to the custody of law enforcement.

32 NEW SECTION. **Sec. 10.** A new section is added to chapter 9A.86
33 RCW to read as follows:

34 A minor who possesses any image of any other minor which
35 constitutes an intimate image as defined in RCW 9A.86.010 forfeits
36 any right to continued possession of the image and any court
37 exercising jurisdiction over such image shall order forfeiture of the
38 image.

1 NEW SECTION. **Sec. 11.** A new section is added to chapter 9A.44
2 RCW to read as follows:

3 A juvenile who has been found to have committed or has been
4 convicted of a felony under RCW 9.68A.060, 9.68A.070, 9.68A.075, or
5 section 4 of this act is not required to register as a sex offender
6 under this chapter.

7 **Sec. 12.** RCW 9.94A.030 and 2018 c 166 s 3 are each amended to
8 read as follows:

9 Unless the context clearly requires otherwise, the definitions in
10 this section apply throughout this chapter.

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

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

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

23 (4) "Community corrections officer" means an employee of the
24 department who is responsible for carrying out specific duties in
25 supervision of sentenced offenders and monitoring of sentence
26 conditions.

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

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

35 (7) "Community restitution" means compulsory service, without
36 compensation, performed for the benefit of the community by the
37 offender.

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

1 (9) "Conviction" means an adjudication of guilt pursuant to Title
2 10 or 13 RCW and includes a verdict of guilty, a finding of guilty,
3 and acceptance of a plea of guilty.

4 (10) "Crime-related prohibition" means an order of a court
5 prohibiting conduct that directly relates to the circumstances of the
6 crime for which the offender has been convicted, and shall not be
7 construed to mean orders directing an offender affirmatively to
8 participate in rehabilitative programs or to otherwise perform
9 affirmative conduct. However, affirmative acts necessary to monitor
10 compliance with the order of a court may be required by the
11 department.

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

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

20 (b) A conviction may be removed from a defendant's criminal
21 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,
22 9.95.240, or a similar out-of-state statute, or if the conviction has
23 been vacated pursuant to a governor's pardon.

24 (c) The determination of a defendant's criminal history is
25 distinct from the determination of an offender score. A prior
26 conviction that was not included in an offender score calculated
27 pursuant to a former version of the sentencing reform act remains
28 part of the defendant's criminal history.

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

39 (13) "Criminal street gang associate or member" means any person
40 who actively participates in any criminal street gang and who

1 intentionally promotes, furthers, or assists in any criminal act by
2 the criminal street gang.

3 (14) "Criminal street gang-related offense" means any felony or
4 misdemeanor offense, whether in this state or elsewhere, that is
5 committed for the benefit of, at the direction of, or in association
6 with any criminal street gang, or is committed with the intent to
7 promote, further, or assist in any criminal conduct by the gang, or
8 is committed for one or more of the following reasons:

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

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

12 (c) To exact revenge or retribution for the gang or any member of
13 the gang;

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

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

19 (f) To provide the gang with any advantage in, or any control or
20 dominance over any criminal market sector, including, but not limited
21 to, manufacturing, delivering, or selling any controlled substance
22 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
23 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88
24 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual
25 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter
26 9.68 RCW).

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

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

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

37 (18) "Determinate sentence" means a sentence that states with
38 exactitude the number of actual years, months, or days of total
39 confinement, of partial confinement, of community custody, the number
40 of actual hours or days of community restitution work, or dollars or

1 terms of a legal financial obligation. The fact that an offender
2 through earned release can reduce the actual period of confinement
3 shall not affect the classification of the sentence as a determinate
4 sentence.

