

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1562

68th Legislature
2023 Regular Session

Passed by the House April 13, 2023
Yeas 51 Nays 45

**Speaker of the House of
Representatives**

Passed by the Senate April 11, 2023
Yeas 28 Nays 21

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1562** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1562

AS AMENDED BY THE SENATE

Passed Legislature - 2023 Regular Session

State of Washington 68th Legislature 2023 Regular Session

By House Civil Rights & Judiciary (originally sponsored by Representatives Thai, Lekanoff, Taylor, Berry, Ryu, Reed, Kloba, Entenman, Walen, Doglio, Davis, Wylie, Ramel, Ormsby, Pollet, and Duerr)

READ FIRST TIME 02/17/23.

1 AN ACT Relating to reducing the risks of lethality and other harm
2 associated with gun violence, gender-based violence, and other types
3 of violence by clarifying and updating laws relating to the unlawful
4 possession of firearms and restoration of firearm rights; amending
5 RCW 9.41.040, 9.41.047, 9.41.042, 13.40.160, 13.40.193, 13.40.265,
6 70.02.230, and 70.02.240; reenacting and amending RCW 9.41.010 and
7 13.40.0357; adding a new section to chapter 9.41 RCW; and creating a
8 new section.

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

10 NEW SECTION. **Sec. 1.** (1) The legislature finds that gun
11 violence is a multifaceted public health problem that includes
12 suicide, homicide, intimate partner violence, community violence,
13 mass violence, nonfatal gunshot injuries and threats, with community
14 violence and mass violence often committed by those with a history of
15 domestic violence. National data indicates that in 2021,
16 approximately 20,996 Americans died by firearm homicide and that 81
17 percent of all homicides are committed with a firearm. According to
18 United States centers for disease control and prevention data, gun
19 homicide disproportionately impacts people of color, especially Black
20 males ages 15 to 34, who are 20 times more likely to die by gun
21 violence than white males in the same age group. Black, Indigenous,

1 and Latinx women are at higher risk for intimate partner violence-
2 related homicide, and disparities in homicide rates are especially
3 pronounced among women between 18 and 29 years of age. Nearly 60
4 percent of intimate partner violence-related homicides involve
5 firearms.

6 (2) When perpetrators of intimate partner violence, including
7 physical violence, sexual abuse, stalking, and psychological
8 aggression of a current or former intimate partner, have access to
9 firearms, women are especially at risk of serious or deadly harm.
10 When an abusive partner or former partner owns or has access to a
11 firearm, the likelihood of intimate partner homicide increases by a
12 factor of five. Women in the United States are 21 times more likely
13 to be killed with a gun than women in other high-income countries.
14 There are about 4,500,000 women in America who have been threatened
15 with a gun and nearly 1,000,000 women who have been shot or shot at
16 by an intimate partner. Perpetrators of intimate partner violence who
17 have access to firearms also use them to coerce, control, and
18 intimidate their partners.

19 (3) Many who seek protection from harm through the civil legal
20 system, and obtain a protection order and an order to surrender and
21 prohibit weapons, may not wish to engage the criminal legal system or
22 to have the threat or violence they have experienced be prosecuted.
23 According to the national intimate partner and sexual violence
24 survey, more than one in two non-Hispanic Black women, American
25 Indian, or Alaskan Native women, three in five multiracial non-
26 Hispanic women, and two in five Hispanic women have been a victim of
27 physical violence, rape, and/or stalking by a partner in their
28 lifetime. But they are far less likely to report the crimes, due to
29 distrust of the criminal legal system, intergenerational trauma, fear
30 of police interaction, and concern about over incarceration. For
31 many, the threat of violence continues over a long period of time,
32 making it critical that access to firearms is appropriately limited
33 when there are ongoing indicators of risk as reflected by a
34 protection order, an order to surrender and prohibit weapons, or
35 violations of these orders.

36 (4) An extensive body of research has identified specific risk
37 factors that increase the likelihood of individuals engaging in
38 future violence, including gun violence, and presenting further risk
39 to public safety. The strongest predictor of future violence is prior
40 violent behavior, including perpetration of domestic violence and

1 violent misdemeanors. Other particularly strong risk factors for
2 future violence include recent violation of a domestic violence
3 protection order or other protection order; frequent risky alcohol
4 use or certain types of controlled substance use; and cruelty to
5 animals. Unlawful or reckless use, display, or brandishing of a
6 firearm and recent acquisition of firearms, ammunition, or other
7 deadly weapons are also risk factors for future violence, as is
8 access to firearms in general. Multiple research studies have also
9 shown that easy access to firearms by the general public increases
10 risk of death by both homicide and suicide. Individuals returning
11 from incarceration are a vulnerable population for whom these risks
12 may be compounded. Furthermore, homicide and suicide (by any means)
13 are leading causes of death for returning residents after they are
14 released from prison, especially soon after release. Research
15 provides important guidance regarding events that should result in
16 temporary prohibition of firearm rights so that the laws regarding
17 firearm possession and the restoration of firearm rights are grounded
18 in risk assessment data to help protect public health and safety
19 while upholding individual liberty. These changes are not intended to
20 punish, but to provide a regulatory framework to help ensure the
21 safety of those with a heightened risk of experiencing gun violence.

22 (5) The laws requiring certain individuals who are subject to
23 protection orders, no-contact orders, or restraining orders to
24 immediately relinquish dangerous weapons and concealed pistol
25 licenses, and be prohibited from possessing or purchasing firearms,
26 have been strengthened in recent years to help better address the
27 risks that access to firearms by those individuals poses for
28 survivors and their children. The legislature finds that similarly
29 strengthening the laws regarding unlawful possession and restoration
30 of firearm rights will protect these survivors, and their families
31 and communities, from added risk of harm, and include their personal
32 knowledge regarding possible violations of firearm prohibitions in
33 the restoration petition process.

34 (6) The legislature also finds it would be helpful to refine
35 statutory language that was at issue in the Washington state supreme
36 court's decision in *State v. Dennis*, 191 Wn.2d 169 (2018). In that
37 decision, the court held that absent more specific language in RCW
38 9.41.040 regarding the five-year waiting period before a person may
39 petition to have the person's firearm rights restored, the requisite
40 waiting period may include any conviction-free period of five or more

1 consecutive years, even if a person had been convicted of a new crime
2 within the five years immediately preceding the person's filing of a
3 petition for restoration of firearm rights. The legislature intends
4 to clarify that a person may not petition to have the person's
5 firearm rights restored if the person has been convicted of a new
6 prohibiting crime within the specified number of consecutive years
7 immediately preceding the person's filing of a petition.

8 (7) The legislature also finds that it is important to recognize
9 and remove barriers for individuals who have demonstrated that they
10 have safely reintegrated into their communities.

11 **Sec. 2.** RCW 9.41.010 and 2022 c 105 s 2 and 2022 c 104 s 2 are
12 each reenacted and amended to read as follows:

13 Unless the context clearly requires otherwise, the definitions in
14 this section apply throughout this chapter.

15 (1) "Antique firearm" means a firearm or replica of a firearm not
16 designed or redesigned for using rim fire or conventional center fire
17 ignition with fixed ammunition and manufactured in or before 1898,
18 including any matchlock, flintlock, percussion cap, or similar type
19 of ignition system and also any firearm using fixed ammunition
20 manufactured in or before 1898, for which ammunition is no longer
21 manufactured in the United States and is not readily available in the
22 ordinary channels of commercial trade.

23 (2) "Assemble" means to fit together component parts.

24 (3) "Barrel length" means` the distance from the bolt face of a
25 closed action down the length of the axis of the bore to the crown of
26 the muzzle, or in the case of a barrel with attachments to the end of
27 any legal device permanently attached to the end of the muzzle.

28 (4) "Bump-fire stock" means a butt stock designed to be attached
29 to a semiautomatic firearm with the effect of increasing the rate of
30 fire achievable with the semiautomatic firearm to that of a fully
31 automatic firearm by using the energy from the recoil of the firearm
32 to generate reciprocating action that facilitates repeated activation
33 of the trigger.

34 (5) "Crime of violence" means:

35 (a) Any of the following felonies, as now existing or hereafter
36 amended: Any felony defined under any law as a class A felony or an
37 attempt to commit a class A felony, criminal solicitation of or
38 criminal conspiracy to commit a class A felony, manslaughter in the
39 first degree, manslaughter in the second degree, indecent liberties

1 if committed by forcible compulsion, kidnapping in the second degree,
2 arson in the second degree, assault in the second degree, assault of
3 a child in the second degree, extortion in the first degree, burglary
4 in the second degree, residential burglary, and robbery in the second
5 degree;

6 (b) Any conviction for a felony offense in effect at any time
7 prior to June 6, 1996, which is comparable to a felony classified as
8 a crime of violence in (a) of this subsection; and

9 (c) Any federal or out-of-state conviction for an offense
10 comparable to a felony classified as a crime of violence under (a) or
11 (b) of this subsection.

12 (6) "Curio or relic" has the same meaning as provided in 27
13 C.F.R. Sec. 478.11.

14 (7) "Dealer" means a person engaged in the business of selling
15 firearms at wholesale or retail who has, or is required to have, a
16 federal firearms license under 18 U.S.C. Sec. 923(a). A person who
17 does not have, and is not required to have, a federal firearms
18 license under 18 U.S.C. Sec. 923(a), is not a dealer if that person
19 makes only occasional sales, exchanges, or purchases of firearms for
20 the enhancement of a personal collection or for a hobby, or sells all
21 or part of his or her personal collection of firearms.

22 (8) "Distribute" means to give out, provide, make available, or
23 deliver a firearm or large capacity magazine to any person in this
24 state, with or without consideration, whether the distributor is in-
25 state or out-of-state. "Distribute" includes, but is not limited to,
26 filling orders placed in this state, online or otherwise.
27 "Distribute" also includes causing a firearm or large capacity
28 magazine to be delivered in this state.

29 (9) "Family or household member" has the same meaning as in RCW
30 7.105.010.

31 (10) "Federal firearms dealer" means a licensed dealer as defined
32 in 18 U.S.C. Sec. 921(a)(11).

33 (11) "Federal firearms importer" means a licensed importer as
34 defined in 18 U.S.C. Sec. 921(a)(9).

