
SENATE BILL 5875

State of Washington 52nd Legislature 1991 Regular Session

By Senators Niemi, Nelson, Madsen, Thorsness and Rasmussen; by request of Sentencing Guidelines Commission.

Read first time February 28, 1991. Referred to Committee on Law & Justice.

1 AN ACT Relating to selling controlled or counterfeit substances for
2 profit; amending RCW 9.94A.030, 9.94A.310, and 9.94A.320; reenacting
3 and amending RCW 69.50.435; and prescribing penalties.

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

5 **Sec. 1.** RCW 9.94A.030 and 1990 c 3 s 602 are each amended to read
6 as follows:

7 Unless the context clearly requires otherwise, the definitions in
8 this section apply throughout this chapter.

9 (1) "Collect," or any derivative thereof, "collect and remit," or
10 "collect and deliver," when used with reference to the department of
11 corrections, means that the department is responsible for monitoring
12 and enforcing the offender's sentence with regard to the legal
13 financial obligation, receiving payment thereof from the offender, and,
14 consistent with current law, delivering daily the entire payment to the
15 superior court clerk without depositing it in a departmental account.

1 (2) "Commission" means the sentencing guidelines commission.

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

6 (4) "Community custody" means that portion of an inmate's sentence
7 of confinement in lieu of earned early release time served in the
8 community subject to controls placed on the inmate's movement and
9 activities by the department of corrections.

10 (5) "Community placement" means that period during which the
11 offender is subject to the conditions of community custody and/or
12 postrelease supervision, which begins either upon completion of the
13 term of confinement (postrelease supervision) or at such time as the
14 offender is transferred to community custody in lieu of earned early
15 release. Community placement may consist of entirely community
16 custody, entirely postrelease supervision, or a combination of the two.

17 (6) "Community service" means compulsory service, without
18 compensation, performed for the benefit of the community by the
19 offender.

20 (7) "Community supervision" means a period of time during which a
21 convicted offender is subject to crime-related prohibitions and other
22 sentence conditions imposed pursuant to this chapter by a court. For
23 first-time offenders, the supervision may include crime-related
24 prohibitions and other conditions imposed pursuant to RCW 9.94A.120(5).
25 For purposes of the interstate compact for out-of-state supervision of
26 parolees and probationers, RCW 9.95.270, community supervision is the
27 functional equivalent of probation and should be considered the same as
28 probation by other states.

29 (8) "Confinement" means total or partial confinement as defined in
30 this section.

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

4 (10) "Court-ordered legal financial obligation" means a sum of
5 money that is ordered by a superior court of the state of Washington
6 for legal financial obligations which may include restitution to the
7 victim, statutorily imposed crime victims' compensation fees as
8 assessed pursuant to RCW 7.68.035, court costs, county or interlocal
9 drug funds, court-appointed attorneys' fees, and costs of defense,
10 fines, and any other financial obligation that is assessed to the
11 offender as a result of a felony conviction.

12 (11) "Crime-related prohibition" means an order of a court
13 prohibiting conduct that directly relates to the circumstances of the
14 crime for which the offender has been convicted, and shall not be
15 construed to mean orders directing an offender affirmatively to
16 participate in rehabilitative programs or to otherwise perform
17 affirmative conduct.

18 (12)(a) "Criminal history" means the list of a defendant's prior
19 convictions, whether in this state, in federal court, or elsewhere.
20 The history shall include, where known, for each conviction (i) whether
21 the defendant has been placed on probation and the length and terms
22 thereof; and (ii) whether the defendant has been incarcerated and the
23 length of incarceration.

24 (b) "Criminal history" shall always include juvenile convictions
25 for sex offenses and shall also include a defendant's other prior
26 convictions in juvenile court if: (i) The conviction was for an
27 offense which is a felony or a serious traffic offense and is criminal
28 history as defined in RCW 13.40.020(6)(a); (ii) the defendant was
29 fifteen years of age or older at the time the offense was committed;
30 and (iii) with respect to prior juvenile class B and C felonies or

1 serious traffic offenses, the defendant was less than twenty-three
2 years of age at the time the offense for which he or she is being
3 sentenced was committed.