5 (19) "Disposable earnings" means that part of the earnings of an
6 offender remaining after the deduction from those earnings of any
7 amount required by law to be withheld. For the purposes of this
8 definition, "earnings" means compensation paid or payable for
9 personal services, whether denominated as wages, salary, commission,
10 bonuses, or otherwise, and, notwithstanding any other provision of
11 law making the payments exempt from garnishment, attachment, or other
12 process to satisfy a court-ordered legal financial obligation,
13 specifically includes periodic payments pursuant to pension or
14 retirement programs, or insurance policies of any type, but does not
15 include payments made under Title 50 RCW, except as provided in RCW
16 50.40.020 and 50.40.050, or Title 74 RCW.

17 (20) "Domestic violence" has the same meaning as defined in RCW
18 10.99.020 and 26.50.010.

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

23 (22) "Drug offense" means:

24 (a) Any felony violation of chapter 69.50 RCW except possession
25 of a controlled substance (RCW 69.50.4013) or forged prescription for
26 a controlled substance (RCW 69.50.403);

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

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

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

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

1 (a) Radio frequency signaling technology, which detects if the
2 monitored individual is or is not at an approved location and
3 notifies the monitoring agency of the time that the monitored
4 individual either leaves the approved location or tampers with or
5 removes the monitoring device; or

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

9 (25) "Escape" means:

10 (a) Sexually violent predator escape (RCW 9A.76.115), escape in
11 the first degree (RCW 9A.76.110), escape in the second degree (RCW
12 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
13 willful failure to return from work release (RCW 72.65.070), or
14 willful failure to be available for supervision by the department
15 while in community custody (RCW 72.09.310); or

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

19 (26) "Felony traffic offense" means:

20 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
21 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-
22 run injury-accident (RCW 46.52.020(4)), felony driving while under
23 the influence of intoxicating liquor or any drug (RCW 46.61.502(6)),
24 or felony physical control of a vehicle while under the influence of
25 intoxicating liquor or any drug (RCW 46.61.504(6)); or

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

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

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

35 (29) "Home detention" is a subset of electronic monitoring and
36 means a program of partial confinement available to offenders wherein
37 the offender is confined in a private residence twenty-four hours a
38 day, unless an absence from the residence is approved, authorized, or
39 otherwise permitted in the order by the court or other supervising

1 agency that ordered home detention, and the offender is subject to
2 electronic monitoring.

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

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

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

10 (c) A private residence where the individual stays as a transient
11 invitee.

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

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

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

31 (a) Any felony defined under any law as a class A felony or
32 criminal solicitation of or criminal conspiracy to commit a class A
33 felony;

34 (b) Assault in the second degree;

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

36 (d) Child molestation in the second degree;

37 (e) Controlled substance homicide;

38 (f) Extortion in the first degree;

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

40 (h) Indecent liberties;

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

1 (w) Any out-of-state conviction for a felony offense with a
2 finding of sexual motivation if the minimum sentence imposed was ten
3 years or more; provided that the out-of-state felony offense must be
4 comparable to a felony offense under this title and Title 9A RCW and
5 the out-of-state definition of sexual motivation must be comparable
6 to the definition of sexual motivation contained in this section.

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

9 (35) "Offender" means a person who has committed a felony
10 established by state law and is eighteen years of age or older or is
11 less than eighteen years of age but whose case is under superior
12 court jurisdiction under RCW 13.04.030 or has been transferred by the
13 appropriate juvenile court to a criminal court pursuant to RCW
14 13.40.110. In addition, for the purpose of community custody
15 requirements under this chapter, "offender" also means a misdemeanor
16 or gross misdemeanor probationer ordered by a superior court to
17 probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and
18 supervised by the department pursuant to RCW 9.94A.501 and
19 9.94A.5011. Throughout this chapter, the terms "offender" and
20 "defendant" are used interchangeably.