35 (12) "Federal firearms manufacturer" means a licensed
36 manufacturer as defined in 18 U.S.C. Sec. 921(a)(10).

37 (13) "Felony" means any felony offense under the laws of this
38 state or any federal or out-of-state offense comparable to a felony
39 offense under the laws of this state.

1 (14) "Felony firearm offender" means a person who has previously
2 been convicted or found not guilty by reason of insanity in this
3 state of any felony firearm offense. A person is not a felony firearm
4 offender under this chapter if any and all qualifying offenses have
5 been the subject of an expungement, pardon, annulment, certificate,
6 or rehabilitation, or other equivalent procedure based on a finding
7 of the rehabilitation of the person convicted or a pardon, annulment,
8 or other equivalent procedure based on a finding of innocence.

9 (15) "Felony firearm offense" means:

10 (a) Any felony offense that is a violation of this chapter;

11 (b) A violation of RCW 9A.36.045;

12 (c) A violation of RCW 9A.56.300;

13 (d) A violation of RCW 9A.56.310;

14 (e) Any felony offense if the offender was armed with a firearm
15 in the commission of the offense.

16 (16) "Firearm" means a weapon or device from which a projectile
17 or projectiles may be fired by an explosive such as gunpowder. For
18 the purposes of RCW 9.41.040, "firearm" also includes frames and
19 receivers. "Firearm" does not include a flare gun or other
20 pyrotechnic visual distress signaling device, or a powder-actuated
21 tool or other device designed solely to be used for construction
22 purposes.

23 (17)(a) "Frame or receiver" means a part of a firearm that, when
24 the complete firearm is assembled, is visible from the exterior and
25 provides housing or a structure designed to hold or integrate one or
26 more fire control components, even if pins or other attachments are
27 required to connect the fire control components. Any such part
28 identified with a serial number shall be presumed, absent an official
29 determination by the bureau of alcohol, tobacco, firearms, and
30 explosives or other reliable evidence to the contrary, to be a frame
31 or receiver.

32 (b) For purposes of this subsection, "fire control component"
33 means a component necessary for the firearm to initiate, complete, or
34 continue the firing sequence, including any of the following: Hammer,
35 bolt, bolt carrier, breechblock, cylinder, trigger mechanism, firing
36 pin, striker, or slide rails.

37 (18) "Gun" has the same meaning as firearm.

38 (19) "Import" means to move, transport, or receive an item from a
39 place outside the territorial limits of the state of Washington to a
40 place inside the territorial limits of the state of Washington.

1 "Import" does not mean situations where an individual possesses a
2 large capacity magazine when departing from, and returning to,
3 Washington state, so long as the individual is returning to
4 Washington in possession of the same large capacity magazine the
5 individual transported out of state.

6 (20) "Intimate partner" has the same meaning as provided in RCW
7 7.105.010.

8 (21) "Large capacity magazine" means an ammunition feeding device
9 with the capacity to accept more than 10 rounds of ammunition, or any
10 conversion kit, part, or combination of parts, from which such a
11 device can be assembled if those parts are in possession of or under
12 the control of the same person, but shall not be construed to include
13 any of the following:

14 (a) An ammunition feeding device that has been permanently
15 altered so that it cannot accommodate more than 10 rounds of
16 ammunition;

17 (b) A 22 caliber tube ammunition feeding device; or

18 (c) A tubular magazine that is contained in a lever-action
19 firearm.

20 (22) "Law enforcement officer" includes a general authority
21 Washington peace officer as defined in RCW 10.93.020, or a specially
22 commissioned Washington peace officer as defined in RCW 10.93.020.
23 "Law enforcement officer" also includes a limited authority
24 Washington peace officer as defined in RCW 10.93.020 if such officer
25 is duly authorized by his or her employer to carry a concealed
26 pistol.

27 (23) "Lawful permanent resident" has the same meaning afforded a
28 person "lawfully admitted for permanent residence" in 8 U.S.C. Sec.
29 1101(a)(20).

30 (24) "Licensed collector" means a person who is federally
31 licensed under 18 U.S.C. Sec. 923(b).

32 (25) "Licensed dealer" means a person who is federally licensed
33 under 18 U.S.C. Sec. 923(a).

34 (26) "Loaded" means:

35 (a) There is a cartridge in the chamber of the firearm;

36 (b) Cartridges are in a clip that is locked in place in the
37 firearm;

38 (c) There is a cartridge in the cylinder of the firearm, if the
39 firearm is a revolver;

1 (d) There is a cartridge in the tube or magazine that is inserted
2 in the action; or

3 (e) There is a ball in the barrel and the firearm is capped or
4 primed if the firearm is a muzzle loader.

5 (27) "Machine gun" means any firearm known as a machine gun,
6 mechanical rifle, submachine gun, or any other mechanism or
7 instrument not requiring that the trigger be pressed for each shot
8 and having a reservoir clip, disc, drum, belt, or other separable
9 mechanical device for storing, carrying, or supplying ammunition
10 which can be loaded into the firearm, mechanism, or instrument, and
11 fired therefrom at the rate of five or more shots per second.

12 (28) "Manufacture" means, with respect to a firearm or large
13 capacity magazine, the fabrication, making, formation, production, or
14 construction of a firearm or large capacity magazine, by manual labor
15 or by machinery.

16 (29) "Nonimmigrant alien" means a person defined as such in 8
17 U.S.C. Sec. 1101(a) (15).

18 (30) "Person" means any individual, corporation, company,
19 association, firm, partnership, club, organization, society, joint
20 stock company, or other legal entity.

21 (31) "Pistol" means any firearm with a barrel less than 16 inches
22 in length, or is designed to be held and fired by the use of a single
23 hand.

24 (32) "Rifle" means a weapon designed or redesigned, made or
25 remade, and intended to be fired from the shoulder and designed or
26 redesigned, made or remade, and intended to use the energy of the
27 explosive in a fixed metallic cartridge to fire only a single
28 projectile through a rifled bore for each single pull of the trigger.

29 (33) "Sale" and "sell" mean the actual approval of the delivery
30 of a firearm in consideration of payment or promise of payment.

31 (34) "Secure gun storage" means:

32 (a) A locked box, gun safe, or other secure locked storage space
33 that is designed to prevent unauthorized use or discharge of a
34 firearm; and

35 (b) The act of keeping an unloaded firearm stored by such means.

36 (35)(a) "Semiautomatic assault rifle" means any rifle which
37 utilizes a portion of the energy of a firing cartridge to extract the
38 fired cartridge case and chamber the next round, and which requires a
39 separate pull of the trigger to fire each cartridge.

1 (b) "Semiautomatic assault rifle" does not include antique
2 firearms, any firearm that has been made permanently inoperable, or
3 any firearm that is manually operated by bolt, pump, lever, or slide
4 action.

5 (36) "Serious offense" means any of the following felonies or a
6 felony attempt to commit any of the following felonies, as now
7 existing or hereafter amended:

8 (a) Any crime of violence;

9 (b) Any felony violation of the uniform controlled substances
10 act, chapter 69.50 RCW, that is classified as a class B felony or
11 that has a maximum term of imprisonment of at least 10 years;

12 (c) Child molestation in the second degree;

13 (d) Incest when committed against a child under age 14;

14 (e) Indecent liberties;

15 (f) Leading organized crime;

16 (g) Promoting prostitution in the first degree;

17 (h) Rape in the third degree;

18 (i) Drive-by shooting;

19 (j) Sexual exploitation;

20 (k) Vehicular assault, when caused by the operation or driving of
21 a vehicle by a person while under the influence of intoxicating
22 liquor or any drug or by the operation or driving of a vehicle in a
23 reckless manner;

24 (l) Vehicular homicide, when proximately caused by the driving of
25 any vehicle by any person while under the influence of intoxicating
26 liquor or any drug as defined by RCW 46.61.502, or by the operation
27 of any vehicle in a reckless manner;

28 (m) Any other class B felony offense with a finding of sexual
29 motivation, as "sexual motivation" is defined under RCW 9.94A.030;

30 (n) Any other felony with a deadly weapon verdict under RCW
31 9.94A.825;

32 (o) Any felony offense in effect at any time prior to June 6,
33 1996, that is comparable to a serious offense, or any federal or out-
34 of-state conviction for an offense that under the laws of this state
35 would be a felony classified as a serious offense; (~~or~~)

36 (p) Any felony conviction under RCW 9.41.115; or

37 (q) Any felony charged under RCW 46.61.502(6) or 46.61.504(6).

38 (37) "Short-barreled rifle" means a rifle having one or more
39 barrels less than 16 inches in length and any weapon made from a

1 rifle by any means of modification if such modified weapon has an
2 overall length of less than 26 inches.

3 (38) "Short-barreled shotgun" means a shotgun having one or more
4 barrels less than 18 inches in length and any weapon made from a
5 shotgun by any means of modification if such modified weapon has an
6 overall length of less than 26 inches.

7 (39) "Shotgun" means a weapon with one or more barrels, designed
8 or redesigned, made or remade, and intended to be fired from the
9 shoulder and designed or redesigned, made or remade, and intended to
10 use the energy of the explosive in a fixed shotgun shell to fire
11 through a smooth bore either a number of ball shot or a single
12 projectile for each single pull of the trigger.

13 (40) "Transfer" means the intended delivery of a firearm to
14 another person without consideration of payment or promise of payment
15 including, but not limited to, gifts and loans. "Transfer" does not
16 include the delivery of a firearm owned or leased by an entity
17 licensed or qualified to do business in the state of Washington to,
18 or return of such a firearm by, any of that entity's employees or
19 agents, defined to include volunteers participating in an honor
20 guard, for lawful purposes in the ordinary course of business.

21 (41) "Undetectable firearm" means any firearm that is not as
22 detectable as 3.7 ounces of 17-4 PH stainless steel by walk-through
23 metal detectors or magnetometers commonly used at airports or any
24 firearm where the barrel, the slide or cylinder, or the frame or
25 receiver of the firearm would not generate an image that accurately
26 depicts the shape of the part when examined by the types of X-ray
27 machines commonly used at airports.