4 (13) "Department" means the department of corrections.

5 (14) "Determinate sentence" means a sentence that states with
6 exactitude the number of actual years, months, or days of total
7 confinement, of partial confinement, of community supervision, the
8 number of actual hours or days of community service work, or dollars or
9 terms of a legal financial obligation. The fact that an offender
10 through "earned early release" can reduce the actual period of
11 confinement shall not affect the classification of the sentence as a
12 determinate sentence.

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

25 (16) "Drug offense" means:

26 (a) Any felony violation of chapter 69.50 RCW except possession of
27 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
28 controlled substance (RCW 69.50.403);

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

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

7 (17) "Escape" means:

8 (a) Escape in the first degree (RCW 9A.76.110), escape in the
9 second degree (RCW 9A.76.120), willful failure to return from furlough
10 (RCW 72.66.060), willful failure to return from work release (RCW
11 72.65.070), or willful failure to comply with any limitations on the
12 inmate's movements while in community custody (RCW 72.09.310); or

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

16 (18) "Felony traffic offense" means:

17 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
18 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
19 and-run injury-accident (RCW 46.52.020(4)); or

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

23 (19) "Fines" means the requirement that the offender pay a specific
24 sum of money over a specific period of time to the court.

25 (20)(a) "First-time offender" means any person who is convicted of
26 a felony (i) not classified as a violent offense or a sex offense under
27 this chapter, or (ii) that is not the manufacture, delivery, or
28 possession with intent to manufacture or deliver a controlled substance
29 classified in schedule I or II that is a narcotic drug or the selling
30 for profit any controlled substance or counterfeit substance classified

1 in schedule I, RCW 69.50.204, except leaves and flowering tops of
2 marihuana, and except as provided in (b) of this subsection, who
3 previously has never been convicted of a felony in this state, federal
4 court, or another state, and who has never participated in a program of
5 deferred prosecution for a felony offense.

6 (b) For purposes of (a) of this subsection, a juvenile adjudication
7 for an offense committed before the age of fifteen years is not a
8 previous felony conviction except for adjudications of sex offenses.

9 (21) "Nonviolent offense" means an offense which is not a violent
10 offense.

11 (22) "Offender" means a person who has committed a felony
12 established by state law and is eighteen years of age or older or is
13 less than eighteen years of age but whose case has been transferred by
14 the appropriate juvenile court to a criminal court pursuant to RCW
15 13.40.110. Throughout this chapter, the terms "offender" and
16 "defendant" are used interchangeably.

17 (23) "Partial confinement" means confinement for no more than one
18 year in a facility or institution operated or utilized under contract
19 by the state or any other unit of government, or, if home detention has
20 been ordered by the court, in the residence of either the defendant or
21 a member of the defendant's immediate family, for a substantial
22 portion of each day with the balance of the day spent in the community.
23 Partial confinement includes work release and home detention as defined
24 in this section.

25 (24) "Postrelease supervision" is that portion of an offender's
26 community placement that is not community custody.

27 (25) "Restitution" means the requirement that the offender pay a
28 specific sum of money over a specific period of time to the court as
29 payment of damages. The sum may include both public and private costs.
30 The imposition of a restitution order does not preclude civil redress.

1 (26) "Serious traffic offense" means:

2 (a) Driving while intoxicated (RCW 46.61.502), actual physical
3 control while intoxicated (RCW 46.61.504), reckless driving (RCW
4 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

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

8 (27) "Serious violent offense" is a subcategory of violent offense
9 and means:

10 (a) Murder in the first degree, homicide by abuse, murder in the
11 second degree, assault in the first degree, kidnapping in the first
12 degree, or rape in the first degree, or an attempt, criminal
13 solicitation, or criminal conspiracy to commit one of these felonies;
14 or

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

18 (28) "Sentence range" means the sentencing court's discretionary
19 range in imposing a nonappealable sentence.