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

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

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

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

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

1 (iii) Deliver or Possession with Intent to Deliver a Controlled
2 Substance (chapter 69.50 RCW);
3 (iv) Any violation of the firearms and dangerous weapon act
4 (chapter 9.41 RCW);
5 (v) Theft of a Firearm (RCW 9A.56.300);
6 (vi) Possession of a Stolen Firearm (RCW 9A.56.310);
7 (vii) Malicious Harassment (RCW 9A.36.080);
8 (viii) Harassment where a subsequent violation or deadly threat
9 is made (RCW 9A.46.020(2)(b));
10 (ix) Criminal Gang Intimidation (RCW 9A.46.120);
11 (x) Any felony conviction by a person eighteen years of age or
12 older with a special finding of involving a juvenile in a felony
13 offense under RCW 9.94A.833;
14 (xi) Residential Burglary (RCW 9A.52.025);
15 (xii) Burglary 2 (RCW 9A.52.030);
16 (xiii) Malicious Mischief 1 (RCW 9A.48.070);
17 (xiv) Malicious Mischief 2 (RCW 9A.48.080);
18 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);
19 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);
20 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW
21 9A.56.070);
22 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
23 9A.56.075);
24 (xix) Extortion 1 (RCW 9A.56.120);
25 (xx) Extortion 2 (RCW 9A.56.130);
26 (xxi) Intimidating a Witness (RCW 9A.72.110);
27 (xxii) Tampering with a Witness (RCW 9A.72.120);
28 (xxiii) Reckless Endangerment (RCW 9A.36.050);
29 (xxiv) Coercion (RCW 9A.36.070);
30 (xxv) Harassment (RCW 9A.46.020); or
31 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);
32 (b) That at least one of the offenses listed in (a) of this
33 subsection shall have occurred after July 1, 2008;
34 (c) That the most recent committed offense listed in (a) of this
35 subsection occurred within three years of a prior offense listed in
36 (a) of this subsection; and
37 (d) Of the offenses that were committed in (a) of this
38 subsection, the offenses occurred on separate occasions or were
39 committed by two or more persons.

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

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

3 (ii) Has, before the commission of the offense under (a) of this
4 subsection, been convicted as an offender on at least two separate
5 occasions, whether in this state or elsewhere, of felonies that under
6 the laws of this state would be considered most serious offenses and
7 would be included in the offender score under RCW 9.94A.525; provided
8 that of the two or more previous convictions, at least one conviction
9 must have occurred before the commission of any of the other most
10 serious offenses for which the offender was previously convicted; or

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

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

34 (39) "Predatory" means: (a) The perpetrator of the crime was a
35 stranger to the victim, as defined in this section; (b) the
36 perpetrator established or promoted a relationship with the victim
37 prior to the offense and the victimization of the victim was a
38 significant reason the perpetrator established or promoted the
39 relationship; or (c) the perpetrator was: (i) A teacher, counselor,
40 volunteer, or other person in authority in any public or private

1 school and the victim was a student of the school under his or her
2 authority or supervision. For purposes of this subsection, "school"
3 does not include home-based instruction as defined in RCW
4 28A.225.010; (ii) a coach, trainer, volunteer, or other person in
5 authority in any recreational activity and the victim was a
6 participant in the activity under his or her authority or
7 supervision; (iii) a pastor, elder, volunteer, or other person in
8 authority in any church or religious organization, and the victim was
9 a member or participant of the organization under his or her
10 authority; or (iv) a teacher, counselor, volunteer, or other person
11 in authority providing home-based instruction and the victim was a
12 student receiving home-based instruction while under his or her
13 authority or supervision. For purposes of this subsection: (A) "Home-
14 based instruction" has the same meaning as defined in RCW
15 28A.225.010; and (B) "teacher, counselor, volunteer, or other person
16 in authority" does not include the parent or legal guardian of the
17 victim.

18 (40) "Private school" means a school regulated under chapter
19 28A.195 or 28A.205 RCW.