28 (42)(a) "Unfinished frame or receiver" means a frame or receiver
29 that is partially complete, disassembled, or inoperable, that: (i)
30 Has reached a stage in manufacture where it may readily be completed,
31 assembled, converted, or restored to a functional state; or (ii) is
32 marketed or sold to the public to become or be used as the frame or
33 receiver of a functional firearm once finished or completed,
34 including without limitation products marketed or sold to the public
35 as an 80 percent frame or receiver or unfinished frame or receiver.

36 (b) For purposes of this subsection:

37 (i) "Readily" means a process that is fairly or reasonably
38 efficient, quick, and easy, but not necessarily the most efficient,
39 speedy, or easy process. Factors relevant in making this
40 determination, with no single one controlling, include the following:

1 (A) Time, i.e., how long it takes to finish the process; (B) ease,
2 i.e., how difficult it is to do so; (C) expertise, i.e., what
3 knowledge and skills are required; (D) equipment, i.e., what tools
4 are required; (E) availability, i.e., whether additional parts are
5 required, and how easily they can be obtained; (F) expense, i.e., how
6 much it costs; (G) scope, i.e., the extent to which the subject of
7 the process must be changed to finish it; and (H) feasibility, i.e.,
8 whether the process would damage or destroy the subject of the
9 process, or cause it to malfunction.

10 (ii) "Partially complete," as it modifies frame or receiver,
11 means a forging, casting, printing, extrusion, machined body, or
12 similar article that has reached a stage in manufacture where it is
13 clearly identifiable as an unfinished component part of a firearm.

14 (43) "Unlicensed person" means any person who is not a licensed
15 dealer under this chapter.

16 (44) "Untraceable firearm" means any firearm manufactured after
17 July 1, 2019, that is not an antique firearm and that cannot be
18 traced by law enforcement by means of a serial number affixed to the
19 firearm by a federal firearms manufacturer, federal firearms
20 importer, or federal firearms dealer in compliance with all federal
21 laws and regulations.

22 (45) "Conviction" or "convicted" means, whether in an adult court
23 or adjudicated in a juvenile court, that a plea of guilty has been
24 accepted or a verdict of guilty has been filed, or a finding of guilt
25 has been entered, notwithstanding the pendency of any future
26 proceedings including, but not limited to, sentencing or disposition,
27 posttrial or post-fact-finding motions, and appeals. "Conviction"
28 includes a dismissal entered after a period of probation, suspension,
29 or deferral of sentence, and also includes equivalent dispositions by
30 courts in jurisdictions other than Washington state.

31 (46) "Domestic violence" has the same meaning as provided in RCW
32 10.99.020.

33 (47) "Sex offense" has the same meaning as provided in RCW
34 9.94A.030.

35 **Sec. 3.** RCW 9.41.040 and 2022 c 268 s 28 are each amended to
36 read as follows:

37 (1)(a) A person, whether an adult or juvenile, is guilty of the
38 crime of unlawful possession of a firearm in the first degree, if the
39 person owns, accesses, has in (~~his or her~~) the person's custody,

1 control, or possession, (~~or has in his or her control~~) or receives
2 any firearm after having previously been convicted or found not
3 guilty by reason of insanity in this state or elsewhere of any
4 serious offense (~~as defined in this chapter~~).

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

7 (2)(a) A person, whether an adult or juvenile, is guilty of the
8 crime of unlawful possession of a firearm in the second degree, if
9 the person does not qualify under subsection (1) of this section for
10 the crime of unlawful possession of a firearm in the first degree and
11 the person owns, accesses, has in (~~his or her~~) the person's
12 custody, control, or possession, (~~or has in his or her control~~) or
13 receives any firearm:

14 (i) After having previously been convicted or found not guilty by
15 reason of insanity in this state or elsewhere of (~~any~~):

16 (A) Any felony not specifically listed as prohibiting firearm
17 possession under subsection (1) of this section(~~, or any~~);

18 (B) Any of the following crimes when committed by one family or
19 household member against another or by one intimate partner against
20 another, as those terms are defined by the statutes in effect at the
21 time of the commission of the crime, committed on or after July 1,
22 1993: Assault in the fourth degree, coercion, stalking, reckless
23 endangerment, criminal trespass in the first degree, or violation of
24 the provisions of a protection order or no-contact order restraining
25 the person or excluding the person from a residence (RCW 10.99.040 or
26 any of the former RCW 26.50.060, 26.50.070, and 26.50.130);

27 (~~(ii) After having previously been convicted or found not guilty~~
28 ~~by reason of insanity in this state or elsewhere of~~) (C) Harassment
29 when committed by one family or household member against another or
30 by one intimate partner against another, as those terms are defined
31 by the statutes in effect at the time of the commission of the crime,
32 committed on or after June 7, 2018;

33 (~~(iii) After having previously been convicted or found not~~
34 ~~guilty by reason of insanity in this state or elsewhere of a~~) (D)
35 Any of the following misdemeanor or gross misdemeanor crimes not
36 included under (a)(i) (B) or (C) of this subsection, committed on or
37 after the effective date of this section: Domestic violence (RCW
38 10.99.020); stalking; cyberstalking; cyber harassment, excluding
39 cyber harassment committed solely pursuant to the element set forth
40 in RCW 9A.90.120(1)(a)(i); harassment; aiming or discharging a

1 firearm (RCW 9.41.230); unlawful carrying or handling of a firearm
2 (RCW 9.41.270); animal cruelty in the second degree committed under
3 RCW 16.52.207(1); or any prior offense as defined in RCW
4 46.61.5055(14) if committed within seven years of a conviction for
5 any other prior offense under RCW 46.61.5055;

6 (E) A violation of the provisions of a protection order under
7 chapter 7.105 RCW restraining the person or excluding the person from
8 a residence, when committed by one family or household member against
9 another or by one intimate partner against another, committed on or
10 after July 1, 2022; or

11 ~~((iv))~~ (F) A violation of the provisions of an order to
12 surrender and prohibit weapons, an extreme risk protection order, or
13 the provisions of any other protection order or no-contact order not
14 included under (a)(i) (B) or (E) of this subsection restraining the
15 person or excluding the person from a residence, committed on or
16 after the effective date of this section;

17 (ii) During any period of time that the person is subject to a
18 ~~((court order))~~ protection order, no-contact order, or restraining
19 order by a court issued under chapter 7.105, 9A.40, 9A.44, 9A.46,
20 9A.88, 10.99, 26.09, 26.26A, or 26.26B RCW or any of the former
21 chapters 7.90, 7.92, 10.14, and 26.50 RCW that:

22 (A) Was issued after a hearing for which the person received
23 actual notice, and at which the person had an opportunity to
24 participate, whether the court then issues a full order or reissues a
25 temporary order. If the court enters an agreed order by the parties
26 without a hearing, such an order meets the requirements of this
27 subsection;

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

34 (C) (I) Includes a finding that the person represents a credible
35 threat to the physical safety of the protected person or child or
36 others identified in the order, or by its terms explicitly prohibits
37 the use, attempted use, or threatened use of physical force against
38 the protected person or child or other persons that would reasonably
39 be expected to cause bodily injury; or

1 (II) Includes an order under RCW 9.41.800 requiring the person to
2 surrender all firearms and prohibiting the person from accessing,
3 having in his or her custody or control, possessing, purchasing,
4 receiving, or attempting to purchase or receive, firearms;

5 ~~((v))~~ (iii) After having previously been involuntarily
6 committed based on a mental disorder under RCW 71.05.240, 71.05.320,
7 71.34.740, 71.34.750, chapter 10.77 RCW, or equivalent statutes of
8 another jurisdiction, unless his or her right to possess a firearm
9 has been restored as provided in RCW 9.41.047;

10 ~~((vi))~~ (iv) After dismissal of criminal charges based on
11 incompetency to stand trial under RCW 10.77.088 when the court has
12 made a finding indicating that the defendant has a history of one or
13 more violent acts, unless his or her right to possess a firearm has
14 been restored as provided in RCW 9.41.047;

15 ~~((vii))~~ (v) If the person is under 18 years of age, except as
16 provided in RCW 9.41.042; and/or

17 ~~((viii))~~ (vi) If the person is free on bond or personal
18 recognizance pending trial(~~(, appeal, or sentencing)~~) for a serious
19 offense as defined in RCW 9.41.010.

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

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

1 (4) ~~((a))~~ Notwithstanding subsection (1) or (2) of this section,
2 a person convicted or found not guilty by reason of insanity of an
3 offense prohibiting the possession of a firearm under this section
4 other than murder, manslaughter, robbery, rape, indecent liberties,
5 arson, assault, kidnapping, extortion, burglary, or violations with
6 respect to controlled substances under RCW 69.50.401 and 69.50.410,
7 who received a probationary sentence under RCW 9.95.200, and who
8 received a dismissal of the charge under RCW 9.95.240, shall not be
9 precluded from possession of a firearm as a result of the conviction
10 or finding of not guilty by reason of insanity. ~~((Notwithstanding any
11 other provisions of this section, if a person is prohibited from
12 possession of a firearm under subsection (1) or (2) of this section
13 and has not previously been convicted or found not guilty by reason
14 of insanity of a sex offense prohibiting firearm ownership under
15 subsection (1) or (2) of this section and/or any felony defined under
16 any law as a class A felony or with a maximum sentence of at least 20
17 years, or both, the individual may petition a court of record to have
18 his or her right to possess a firearm restored:~~

19 ~~(i) Under RCW 9.41.047; and/or~~

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

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

35 ~~(b) An individual may petition a court of record to have his or
36 her right to possess a firearm restored under (a) of this subsection
37 only at:~~

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

1 ~~(ii) The superior court in the county in which the petitioner~~
2 ~~resides.)~~)

3 (5) In addition to any other penalty provided for by law, if a
4 person under the age of 18 years is found by a court to have
5 possessed a firearm in a vehicle in violation of subsection (1) or
6 (2) of this section or to have committed an offense while armed with
7 a firearm during which offense a motor vehicle served an integral
8 function, the court shall notify the department of licensing within
9 24 hours and the person's privilege to drive shall be revoked under
10 RCW 46.20.265, unless the offense is the juvenile's first offense in
11 violation of this section and has not committed an offense while
12 armed with a firearm, an unlawful possession of a firearm offense, or
13 an offense in violation of chapter 66.44, 69.52, 69.41, or 69.50 RCW.

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

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

28 (8) A person may petition to restore the right to possess a
29 firearm as provided in section 4 of this act.