20 (29) "Sex offense" means:

21 (a) A felony that is a violation of chapter 9A.44 RCW or RCW
22 9A.64.020 or 9.68A.090 or that is, under chapter 9A.28 RCW, a criminal
23 attempt, criminal solicitation, or criminal conspiracy to commit such
24 crimes;

25 (b) A felony with a finding of sexual motivation under RCW
26 9.94A.127; or

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

1 (30) "Sexual motivation" means that one of the purposes for which
2 the defendant committed the crime was for the purpose of his or her
3 sexual gratification.

4 (31) "Total confinement" means confinement inside the physical
5 boundaries of a facility or institution operated or utilized under
6 contract by the state or any other unit of government for twenty-four
7 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

8 (32) "Victim" means any person who has sustained emotional,
9 psychological, physical, or financial injury to person or property as
10 a direct result of the crime charged.

11 (33) "Violent offense" means:

12 (a) Any of the following felonies, as now existing or hereafter
13 amended: Any felony defined under any law as a class A felony or an
14 attempt to commit a class A felony, criminal solicitation of or
15 criminal conspiracy to commit a class A felony, manslaughter in the
16 first degree, manslaughter in the second degree, indecent liberties if
17 committed by forcible compulsion, kidnapping in the second degree,
18 arson in the second degree, assault in the second degree, extortion in
19 the first degree, robbery in the second degree, vehicular assault, and
20 vehicular homicide, when proximately caused by the driving of any
21 vehicle by any person while under the influence of intoxicating liquor
22 or any drug as defined by RCW 46.61.502, or by the operation of any
23 vehicle in a reckless manner;

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

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

1 (34) "Work release" means a program of partial confinement
2 available to offenders who are employed or engaged as a student in a
3 regular course of study at school. Participation in work release shall
4 be conditioned upon the offender attending work or school at regularly
5 defined hours and abiding by the rules of the work release facility.

6 (35) "Home detention" means a program of partial confinement
7 available to offenders wherein the offender is confined in a private
8 residence subject to electronic surveillance. Home detention may not
9 be imposed for offenders convicted of a violent offense, any sex
10 offense, any drug offense, reckless burning in the first or second
11 degree as defined in RCW 9A.48.040 or 9A.48.050, assault in the third
12 degree as defined in RCW 9A.36.031, unlawful imprisonment as defined in
13 RCW 9A.40.040, or harassment as defined in RCW 9A.46.020. Home
14 detention may be imposed for offenders convicted of possession of a
15 controlled substance (RCW 69.50.401(d)) or forged prescription for a
16 controlled substance (RCW 69.50.403) if the offender fulfills the
17 participation conditions set forth in this subsection and is monitored
18 for drug use by treatment alternatives to street crime (TASC) or a
19 comparable court or agency-referred program. Home detention may be
20 imposed for offenders convicted of burglary in the second degree as
21 defined in RCW 9A.52.030 or residential burglary conditioned upon the
22 offender: (a) Successfully completing twenty-one days in a work
23 release program, (b) having no convictions for burglary in the second
24 degree or residential burglary during the preceding two years and not
25 more than two prior convictions for burglary or residential burglary,
26 (c) having no convictions for a violent felony offense during the
27 preceding two years and not more than two prior convictions for a
28 violent felony offense, (d) having no prior charges of escape, and (e)
29 fulfilling the other conditions of the home detention program.
30 Participation in a home detention program shall be conditioned upon:

1 ((+a)) (i) The offender obtaining or maintaining current employment or
 2 attending a regular course of school study at regularly defined hours,
 3 or the offender performing parental duties to offspring or minors
 4 normally in the custody of the offender, ((+b)) (ii) abiding by the
 5 rules of the home detention program, and ((+c)) (iii) compliance with
 6 court-ordered legal financial obligations. The home detention program
 7 may also be made available to offenders whose charges and convictions
 8 do not otherwise disqualify them if medical or health-related
 9 conditions, concerns or treatment would be better addressed under the
 10 home detention program, or where the health and welfare of the
 11 offender, other inmates, or staff would be jeopardized by the
 12 offender's incarceration. Participation in the home detention program
 13 for medical or health-related reasons is conditioned on the offender
 14 abiding by the rules of the home detention program and complying with
 15 court-ordered restitution.