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

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

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

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

26 (iii) Domestic violence violation of a protection order under
27 chapter 26.09, 26.10, (~~26.26~~) 26.26B, or 26.50 RCW that is not a
28 felony offense;

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

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

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

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

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

5 (45) "Serious traffic offense" means:

6 (a) Nonfelony driving while under the influence of intoxicating
7 liquor or any drug (RCW 46.61.502), nonfelony actual physical control
8 while under the influence of intoxicating liquor or any drug (RCW
9 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an
10 attended vehicle (RCW 46.52.020(5)); or

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

14 (46) "Serious violent offense" is a subcategory of violent
15 offense and means:

16 (a) (i) Murder in the first degree;

17 (ii) Homicide by abuse;

18 (iii) Murder in the second degree;

19 (iv) Manslaughter in the first degree;

20 (v) Assault in the first degree;

21 (vi) Kidnapping in the first degree;

22 (vii) Rape in the first degree;

23 (viii) Assault of a child in the first degree; or

24 (ix) An attempt, criminal solicitation, or criminal conspiracy to
25 commit one of these felonies; or

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

29 (47) "Sex offense" means:

30 (a) (i) A felony that is a violation of chapter 9A.44 RCW other
31 than RCW 9A.44.132;

32 (ii) A violation of RCW 9A.64.020;

33 (iii) A felony that is a violation of chapter 9.68A RCW other
34 than: (A) RCW 9.68A.080; (B) section 4 of this act; or (C) a felony
35 committed by a juvenile that is a violation of RCW 9.68A.060,
36 9.68A.070, or 9.68A.075;

37 (iv) A felony that is, under chapter 9A.28 RCW, a criminal
38 attempt, criminal solicitation, or criminal conspiracy to commit such
39 crimes; or

1 (v) A felony violation of RCW 9A.44.132(1) (failure to register
2 as a sex offender) if the person has been convicted of violating RCW
3 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130
4 prior to June 10, 2010, on at least one prior occasion;

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

8 (c) A felony with a finding of sexual motivation under RCW
9 9.94A.835 or 13.40.135; or

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

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

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

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

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

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

29 (53) "Transition training" means written and verbal instructions
30 and assistance provided by the department to the offender during the
31 two weeks prior to the offender's successful completion of the work
32 ethic camp program. The transition training shall include
33 instructions in the offender's requirements and obligations during
34 the offender's period of community custody.

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

38 (55) "Violent offense" means:

39 (a) Any of the following felonies:

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

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

5 (iii) Manslaughter in the first degree;

6 (iv) Manslaughter in the second degree;

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

8 (vi) Kidnapping in the second degree;

9 (vii) Arson in the second degree;

10 (viii) Assault in the second degree;

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

12 (x) Extortion in the first degree;

13 (xi) Robbery in the second degree;

14 (xii) Drive-by shooting;

15 (xiii) Vehicular assault, when caused by the operation or driving
16 of a vehicle by a person while under the influence of intoxicating
17 liquor or any drug or by the operation or driving of a vehicle in a
18 reckless manner; and

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

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

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

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

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

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

SHB 1742 - S AMD 558
By Senator Padden

PULLED 04/10/2019

4 On page 1, line 2 of the title, after "minors;" strike the
5 remainder of the title and insert "amending RCW 9.68A.050, 9.68A.060,
6 9.68A.070, 9.68A.075, 13.40.070, and 9.94A.030; adding a new section
7 to chapter 13.40 RCW; adding new sections to chapter 9.68A RCW;
8 adding a new section to chapter 9A.86 RCW; adding a new section to
9 chapter 9A.44 RCW; creating a new section; and prescribing
10 penalties."

EFFECT: Increases the crime of minor dealing in depictions of another minor 13 years of age or older in the first degree to a class B felony and the crime in the second degree to a gross misdemeanor.

Narrows the exemption allowed for sending or receiving depictions of another minor engaged in sexually explicit conduct to only the conduct defined in RCW 9.68A.011(4) (f) or (g). Similarly narrows the exemption for viewing or possessing depictions of another minor engaged in sexually explicit conduct.

Allows minors to be diverted when they intentionally send, receive, or view depictions of a minor engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (e).

Exempts a juvenile found to have committed a felony involving depictions of a minor engaged in sexually explicit conduct from the requirement to register as a sex offender.

--- END ---