30 NEW SECTION. Sec. 4. A new section is added to chapter 9.41 RCW
31 to read as follows:

32 (1) A person who is prohibited from possession of a firearm under
33 RCW 9.41.040 may not petition a court to have the person's right to
34 possess a firearm restored if the person has been convicted or found
35 not guilty by reason of insanity of: A felony sex offense; a class A
36 felony; or a felony offense with a maximum sentence of at least 20
37 years.

38 (2) A person who is prohibited from possession of a firearm under
39 RCW 9.41.040, and is not disqualified from petitioning for

1 restoration of firearm rights under subsection (1) of this section or
2 required to petition as provided for in RCW 9.41.047, may petition a
3 superior court to have the person's right to possess a firearm
4 restored.

5 (a) The person must have, for the period of consecutive years as
6 specified below immediately preceding the filing of the petition,
7 been in the community without being convicted or found not guilty by
8 reason of insanity of any crime that prohibits the possession of a
9 firearm, as follows:

10 (i) Five years for a conviction or finding of not guilty by
11 reason of insanity for any felony offense, or any of the following
12 gross misdemeanor or misdemeanor offenses:

13 (A) Domestic violence (RCW 10.99.020);

14 (B) Stalking;

15 (C) Cyberstalking;

16 (D) Cyber harassment, excluding cyber harassment committed solely
17 pursuant to the element set forth in RCW 9A.90.120(1)(a)(i);

18 (E) Harassment;

19 (F) Aiming or discharging a firearm (RCW 9.41.230);

20 (G) Unlawful carrying or handling of a firearm (RCW 9.41.270);

21 (H) Animal cruelty in the second degree committed under RCW
22 16.52.207(1);

23 (I) Prior offense as defined by RCW 46.61.5055; or

24 (J) Violation of the provisions of an order to surrender and
25 prohibit weapons, an extreme risk protection order, or the provisions
26 of a protection order or no-contact order restraining the person or
27 excluding the person from a residence; and

28 (ii) Three years for a conviction or finding of not guilty by
29 reason of insanity for one or more nonfelony crimes not covered in
30 (a)(i) of this subsection.

31 (b) The person petitioning for firearm rights to be restored must
32 also meet the following requirements:

33 (i) Has no pending charges for any felony, gross misdemeanor, or
34 misdemeanor crime at the time the petition is filed or during the
35 petition process;

36 (ii) Has completed all sentencing conditions, other than
37 nonrestitution fines and fees, for each felony, gross misdemeanor, or
38 misdemeanor conviction on which the prohibition was based, including
39 all court-ordered treatment. The court shall waive the requirement of
40 this subsection (2)(b)(ii) if the petitioner provides verification

1 from the sentencing court that relevant court records are no longer
2 available, or attests to the unavailability of relevant records from
3 other entities;

4 (iii) Has no prior felony convictions that would count as part of
5 an offender score under RCW 9.94A.525 and has no out-of-state
6 conviction for an offense which would disqualify the person from
7 purchasing or possessing a firearm in the state of conviction. This
8 determination shall be the responsibility of, and conducted by, the
9 prosecuting attorney. An individual shall not be precluded from
10 filing a petition to restore their firearm rights on the basis that
11 they cannot verify whether they are disqualified from purchasing or
12 possessing a firearm in the state of conviction; and

13 (iv) Has been determined by law enforcement based on available
14 records and information as not subject to any other prohibition on
15 possessing a firearm at the time the petition for the restoration of
16 firearm rights is filed or during the petition process, and would be
17 able to pass a background check to purchase a firearm if the petition
18 to restore firearm rights is granted.

19 (3) The process for petitioning for restoration of firearm rights
20 is as follows:

21 (a) The person must file a petition in a superior court in a
22 county that entered any prohibition.

23 (b) At the time of filing the petition, the person must serve the
24 prosecuting attorney in the county where the petition is filed with
25 the petition.

26 (c) Upon receipt of service of the petition, the prosecuting
27 attorney must take reasonable steps to notify the listed victim of a
28 prohibiting crime and any person who previously obtained a full
29 protection order or no-contact order against the person petitioning
30 for restoration of firearm rights, if those persons have requested
31 notification, of the procedure to provide a sworn written statement
32 regarding the existence of any additional facts or information that
33 they may have relevant to whether the person petitioning for
34 restoration of firearm rights meets the requirements for restoration
35 set forth in this section.

36 (d) The prosecuting attorney must verify in writing to the court
37 that the prosecuting attorney has reviewed the relevant records,
38 including written verification from Washington state patrol that
39 Washington state patrol has conducted a records check of all civil
40 and criminal records relevant to the prohibitors in RCW 9.41.040, and

1 based on that information, whether there is sufficient evidence to
2 determine that the person petitioning for restoration of firearm
3 rights meets all the requirements set forth in RCW 9.41.040 and in
4 this section to petition for and to be granted restoration of firearm
5 rights.

6 (e) The court may set a hearing on the petition if the court
7 determines additional information is necessary to determine whether
8 the person meets the requirements for restoration of firearm rights.

9 (f) The court shall grant the petition only if the court finds
10 that the person petitioning for restoration of firearm rights meets
11 the requirements set forth in this section.

12 (g) The prosecuting attorney shall notify any victim who requests
13 notification of the court's decision.

14 (4) When a person's right to possess a firearm has been restored
15 under this section, the court shall forward, within three judicial
16 days after entry of the restoration order, notification that the
17 person's right to possess a firearm has been restored to the
18 Washington state patrol with a copy of the person's driver's license
19 or identicard, or comparable identification such as the person's
20 name, address, and date of birth.

21 (5) By December 30, 2023, the administrative office of the courts
22 shall develop and distribute standard forms for petitions and orders
23 issued under this section and RCW 9.41.047, and update protection
24 order and no-contact order forms to allow victims to opt out of the
25 notification provided for in this section if they do not wish to be
26 notified at the time of a petition for firearm rights restoration.
27 Beginning January 1, 2024, courts shall use the standard forms for
28 petitions and orders under this section and RCW 9.41.047, and the
29 updated protection order and no-contact order forms.

30 (6) An appointed or elected public official, public employee, or
31 public agency as defined in RCW 4.24.470, or combination of units of
32 local government and its employees as provided in RCW 36.28A.010, are
33 immune from civil liability for good faith conduct in the performance
34 of the official's, employee's, or agency's duties under this section.

35 **Sec. 5.** RCW 9.41.047 and 2020 c 302 s 60 are each amended to
36 read as follows:

37 (1)(a) At the time a person is convicted or found not guilty by
38 reason of insanity of an offense making the person ineligible to
39 possess a firearm, or at the time a person is committed by court

1 order under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, or
2 chapter 10.77 RCW for (~~mental health~~) treatment for a mental
3 disorder, or at the time that charges are dismissed based on
4 incompetency to stand trial under RCW 10.77.088 and the court makes a
5 finding that the person has a history of one or more violent acts,
6 the (~~convicting or committing court, or~~) court (~~that dismisses~~
7 ~~charges,~~) shall notify the person, orally and in writing, that the
8 person must immediately surrender all firearms and any concealed
9 pistol license and that the person may not possess a firearm unless
10 (~~his or her~~) the person's right to do so is restored by ((a)) the
11 superior court (~~of record. For purposes of this section a convicting~~
12 ~~court includes a court in which a person has been found not guilty by~~
13 ~~reason of insanity~~) that issued the order.

14 (b) The court shall forward within three judicial days after
15 conviction, finding of not guilty by reason of insanity, entry of the
16 commitment order, or dismissal of charges, a copy of the person's
17 driver's license or identicard, or comparable information such as
18 (~~their~~) the person's name, address, and date of birth, along with
19 the date of conviction or commitment, or date charges are dismissed,
20 to the department of licensing. When a person is committed by court
21 order under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, or
22 chapter 10.77 RCW, for (~~mental health~~) treatment for a mental
23 disorder, or when a person's charges are dismissed based on
24 incompetency to stand trial under RCW 10.77.088 and the court makes a
25 finding that the person has a history of one or more violent acts,
26 the court also shall forward, within three judicial days after entry
27 of the commitment order, or dismissal of charges, a copy of the
28 person's driver's license, or comparable information, along with the
29 date of commitment or date charges are dismissed, to the national
30 instant criminal background check system index, denied persons file,
31 created by the federal Brady handgun violence prevention act (P.L.
32 103-159) and to the Washington state patrol. The petitioning party
33 shall provide the court with the information required. If more than
34 one commitment order is entered under one cause number, only one
35 notification to the department of licensing and the national instant
36 criminal background check system is required.

37 (2) Upon receipt of the information provided for by subsection
38 (1) of this section, the department of licensing shall determine if
39 the (~~convicted or committed~~) person(~~, or the person whose charges~~
40 ~~are dismissed based on incompetency to stand trial,~~) has a concealed

1 pistol license. If the person (~~does have~~) has a concealed pistol
2 license, the department of licensing shall immediately notify the
3 license-issuing authority which, upon receipt of such notification,
4 shall immediately revoke the license.

5 (3) (a) A person who is prohibited from possessing a firearm, by
6 reason of having been involuntarily committed for (~~mental health~~)
7 treatment for a mental disorder under RCW 71.05.240, 71.05.320,
8 71.34.740, 71.34.750, chapter 10.77 RCW, or equivalent statutes of
9 another jurisdiction, or by reason of having been detained under RCW
10 71.05.150 or 71.05.153, or because the person's charges were
11 dismissed based on incompetency to stand trial under RCW 10.77.088
12 and the court made a finding that the person has a history of one or
13 more violent acts, may, upon discharge, petition the superior court
14 to have his or her right to possess a firearm restored, except that a
15 person found not guilty by reason of insanity may not petition for
16 restoration of the right to possess a firearm until one year after
17 discharge.

18 (b) The petition must be brought in the superior court that
19 ordered the involuntary commitment or dismissed the charges based on
20 incompetency to stand trial or the superior court of the county in
21 which the petitioner resides.