16 **Sec. 2.** RCW 9.94A.310 and 1990 c 3 s 701 are each amended to read
 17 as follows:

18 (1) TABLE 1
 19 Sentencing Grid

20 SERIOUSNESS

21 SCORE	22 OFFENDER SCORE									
	0	1	2	3	4	5	6	7	8	9 or more
24 XV	Life Sentence without Parole/Death Penalty									
26 XIV	23y4m	24y4m	25y4m	26y4m	27y4m	28y4m	30y4m	32y10m	36y	40y
27	240-	250-	261-	271-	281 -	291-	312-	338-	370-	411-

1		320	333	347	361	374	388	416	450	493	5	4	8
2		<hr/>											
3	XIII	12y	13y	14y	15y	16y	17y	19y	21y	25y	29y		
4		123-	134-	144-	154-	165-	175-	195-	216-	257-	298-		
5		164	178	192	205	219	233	260	288	342	3	9	7
6		<hr/>											
7	XII	9y	9y11m	10y9m	11y8m	12y6m	13y5m	15y9m	17y3m	20y3m	23y3m		
8		93-	102-	111-	120-	129-	138-	162 -	178-	209-	240-		
9		123	136	147	160	171	184	216	236	277	318		
10		<hr/>											
11	XI	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m		
12		78-	86-	95-	102-	111-	120-	146-	159-	185-	210 -		
13		102	114	125	136	147	158	194	211	245	280		
14		<hr/>											
15	X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m		
16		51-	57-	62-	67-	72-	77-	98-	108-	129 -	149-		
17		68	75	82	89	96	102	130	144	171	198		
18		<hr/>											
19	IX!	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m		
20		31-	36-	41-	46-	51-	57-	77-	87-	108 -	129-		
21		41	48	54	61	68	75	102	116	144	171		
22		<hr/>											
23	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m		
24		21-	26-	31-	36-	41-	46-	67-	77-	87 -	108-		
25		27	34	41	48	54	61	89	102	116	144		
26		<hr/>											
27	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m		
28		15-	21-	26-	31-	36-	41-	57-	67-	77 -	87-		
29		20	27	34	41	48	54	75	89	102	116		
30		<hr/>											

1	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
2		12+-	15-	21-	26-	31-	36-	46-	57-	67 -	77-
3		14	20	27	34	41	48	61	75	89	102
4											
5	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
6		6-	12+-	13-	15-	22-	33-	41-	51-	62 -	72-
7		12	14	17	20	29	43	54	68	82	96
8	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
9		3-	6-	12+-	13-	15-	22-	33-	43-	53 -	63-
10		9	12	14	17	20	29	43	57	70	84
11											
12	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
13		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51 -
14		3	8	12	12	16	22	29	43	57	68
15											
16	II	4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m	
17		0-90	2-	3-	4-	12+-	14-	17-	22-	33 -	43-
18		Days	6	9	12	14	18	22	29	43	57
19											
20	I	3m	4m	5m	8m	13m	16m	20m	2y2m		
21		0-60	0-90	2-	2-	3-	4-	12+-	14-	17 -	22-
22		Days	Days	5	6	8	12	14	18	22	29
23											

24 NOTE: Numbers in the first horizontal row of each seriousness category
25 represent sentencing midpoints in years(y) and months(m). Numbers in
26 the second and third rows represent presumptive sentencing ranges in
27 months, or in days if so designated. 12+ equals one year and one day.

28 (2) For persons convicted of the anticipatory offenses of
29 criminal attempt, solicitation, or conspiracy under chapter 9A.28 RCW,
30 the presumptive sentence is determined by locating the sentencing grid

1 sentence range defined by the appropriate offender score and the
2 seriousness level of the completed crime, and multiplying the range by
3 75 percent.