22 (c) Except as provided in (d) and (e) of this subsection, (~~the~~
23 ~~court shall restore the petitioner's right to possess a firearm~~)
24 firearm rights shall be restored if the (~~petitioner~~) person
25 petitioning for restoration of firearm rights proves by a
26 preponderance of the evidence that:

27 (i) The (~~petitioner~~) person petitioning for restoration of
28 firearm rights is no longer required to participate in court-ordered
29 inpatient or outpatient treatment;

30 (ii) The (~~petitioner~~) person petitioning for restoration of
31 firearm rights has successfully managed the condition related to the
32 commitment or detention or incompetency;

33 (iii) The (~~petitioner~~) person petitioning for restoration of
34 firearm rights no longer presents a substantial danger to (~~himself~~
35 ~~or herself,~~) self or to the public; and

36 (iv) The symptoms related to the commitment or detention or
37 incompetency are not reasonably likely to recur.

38 (d) If a preponderance of the evidence in the record supports a
39 finding that the person petitioning (~~the court~~) for restoration of
40 firearm rights has engaged in violence and that it is more likely

1 than not that the person will engage in violence after (~~his or her~~)
2 the person's right to possess a firearm is restored, the person
3 petitioning for restoration of firearm rights shall bear the burden
4 of proving by clear, cogent, and convincing evidence that (~~he or~~
5 ~~she~~) the person does not present a substantial danger to the safety
6 of others.

7 (e) If the (~~petitioner~~) person seeking restoration of firearm
8 rights seeks restoration after having been detained under RCW
9 71.05.150 or 71.05.153, the state shall bear the burden of proof to
10 show, by a preponderance of the evidence, that the (~~petitioner~~)
11 person does not meet the restoration criteria in (c) of this
12 subsection.

13 (f) When a person's right to possess a firearm has been restored
14 under this subsection, the court shall forward, within three judicial
15 days after entry of the restoration order, notification that the
16 person's right to possess a firearm has been restored to the
17 department of licensing with a copy of the person's driver's license
18 or identicard, or comparable identification such as (~~their~~) the
19 person's name, address, and date of birth, the health care authority,
20 and the national instant criminal background check system index,
21 denied persons file. In the case of a person whose right to possess a
22 firearm has been suspended for six months as provided in RCW
23 71.05.182, the department of licensing shall forward notification of
24 the restoration order to the licensing authority, which, upon receipt
25 of such notification, shall immediately lift the suspension,
26 restoring the license.

27 (4) No person who has been found not guilty by reason of insanity
28 may petition a court for restoration of the right to possess a
29 firearm unless the person meets the requirements for the restoration
30 of the right to possess a firearm under (~~RCW 9.41.040(4)~~) section 4
31 of this act.

32 NEW SECTION. **Sec. 6.** If any provision of this act or its
33 application to any person or circumstance is held invalid, the
34 remainder of the act or the application of the provision to other
35 persons or circumstances is not affected.

36 **CONFORMING AMENDMENTS TO CORRECT CITATIONS**

1 **Sec. 7.** RCW 9.41.042 and 2022 c 268 s 33 are each amended to
2 read as follows:

3 RCW 9.41.040(2)(a)(~~(vii)~~) (v) shall not apply to any person
4 under the age of eighteen years who is:

5 (1) In attendance at a hunter's safety course or a firearms
6 safety course;

7 (2) Engaging in practice in the use of a firearm or target
8 shooting at an established range authorized by the governing body of
9 the jurisdiction in which such range is located or any other area
10 where the discharge of a firearm is not prohibited;

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

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

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

22 (6) Traveling with any unloaded firearm in the person's
23 possession to or from any activity described in subsection (1), (2),
24 (3), (4), or (5) of this section;

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

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

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

33 **Sec. 8.** RCW 13.40.0357 and 2022 c 268 s 37 and 2022 c 16 s 9 are
34 each reenacted and amended to read as follows:

35 **DESCRIPTION AND OFFENSE CATEGORY**

1		JUVENILE DISPOSITION	
2	JUVENILE		CATEGORY FOR
3	DISPOSITION		ATTEMPT, BAILJUMP,
4	OFFENSE		CONSPIRACY, OR
5	CATEGORY	DESCRIPTION (RCW CITATION)	SOLICITATION
6		Arson and Malicious Mischief	
7	A	Arson 1 (9A.48.020)	B+
8	B	Arson 2 (9A.48.030)	C
9	C	Reckless Burning 1 (9A.48.040)	D
10	D	Reckless Burning 2 (9A.48.050)	E
11	B	Malicious Mischief 1 (9A.48.070)	C
12	C	Malicious Mischief 2 (9A.48.080)	D
13	D	Malicious Mischief 3 (9A.48.090)	E
14	E	Tampering with Fire Alarm Apparatus	E
15		(9.40.100)	
16	E	Tampering with Fire Alarm Apparatus	E
17		with Intent to Commit Arson (9.40.105)	
18	A	Possession of Incendiary Device	B+
19		(9.40.120)	
20		Assault and Other Crimes Involving	
21		Physical Harm	
22	A	Assault 1 (9A.36.011)	B+
23	B+	Assault 2 (9A.36.021)	C+
24	C+	Assault 3 (9A.36.031)	D+
25	D+	Assault 4 (9A.36.041)	E
26	B+	Drive-By Shooting (9A.36.045)	C+
27		committed at age 15 or under	
28	A++	Drive-By Shooting (9A.36.045)	A
29		committed at age 16 or 17	
30	D+	Reckless Endangerment (9A.36.050)	E
31	C+	Promoting Suicide Attempt (9A.36.060)	D+
32	D+	Coercion (9A.36.070)	E
33	C+	Custodial Assault (9A.36.100)	D+
34		Burglary and Trespass	
35	B+	Burglary 1 (9A.52.020) committed at	C+
36		age 15 or under	

1	A-	Burglary 1 (9A.52.020) committed at	B+
2		age 16 or 17	
3	B	Residential Burglary (9A.52.025)	C
4	B	Burglary 2 (9A.52.030)	C
5	D	Burglary Tools (Possession of)	E
6		(9A.52.060)	
7	D	Criminal Trespass 1 (9A.52.070)	E
8	E	Criminal Trespass 2 (9A.52.080)	E
9	C	Mineral Trespass (78.44.330)	C
10	C	Vehicle Prowling 1 (9A.52.095)	D
11	D	Vehicle Prowling 2 (9A.52.100)	E
12		Drugs	
13	E	Possession/Consumption of Alcohol	E
14		(66.44.270)	
15	C	Illegally Obtaining Legend Drug	D
16		(69.41.020)	
17	C+	Sale, Delivery, Possession of Legend	D+
18		Drug with Intent to Sell (69.41.030(2)(a))	
19	E	Possession of Legend	E
20		Drug (69.41.030(2)(b))	
21	B+	Violation of Uniform Controlled	B+
22		Substances Act - Narcotic,	
23		Methamphetamine, or Flunitrazepam	
24		Sale (69.50.401(2) (a) or (b))	
25	C	Violation of Uniform Controlled	C
26		Substances Act - Nonnarcotic Sale	
27		(69.50.401(2)(c))	
28	E	Possession of Cannabis <40 grams	E
29		(69.50.4014)	
30	C	Fraudulently Obtaining Controlled	C
31		Substance (69.50.403)	
32	C+	Sale of Controlled Substance for Profit	C+
33		(69.50.410)	
34	E	Unlawful Inhalation (9.47A.020)	E

1	B	Violation of Uniform Controlled	B
2		Substances Act - Narcotic,	
3		Methamphetamine, or Flunitrazepam	
4		Counterfeit Substances (69.50.4011(2)	
5		(a) or (b))	
6	C	Violation of Uniform Controlled	C
7		Substances Act - Nonnarcotic Counterfeit	
8		Substances (69.50.4011(2) (c), (d), or (e))	
9	C	Violation of Uniform Controlled	C
10		Substances Act - Possession of a	
11		Controlled Substance (69.50.4013)	
12	C	Violation of Uniform Controlled	C
13		Substances Act - Possession of a	
14		Controlled Substance (69.50.4012)	
15		Firearms and Weapons	
16	B	Theft of Firearm (9A.56.300)	C
17	B	Possession of Stolen Firearm	C
18		(9A.56.310)	
19	E	Carrying Loaded Pistol Without Permit	E
20		(9.41.050)	
21	C	Possession of Firearms by Minor (<18)	C
22		(9.41.040(2)(a)((vii)) (v))	
23	D+	Possession of Dangerous Weapon	E
24		(9.41.250)	
25	D	Intimidating Another Person by use of	E
26		Weapon (9.41.270)	
27		Homicide	
28	A+	Murder 1 (9A.32.030)	A
29	A+	Murder 2 (9A.32.050)	B+
30	B+	Manslaughter 1 (9A.32.060)	C+
31	C+	Manslaughter 2 (9A.32.070)	D+
32	B+	Vehicular Homicide (46.61.520)	C+
33		Kidnapping	
34	A	Kidnap 1 (9A.40.020)	B+
35	B+	Kidnap 2 (9A.40.030)	C+
36	C+	Unlawful Imprisonment (9A.40.040)	D+
37		Obstructing Governmental Operation	

1	D	Obstructing a Law Enforcement Officer	E
2		(9A.76.020)	
3	E	Resisting Arrest (9A.76.040)	E
4	B	Introducing Contraband 1 (9A.76.140)	C
5	C	Introducing Contraband 2 (9A.76.150)	D
6	E	Introducing Contraband 3 (9A.76.160)	E
7	B+	Intimidating a Public Servant	C+
8		(9A.76.180)	
9	B+	Intimidating a Witness (9A.72.110)	C+
10		Public Disturbance	
11	C+	Criminal Mischief with Weapon	D+
12		(9A.84.010(2)(b))	
13	D+	Criminal Mischief Without Weapon	E
14		(9A.84.010(2)(a))	
15	E	Failure to Disperse (9A.84.020)	E
16	E	Disorderly Conduct (9A.84.030)	E
17		Sex Crimes	
18	A	Rape 1 (9A.44.040)	B+
19	B++	Rape 2 (9A.44.050) committed at age 14	B+
20		or under	
21	A-	Rape 2 (9A.44.050) committed at age 15	B+
22		through age 17	
23	C+	Rape 3 (9A.44.060)	D+
24	B++	Rape of a Child 1 (9A.44.073)	B+
25		committed at age 14 or under	
26	A-	Rape of a Child 1 (9A.44.073)	B+
27		committed at age 15	
28	B+	Rape of a Child 2 (9A.44.076)	C+
29	B	Incest 1 (9A.64.020(1))	C
30	C	Incest 2 (9A.64.020(2))	D
31	D+	Indecent Exposure (Victim <14)	E
32		(9A.88.010)	
33	E	Indecent Exposure (Victim 14 or over)	E
34		(9A.88.010)	
35	B+	Promoting Prostitution 1 (9A.88.070)	C+
36	C+	Promoting Prostitution 2 (9A.88.080)	D+

1	E	O & A (Prostitution) (9A.88.030)	E
2	B+	Indecent Liberties (9A.44.100)	C+
3	B++	Child Molestation 1 (9A.44.083)	B+
4		committed at age 14 or under	
5	A-	Child Molestation 1 (9A.44.083)	B+
6		committed at age 15 through age 17	
7	B	Child Molestation 2 (9A.44.086)	C+
8	C	Failure to Register as a Sex Offender	D
9		(9A.44.132)	
10		Theft, Robbery, Extortion, and	
11		Forgery	
12	B	Theft 1 (9A.56.030)	C
13	C	Theft 2 (9A.56.040)	D
14	D	Theft 3 (9A.56.050)	E
15	B	Theft of Livestock 1 and 2 (9A.56.080	C
16		and 9A.56.083)	
17	C	Forgery (9A.60.020)	D
18	A	Robbery 1 (9A.56.200) committed at	B+
19		age 15 or under	
20	A++	Robbery 1 (9A.56.200) committed at	A
21		age 16 or 17	
22	B+	Robbery 2 (9A.56.210)	C+
23	B+	Extortion 1 (9A.56.120)	C+
24	C+	Extortion 2 (9A.56.130)	D+
25	C	Identity Theft 1 (9.35.020(2))	D
26	D	Identity Theft 2 (9.35.020(3))	E
27	D	Improperly Obtaining Financial	E
28		Information (9.35.010)	
29	B	Possession of a Stolen Vehicle	C
30		(9A.56.068)	
31	B	Possession of Stolen Property 1	C
32		(9A.56.150)	
33	C	Possession of Stolen Property 2	D
34		(9A.56.160)	
35	D	Possession of Stolen Property 3	E
36		(9A.56.170)	

1	B	Taking Motor Vehicle Without	C
2		Permission 1 (9A.56.070)	
3	C	Taking Motor Vehicle Without	D
4		Permission 2 (9A.56.075)	
5	B	Theft of a Motor Vehicle (9A.56.065)	C
6		Motor Vehicle Related Crimes	
7	E	Driving Without a License (46.20.005)	E
8	B+	Hit and Run - Death (46.52.020(4)(a))	C+
9	C	Hit and Run - Injury (46.52.020(4)(b))	D
10	D	Hit and Run-Attended (46.52.020(5))	E
11	E	Hit and Run-Unattended (46.52.010)	E
12	C	Vehicular Assault (46.61.522)	D
13	C	Attempting to Elude Pursuing Police	D
14		Vehicle (46.61.024)	
15	E	Reckless Driving (46.61.500)	E
16	D	Driving While Under the Influence	E
17		(46.61.502 and 46.61.504)	
18	B+	Felony Driving While Under the	B
19		Influence (46.61.502(6))	
20	B+	Felony Physical Control of a Vehicle	B
21		While Under the Influence (46.61.504(6))	
22		Other	
23	B	Animal Cruelty 1 (16.52.205)	C
24	B	Bomb Threat (9.61.160)	C
25	C	Escape 1 ¹ (9A.76.110)	C
26	C	Escape 2 ¹ (9A.76.120)	C
27	D	Escape 3 (9A.76.130)	E
28	E	Obscene, Harassing, Etc., Phone Calls	E
29		(9.61.230)	
30	A	Other Offense Equivalent to an Adult	B+
31		Class A Felony	
32	B	Other Offense Equivalent to an Adult	C
33		Class B Felony	
34	C	Other Offense Equivalent to an Adult	D
35		Class C Felony	

- 1 D Other Offense Equivalent to an Adult E
- 2 Gross Misdemeanor
- 3 E Other Offense Equivalent to an Adult E
- 4 Misdemeanor
- 5 V Violation of Order of Restitution, V
- 6 Community Supervision, or Confinement
- 7 (13.40.200)²

8 ¹Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses
 9 and the standard range is established as follows:

- 10 1st escape or attempted escape during 12-month period - 28 days
- 11 confinement
- 12 2nd escape or attempted escape during 12-month period - 8 weeks
- 13 confinement
- 14 3rd and subsequent escape or attempted escape during 12-month
- 15 period - 12 weeks confinement

16 ²If the court finds that a respondent has violated terms of an order,
 17 it may impose a penalty of up to 30 days of confinement.

18 **JUVENILE SENTENCING STANDARDS**

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

21 **OPTION A**

22 **JUVENILE OFFENDER SENTENCING GRID**

23 **STANDARD RANGE**

24	A++	129 to 260 weeks for all category A++ offenses					
25	A+	180 weeks to age 21 for all category A+ offenses					
26	A	103-129 weeks for all category A offenses					
27	A-	30-40 weeks	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks	
28	B++	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks	
29	CURRENT	B+	15-36 weeks	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks
30	OFFENSE	B	LS	LS	15-36 weeks	15-36 weeks	52-65 weeks
31	CATEGORY	C+	LS	LS	LS	15-36 weeks	15-36 weeks
32		C	LS	LS	LS	LS	15-36 weeks
33		D+	LS	LS	LS	LS	LS

1	D	LS	LS	LS	LS	LS
2	E	LS	LS	LS	LS	LS
3	PRIOR	0	1	2	3	4 or more
4	ADJUDICATIONS					

5 NOTE: References in the grid to days or weeks mean periods of
6 confinement. "LS" means "local sanctions" as defined in RCW
7 13.40.020.

8 (1) The vertical axis of the grid is the current offense
9 category. The current offense category is determined by the offense
10 of adjudication.

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

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

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

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

24 **OR**

25 **OPTION B**

26 **SUSPENDED DISPOSITION ALTERNATIVE**

27 (1) If the offender is subject to a standard range disposition
28 involving confinement by the department, the court may impose the
29 standard range and suspend the disposition on condition that the
30 offender comply with one or more local sanctions and any educational
31 or treatment requirement. The treatment programs provided to the
32 offender must be either research-based best practice programs as
33 identified by the Washington state institute for public policy or the
34 joint legislative audit and review committee, or for chemical
35 dependency treatment programs or services, they must be evidence-
36 based or research-based best practice programs. For the purposes of
37 this subsection:

1 (a) "Evidence-based" means a program or practice that has had
2 multiple site random controlled trials across heterogeneous
3 populations demonstrating that the program or practice is effective
4 for the population; and

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

8 (2) If the offender fails to comply with the suspended
9 disposition, the court may impose sanctions pursuant to RCW 13.40.200
10 or may revoke the suspended disposition and order the disposition's
11 execution.

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

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

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

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

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

20 (iii) Assault in the second degree (RCW 9A.36.021), extortion in
21 the first degree (RCW 9A.56.120), kidnapping in the second degree
22 (RCW 9A.40.030), drive-by shooting (RCW 9A.36.045), vehicular
23 homicide (RCW 46.61.520), hit and run death (RCW 46.52.020(4)(a)), or
24 manslaughter 2 (RCW 9A.32.070); or

25 (iv) Violation of the uniform controlled substances act (RCW
26 69.50.401(2) (a) and (b)), when the offense includes infliction of
27 bodily harm upon another or when during the commission or immediate
28 withdrawal from the offense the respondent was armed with a deadly
29 weapon;

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

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

34 (e) Has a prior option B disposition.

35 **OR**

36 **OPTION C**

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

38 If the juvenile offender is subject to a standard range
39 disposition of local sanctions or 15 to 36 weeks of confinement and

1 has not committed a B++ or B+ offense, the court may impose a
2 disposition under RCW 13.40.160(4) and 13.40.165.

3 **OR**

4 **OPTION D**

5 **MANIFEST INJUSTICE**

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

9 **Sec. 9.** RCW 13.40.160 and 2022 c 268 s 38 are each amended to
10 read as follows:

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

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

18 (b) When the court sentences an offender to a standard range as
19 provided in RCW 13.40.0357 option A that includes a term of
20 confinement exceeding thirty days, commitment shall be to the
21 department for the standard range of confinement, except as provided
22 in subsection (2), (3), (4), (5), or (6) of this section.

23 (2) If the court concludes, and enters reasons for its
24 conclusion, that disposition within the standard range would
25 effectuate a manifest injustice the court shall impose a disposition
26 outside the standard range, as indicated in option D of RCW
27 13.40.0357. The court's finding of manifest injustice shall be
28 supported by clear and convincing evidence.

29 A disposition outside the standard range shall be determinate and
30 shall be comprised of confinement or community supervision, or a
31 combination thereof. When a judge finds a manifest injustice and
32 imposes a sentence of confinement exceeding thirty days, the court
33 shall sentence the juvenile to a maximum term, and the provisions of
34 RCW 13.40.030(2) shall be used to determine the range. A disposition
35 outside the standard range is appealable under RCW 13.40.230 by the
36 state or the respondent. A disposition within the standard range is
37 not appealable under RCW 13.40.230.

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

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

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

13 (6) When the offender is subject to a standard range commitment
14 of 15 to 36 weeks and is ineligible for a suspended disposition
15 alternative, a manifest injustice disposition below the standard
16 range, special sex offender disposition alternative, chemical
17 dependency disposition alternative, or mental health disposition
18 alternative, the court in a county with a pilot program under RCW
19 13.40.169 may impose the disposition alternative under RCW 13.40.169.

20 (7) RCW 13.40.193 shall govern the disposition of any juvenile
21 adjudicated of possessing a firearm in violation of RCW
22 9.41.040(2)(a) (~~(vii)~~) (v) or any crime in which a special finding
23 is entered that the juvenile was armed with a firearm.

24 (8) RCW 13.40.308 shall govern the disposition of any juvenile
25 adjudicated of theft of a motor vehicle as defined under RCW
26 9A.56.065, possession of a stolen motor vehicle as defined under RCW
27 9A.56.068, taking a motor vehicle without permission in the first
28 degree under RCW 9A.56.070, and taking a motor vehicle without
29 permission in the second degree under RCW 9A.56.075.