4 (3) The following additional times shall be added to the
5 presumptive sentence if the offender or an accomplice was armed with a
6 deadly weapon as defined in this chapter and the offender is being
7 sentenced for one of the crimes listed in this subsection. If the
8 offender or an accomplice was armed with a deadly weapon and the
9 offender is being sentenced for an anticipatory offense under chapter
10 9A.28 RCW to commit one of the crimes listed in this subsection, the
11 following times shall be added to the presumptive range determined
12 under subsection (2) of this section:

13 (a) 24 months for Rape 1 (RCW 9A.44.040), Robbery 1 (RCW
14 9A.56.200), or Kidnapping 1 (RCW 9A.40.020)

15 (b) 18 months for Burglary 1 (RCW 9A.52.020)

16 (c) 12 months for Assault 2 (RCW 9A.36.020 or 9A.36.021), Escape
17 1 (RCW 9A.76.110), Kidnapping 2 (RCW 9A.40.030), Burglary 2 of
18 a building other than a dwelling (RCW 9A.52.030), Theft of
19 Livestock 1 or 2 (RCW 9A.56.080), or any drug offense.

20 (4) The following additional times shall be added to the
21 presumptive sentence if the offender or an accomplice committed the
22 offense while in a county jail or state correctional facility as that
23 term is defined in this chapter and the offender is being sentenced for
24 one of the crimes listed in this subsection. If the offender or an
25 accomplice committed one of the crimes listed in this subsection while
26 in a county jail or state correctional facility as that term is defined
27 in this chapter, and the offender is being sentenced for an
28 anticipatory offense under chapter 9A.28 RCW to commit one of the
29 crimes listed in this subsection, the following times shall be added to

1 the presumptive sentence range determined under subsection (2) of this
2 section:

3 (a) Eighteen months for offenses committed under RCW
4 69.50.401(a)(1)(i) or 69.50.410;

5 (b) Fifteen months for offenses committed under RCW
6 69.50.401(a)(1)(ii), (iii), and (iv);

7 (c) Twelve months for offenses committed under RCW 69.50.401(d).

8 For the purposes of this subsection, all of the real property of
9 a state correctional facility or county jail shall be deemed to be part
10 of that facility or county jail.

11 (5) An additional twenty-four months shall be added to the
12 presumptive sentence for any ranked offense involving a violation of
13 chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435.

14 **Sec. 3.** RCW 9.94A.320 and 1990 c 3 s 702 are each amended to
15 read as follows:

16 TABLE 2

17 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

18 XV Aggravated Murder 1 (RCW 10.95.020)

19 XIV Murder 1 (RCW 9A.32.030)

20 Homicide by abuse (RCW 9A.32.055)

21 XIII Murder 2 (RCW 9A.32.050)

22 XII Assault 1 (RCW 9A.36.011)

23 XI Rape 1 (RCW 9A.44.040)

24 Rape of a Child 1 (RCW 9A.44.073)

25 X Kidnapping 1 (RCW 9A.40.020)

26 Rape 2 (RCW 9A.44.050)

27 Rape of a Child 2 (RCW 9A.44.076)

28 Child Molestation 1 (RCW 9A.44.083)

1 Damaging building, etc., by explosion with threat to
2 human being (RCW 70.74.280(1))
3 Over 18 and deliver heroin or narcotic from Schedule I
4 or II to someone under 18 (RCW 69.50.406)
5 Leading Organized Crime (RCW 9A.82.060(1)(a))
6 IX Robbery 1 (RCW 9A.56.200)
7 Manslaughter 1 (RCW 9A.32.060)
8 Explosive devices prohibited (RCW 70.74.180)
9 Indecent Liberties (with forcible compulsion)
10 (RCW 9A.44.100(1)(a))
11 Endangering life and property by explosives with threat to
12 human being (RCW 70.74.270)
13 Over 18 and deliver narcotic from Schedule III, IV, or V
14 or a nonnarcotic from Schedule I-V to someone under
15 18 and 3 years junior (RCW 69.50.406)
16 Controlled Substance Homicide (RCW 69.50.415)
17 Sexual Exploitation (RCW 9.68A.040)
18 Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
19 VIII Arson 1 (RCW 9A.48.020)
20 Promoting Prostitution 1 (RCW 9A.88.070)
21 Selling ((heroin)) for profit (controlled or counterfeit)
22 any controlled substance (RCW 69.50.410)
23 Manufacture, deliver, or possess with intent to deliver
24 heroin or cocaine (RCW 69.50.401(a)(1)(i))
25 Manufacture, deliver, or possess with intent to deliver
26 methamphetamine (RCW 69.50.401(a)(1)(ii))
27 Vehicular Homicide, by being under the influence of
28 intoxicating liquor or any drug or by the operation of
29 any vehicle in a reckless manner (RCW 46.61.520)
30 VII Burglary 1 (RCW 9A.52.020)