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

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

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

1 **Sec. 10.** RCW 13.40.193 and 2022 c 268 s 39 are each amended to
2 read as follows:

3 (1) If a respondent is found to have been in possession of a
4 firearm in violation of RCW 9.41.040(2)(a)(~~(vii)~~) (v), the court
5 shall impose a minimum disposition of ten days of confinement. If the
6 offender's standard range of disposition for the offense as indicated
7 in RCW 13.40.0357 is more than thirty days of confinement, the court
8 shall commit the offender to the department for the standard range
9 disposition. The offender shall not be released until the offender
10 has served a minimum of ten days in confinement.

11 (2)(a) If a respondent is found to have been in possession of a
12 firearm in violation of RCW 9.41.040, the disposition must include a
13 requirement that the respondent participate in a qualifying program
14 as described in (b) of this subsection, when available, unless the
15 court makes a written finding based on the outcome of the juvenile
16 court risk assessment that participation in a qualifying program
17 would not be appropriate.

18 (b) For purposes of this section, "qualifying program" means an
19 aggression replacement training program, a functional family therapy
20 program, or another program applicable to the juvenile firearm
21 offender population that has been identified as evidence-based or
22 research-based and cost-beneficial in the current list prepared at
23 the direction of the legislature by the Washington state institute
24 for public policy.

25 (3) If the court finds that the respondent or an accomplice was
26 armed with a firearm, the court shall determine the standard range
27 disposition for the offense pursuant to RCW 13.40.160. If the
28 offender or an accomplice was armed with a firearm when the offender
29 committed any felony other than possession of a machine gun or bump-
30 fire stock, possession of a stolen firearm, drive-by shooting, theft
31 of a firearm, unlawful possession of a firearm in the first and
32 second degree, or use of a machine gun or bump-fire stock in a
33 felony, the following periods of total confinement must be added to
34 the sentence: (a) Except for (b) of this subsection, for a class A
35 felony, six months; for a class B felony, four months; and for a
36 class C felony, two months; (b) for any violent offense as defined in
37 RCW 9.94A.030, committed by a respondent who is sixteen or seventeen
38 years old at the time of the offense, a period of twelve months. The
39 additional time shall be imposed regardless of the offense's juvenile
40 disposition offense category as designated in RCW 13.40.0357.

1 (4) (a) If the court finds that the respondent who is sixteen or
2 seventeen years old and committed the offense of robbery in the first
3 degree, drive-by shooting, rape of a child in the first degree,
4 burglary in the first degree, or any violent offense as defined in
5 RCW 9.94A.030 and was armed with a firearm, and the court finds that
6 the respondent's participation was related to membership in a
7 criminal street gang or advancing the benefit, aggrandizement, gain,
8 profit, or other advantage for a criminal street gang, a period of
9 three months total confinement must be added to the sentence. The
10 additional time must be imposed regardless of the offense's juvenile
11 disposition offense category as designated in RCW 13.40.0357 and must
12 be served consecutively with any other sentencing enhancement.

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

23 (5) When a disposition under this section would effectuate a
24 manifest injustice, the court may impose another disposition. When a
25 judge finds a manifest injustice and imposes a disposition of
26 confinement exceeding thirty days, the court shall commit the
27 juvenile to a maximum term, and the provisions of RCW 13.40.030(2)
28 shall be used to determine the range. When a judge finds a manifest
29 injustice and imposes a disposition of confinement less than thirty
30 days, the disposition shall be comprised of confinement or community
31 supervision or both.

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

35 **Sec. 11.** RCW 13.40.265 and 2022 c 268 s 40 are each amended to
36 read as follows:

37 (1) If a juvenile thirteen years of age or older is found by
38 juvenile court to have committed an offense while armed with a
39 firearm or an offense that is a violation of RCW 9.41.040(2)(a)

1 ((~~vii~~)) (v) or chapter 66.44, 69.41, 69.50, or 69.52 RCW, the court
2 shall notify the department of licensing within twenty-four hours
3 after entry of the judgment, unless the offense is the juvenile's
4 first offense while armed with a firearm, first unlawful possession
5 of a firearm offense, or first offense in violation of chapter 66.44,
6 69.41, 69.50, or 69.52 RCW.

7 (2) Except as otherwise provided in subsection (3) of this
8 section, upon petition of a juvenile who has been found by the court
9 to have committed an offense that is a violation of chapter 66.44,
10 69.41, 69.50, or 69.52 RCW, the court may at any time the court deems
11 appropriate notify the department of licensing that the juvenile's
12 driving privileges should be reinstated.

13 (3) If the offense is the juvenile's second or subsequent
14 violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the juvenile
15 may not petition the court for reinstatement of the juvenile's
16 privilege to drive revoked pursuant to RCW 46.20.265 until the date
17 the juvenile turns seventeen or one year after the date judgment was
18 entered, whichever is later.

19 **Sec. 12.** RCW 70.02.230 and 2022 c 268 s 43 are each amended to
20 read as follows:

21 (1) The fact of admission to a provider for mental health
22 services and all information and records compiled, obtained, or
23 maintained in the course of providing mental health services to
24 either voluntary or involuntary recipients of services at public or
25 private agencies may not be disclosed except as provided in this
26 section, RCW 70.02.050, 71.05.445, 74.09.295, 70.02.210, 70.02.240,
27 70.02.250, 70.02.260, and 70.02.265, or pursuant to a valid
28 authorization under RCW 70.02.030.

29 (2) Information and records related to mental health services,
30 other than those obtained through treatment under chapter 71.34 RCW,
31 may be disclosed:

32 (a) In communications between qualified professional persons to
33 meet the requirements of chapter 71.05 RCW, including Indian health
34 care providers, in the provision of services or appropriate
35 referrals, or in the course of guardianship proceedings if provided
36 to a professional person:

- 37 (i) Employed by the facility;
38 (ii) Who has medical responsibility for the patient's care;
39 (iii) Who is a designated crisis responder;

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

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

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

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

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

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

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

19 (B) A statement evaluating the mental and physical condition of
20 the patient, and a statement of the probable duration of the
21 patient's confinement, if such information is requested by the next
22 of kin, attorney, personal representative, guardian, or conservator;
23 and

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

27 (d)(i) To the courts, including tribal courts, as necessary to
28 the administration of chapter 71.05 RCW or to a court ordering an
29 evaluation or treatment under chapter 10.77 RCW solely for the
30 purpose of preventing the entry of any evaluation or treatment order
31 that is inconsistent with any order entered under chapter 71.05 RCW.

32 (ii) To a court or its designee in which a motion under chapter
33 10.77 RCW has been made for involuntary medication of a defendant for
34 the purpose of competency restoration.

35 (iii) Disclosure under this subsection is mandatory for the
36 purpose of the federal health insurance portability and
37 accountability act;

38 (e)(i) When a mental health professional or designated crisis
39 responder is requested by a representative of a law enforcement or
40 corrections agency, including a police officer, sheriff, community

1 corrections officer, a municipal attorney, or prosecuting attorney to
2 undertake an investigation or provide treatment under RCW 71.05.150,
3 10.31.110, or 71.05.153, the mental health professional or designated
4 crisis responder shall, if requested to do so, advise the
5 representative in writing of the results of the investigation
6 including a statement of reasons for the decision to detain or
7 release the person investigated. The written report must be submitted
8 within seventy-two hours of the completion of the investigation or
9 the request from the law enforcement or corrections representative,
10 whichever occurs later.

11 (ii) Disclosure under this subsection is mandatory for the
12 purposes of the federal health insurance portability and
13 accountability act;

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

15 (g) To the prosecuting attorney as necessary to carry out the
16 responsibilities of the office under RCW 71.05.330(2),
17 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided
18 access to records regarding the committed person's treatment and
19 prognosis, medication, behavior problems, and other records relevant
20 to the issue of whether treatment less restrictive than inpatient
21 treatment is in the best interest of the committed person or others.
22 Information must be disclosed only after giving notice to the
23 committed person and the person's counsel;

24 (h)(i) To appropriate law enforcement agencies and to a person,
25 when the identity of the person is known to the public or private
26 agency, whose health and safety has been threatened, or who is known
27 to have been repeatedly harassed, by the patient. The person may
28 designate a representative to receive the disclosure. The disclosure
29 must be made by the professional person in charge of the public or
30 private agency or his or her designee and must include the dates of
31 commitment, admission, discharge, or release, authorized or
32 unauthorized absence from the agency's facility, and only any other
33 information that is pertinent to the threat or harassment. The agency
34 or its employees are not civilly liable for the decision to disclose
35 or not, so long as the decision was reached in good faith and without
36 gross negligence.

37 (ii) Disclosure under this subsection is mandatory for the
38 purposes of the federal health insurance portability and
39 accountability act;

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

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

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

11 (k) By a care coordinator under RCW 71.05.585 or 10.77.175
12 assigned to a person ordered to receive less restrictive alternative
13 treatment for the purpose of sharing information to parties necessary
14 for the implementation of proceedings under chapter 71.05 or 10.77
15 RCW;

16 (l) Upon the death of a person. The person's next of kin,
17 personal representative, guardian, or conservator, if any, must be
18 notified. Next of kin who are of legal age and competent must be
19 notified under this section in the following order: Spouse, parents,
20 children, brothers and sisters, and other relatives according to the
21 degree of relation. Access to all records and information compiled,
22 obtained, or maintained in the course of providing services to a
23 deceased patient are governed by RCW 70.02.140;

24 (m) To mark headstones or otherwise memorialize patients interred
25 at state hospital cemeteries. The department of social and health
26 services shall make available the name, date of birth, and date of
27 death of patients buried in state hospital cemeteries fifty years
28 after the death of a patient;

29 (n) To law enforcement officers and to prosecuting attorneys as
30 are necessary to enforce RCW 9.41.040(2)(a)(~~(v)~~) (iii). The extent
31 of information that may be released is limited as follows:

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

37 (ii) The law enforcement and prosecuting attorneys may only
38 release the information obtained to the person's attorney as required
39 by court rule and to a jury or judge, if a jury is waived, that

1 presides over any trial at which the person is charged with violating
2 RCW 9.41.040(2) (a) (~~(v)~~) (iii);

3 (iii) Disclosure under this subsection is mandatory for the
4 purposes of the federal health insurance portability and
5 accountability act;

6 (o) When a patient would otherwise be subject to the provisions
7 of this section and disclosure is necessary for the protection of the
8 patient or others due to his or her unauthorized disappearance from
9 the facility, and his or her whereabouts is unknown, notice of the
10 disappearance, along with relevant information, may be made to
11 relatives, the department of corrections when the person is under the
12 supervision of the department, and governmental law enforcement
13 agencies designated by the physician or psychiatric advanced
14 registered nurse practitioner in charge of the patient or the
15 professional person in charge of the facility, or his or her
16 professional designee;

17 (p) Pursuant to lawful order of a court, including a tribal
18 court;

19 (q) To qualified staff members of the department, to the
20 authority, to behavioral health administrative services
21 organizations, to managed care organizations, to resource management
22 services responsible for serving a patient, or to service providers
23 designated by resource management services as necessary to determine
24 the progress and adequacy of treatment and to determine whether the
25 person should be transferred to a less restrictive or more
26 appropriate treatment modality or facility;

27 (r) Within the mental health service agency or Indian health care
28 provider facility where the patient is receiving treatment,
29 confidential information may be disclosed to persons employed,
30 serving in bona fide training programs, or participating in
31 supervised volunteer programs, at the facility when it is necessary
32 to perform their duties;

33 (s) Within the department and the authority as necessary to
34 coordinate treatment for mental illness, developmental disabilities,
35 or substance use disorder of persons who are under the supervision of
36 the department;

37 (t) Between the department of social and health services, the
38 department of children, youth, and families, and the health care
39 authority as necessary to coordinate treatment for mental illness,
40 developmental disabilities, or substance use disorder of persons who

1 are under the supervision of the department of social and health
2 services or the department of children, youth, and families;

3 (u) To a licensed physician or psychiatric advanced registered
4 nurse practitioner who has determined that the life or health of the
5 person is in danger and that treatment without the information and
6 records related to mental health services could be injurious to the
7 patient's health. Disclosure must be limited to the portions of the
8 records necessary to meet the medical emergency;

9 (v) (i) Consistent with the requirements of the federal health
10 insurance portability and accountability act, to:

11 (A) A health care provider, including an Indian health care
12 provider, who is providing care to a patient, or to whom a patient
13 has been referred for evaluation or treatment; or

14 (B) Any other person who is working in a care coordinator role
15 for a health care facility, health care provider, or Indian health
16 care provider, or is under an agreement pursuant to the federal
17 health insurance portability and accountability act with a health
18 care facility or a health care provider and requires the information
19 and records to assure coordinated care and treatment of that patient.

20 (ii) A person authorized to use or disclose information and
21 records related to mental health services under this subsection
22 (2)(v) must take appropriate steps to protect the information and
23 records relating to mental health services.

24 (iii) Psychotherapy notes may not be released without
25 authorization of the patient who is the subject of the request for
26 release of information;

27 (w) To administrative and office support staff designated to
28 obtain medical records for those licensed professionals listed in (v)
29 of this subsection;

30 (x) To a facility that is to receive a person who is
31 involuntarily committed under chapter 71.05 RCW, or upon transfer of
32 the person from one evaluation and treatment facility to another. The
33 release of records under this subsection is limited to the
34 information and records related to mental health services required by
35 law, a record or summary of all somatic treatments, and a discharge
36 summary. The discharge summary may include a statement of the
37 patient's problem, the treatment goals, the type of treatment which
38 has been provided, and recommendation for future treatment, but may
39 not include the patient's complete treatment record;

1 (y) To the person's counsel or guardian ad litem, without
2 modification, at any time in order to prepare for involuntary
3 commitment or recommitment proceedings, reexaminations, appeals, or
4 other actions relating to detention, admission, commitment, or
5 patient's rights under chapter 71.05 RCW;

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

24 (aa) To all current treating providers, including Indian health
25 care providers, of the patient with prescriptive authority who have
26 written a prescription for the patient within the last twelve months.
27 For purposes of coordinating health care, the department or the
28 authority may release without written authorization of the patient,
29 information acquired for billing and collection purposes as described
30 in RCW 70.02.050(1)(d). The department, or the authority, if
31 applicable, shall notify the patient that billing and collection
32 information has been released to named providers, and provide the
33 substance of the information released and the dates of such release.
34 Neither the department nor the authority may release counseling,
35 inpatient psychiatric hospitalization, or drug and alcohol treatment
36 information without a signed written release from the client;

37 (bb)(i) To the secretary of social and health services and the
38 director of the health care authority for either program evaluation
39 or research, or both so long as the secretary or director, where
40 applicable, adopts rules for the conduct of the evaluation or

1 research, or both. Such rules must include, but need not be limited
2 to, the requirement that all evaluators and researchers sign an oath
3 of confidentiality substantially as follows:

4 "As a condition of conducting evaluation or research concerning
5 persons who have received services from (fill in the facility,
6 agency, or person) I,, agree not to divulge, publish, or
7 otherwise make known to unauthorized persons or the public any
8 information obtained in the course of such evaluation or research
9 regarding persons who have received services such that the person who
10 received such services is identifiable.

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

13 /s/"

14 (ii) Nothing in this chapter may be construed to prohibit the
15 compilation and publication of statistical data for use by government
16 or researchers under standards, including standards to assure
17 maintenance of confidentiality, set forth by the secretary, or
18 director, where applicable;

19 (cc) To any person if the conditions in RCW 70.02.205 are met;

20 (dd) To the secretary of health for the purposes of the maternal
21 mortality review panel established in RCW 70.54.450; or

22 (ee) To a tribe or Indian health care provider to carry out the
23 requirements of RCW 71.05.150(6).

24 (3) Whenever federal law or federal regulations restrict the
25 release of information contained in the information and records
26 related to mental health services of any patient who receives
27 treatment for a substance use disorder, the department or the
28 authority may restrict the release of the information as necessary to
29 comply with federal law and regulations.

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

35 (5) The fact of admission to a provider of mental health
36 services, as well as all records, files, evidence, findings, or
37 orders made, prepared, collected, or maintained pursuant to chapter
38 71.05 RCW are not admissible as evidence in any legal proceeding
39 outside that chapter without the written authorization of the person

1 who was the subject of the proceeding except as provided in RCW
2 70.02.260, in a subsequent criminal prosecution of a person committed
3 pursuant to RCW 71.05.280(3) or 71.05.320(4)(c) on charges that were
4 dismissed pursuant to chapter 10.77 RCW due to incompetency to stand
5 trial, in a civil commitment proceeding pursuant to chapter 71.09
6 RCW, or, in the case of a minor, a guardianship or dependency
7 proceeding. The records and files maintained in any court proceeding
8 pursuant to chapter 71.05 RCW must be confidential and available
9 subsequent to such proceedings only to the person who was the subject
10 of the proceeding or his or her attorney. In addition, the court may
11 order the subsequent release or use of such records or files only
12 upon good cause shown if the court finds that appropriate safeguards
13 for strict confidentiality are and will be maintained.

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

19 (i) One thousand dollars; or

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

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

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

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

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

33 **Sec. 13.** RCW 70.02.240 and 2022 c 268 s 44 are each amended to
34 read as follows:

35 The fact of admission and all information and records related to
36 mental health services obtained through inpatient or outpatient
37 treatment of a minor under chapter 71.34 RCW must be kept
38 confidential, except as authorized by this section or under RCW

1 70.02.050, 70.02.210, 70.02.230, 70.02.250, 70.02.260, and 70.02.265.

2 Confidential information under this section may be disclosed only:

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

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

7 (3) To the minor, the minor's parent, including those acting as a
8 parent as defined in RCW 71.34.020 for purposes of family-initiated
9 treatment, and the minor's attorney, subject to RCW 13.50.100;

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

11 (5) By a care coordinator under RCW 71.34.755 or 10.77.175
12 assigned to a person ordered to receive less restrictive alternative
13 treatment for the purpose of sharing information to parties necessary
14 for the implementation of proceedings under chapter 71.34 or 10.77
15 RCW;

16 (6) By a care coordinator under RCW 71.34.755 assigned to a
17 person ordered to receive less restrictive alternative treatment for
18 the purpose of sharing information to parties necessary for the
19 implementation of proceedings under chapter 71.34 RCW;

20 (7) To law enforcement officers or public health officers as
21 necessary to carry out the responsibilities of their office. However,
22 only the fact and date of admission, and the date of discharge, the
23 name and address of the treatment provider, if any, and the last
24 known address must be disclosed upon request;

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

34 (9) To the secretary of social and health services and the
35 director of the health care authority for assistance in data
36 collection and program evaluation or research so long as the
37 secretary or director, where applicable, adopts rules for the conduct
38 of such evaluation and research. The rules must include, but need not
39 be limited to, the requirement that all evaluators and researchers
40 sign an oath of confidentiality substantially as follows:

1 "As a condition of conducting evaluation or research concerning
2 persons who have received services from (fill in the facility,
3 agency, or person) I,, agree not to divulge, publish, or
4 otherwise make known to unauthorized persons or the public any
5 information obtained in the course of such evaluation or research
6 regarding minors who have received services in a manner such that the
7 minor is identifiable.

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

10 /s/";

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

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

29 (12) To a minor's next of kin, attorney, guardian, or
30 conservator, if any, the information that the minor is presently in
31 the facility or that the minor is seriously physically ill and a
32 statement evaluating the mental and physical condition of the minor
33 as well as a statement of the probable duration of the minor's
34 confinement;

35 (13) Upon the death of a minor, to the minor's next of kin;

36 (14) To a facility in which the minor resides or will reside;

37 (15) To law enforcement officers and to prosecuting attorneys as
38 are necessary to enforce RCW 9.41.040(2)(a)(~~(v)~~) (iii). The extent
39 of information that may be released is limited as follows:

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

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

11 (c) Disclosure under this subsection is mandatory for the
12 purposes of the federal health insurance portability and
13 accountability act;

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

24 (17) For the purpose of a correctional facility participating in
25 the postinstitutional medical assistance system supporting the
26 expedited medical determinations and medical suspensions as provided
27 in RCW 74.09.555 and 74.09.295;

28 (18) Pursuant to a lawful order of a court.

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