1 Vehicular Homicide, by disregard for the safety of others
2 (RCW 46.61.520)
3 Introducing Contraband 1 (RCW 9A.76.140)
4 Indecent Liberties (without forcible compulsion)
5 (RCW 9A.44.100(1) (b) and (c))
6 Child Molestation 2 (RCW 9A.44.086)
7 Dealing in depictions of minor engaged in sexually explicit
8 conduct (RCW 9.68A.050)
9 Sending, bringing into state depictions of minor engaged
10 in sexually explicit conduct (RCW 9.68A.060)
11 Involving a minor in drug dealing (RCW 69.50.401(f))
12 VI Bribery (RCW 9A.68.010)
13 Manslaughter 2 (RCW 9A.32.070)
14 Rape of a Child 3 (RCW 9A.44.079)
15 Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
16 Damaging building, etc., by explosion with no threat to
17 human being (RCW 70.74.280(2))
18 Endangering life and property by explosives with no threat
19 to human being (RCW 70.74.270)
20 Incest 1 (RCW 9A.64.020(1))
21 ~~((Selling for profit (controlled or counterfeit) any~~
22 ~~controlled substance (except heroin) (RCW 69.50.410))~~
23 Manufacture, deliver, or possess with intent to deliver
24 narcotics from Schedule I or II (except heroin or
25 cocaine) (RCW 69.50.401(a)(1)(i))
26 Intimidating a Judge (RCW 9A.72.160)
27 Bail Jumping with Murder 1 (RCW 9A.76.170(2)(a))
28 V Criminal Mistreatment 1 (RCW 9A.42.020)
29 Rape 3 (RCW 9A.44.060)
30 Sexual Misconduct with a Minor 1 (RCW 9A.44.093)

1 Child Molestation 3 (RCW 9A.44.089)
2 Kidnapping 2 (RCW 9A.40.030)
3 Extortion 1 (RCW 9A.56.120)
4 Incest 2 (RCW 9A.64.020(2))
5 Perjury 1 (RCW 9A.72.020)
6 Extortionate Extension of Credit (RCW 9A.82.020)
7 Advancing money or property for extortionate extension of
8 credit (RCW 9A.82.030)
9 Extortionate Means to Collect Extensions of Credit
10 (RCW 9A.82.040)
11 Rendering Criminal Assistance 1 (RCW 9A.76.070)
12 Bail Jumping with class A Felony (RCW 9A.76.170(2)(b))
13 Delivery of imitation controlled substance by person
14 eighteen or over to person under eighteen
15 (RCW 69.52.030(2))
16 IV Residential Burglary (RCW 9A.52.025)
17 Theft of Livestock 1 (RCW 9A.56.080)
18 Robbery 2 (RCW 9A.56.210)
19 Assault 2 (RCW 9A.36.021)
20 Escape 1 (RCW 9A.76.110)
21 Arson 2 (RCW 9A.48.030)
22 Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090,
23 9A.72.100)
24 Malicious Harassment (RCW 9A.36.080)
25 Threats to Bomb (RCW 9.61.160)
26 Willful Failure to Return from Furlough (RCW 72.66.060)
27 Hit and Run -- Injury Accident (RCW 46.52.020(4))
28 Vehicular Assault (RCW 46.61.522)
29 Manufacture, deliver, or possess with intent to deliver
30 narcotics from Schedule III, IV, or V or nonnarcotics

1 from Schedule I-V (except marijuana or
2 methamphetamines) (RCW 69.50.401(a)(1)(ii)
3 through (iv))
4 Influencing Outcome of Sporting Event (RCW 9A.82.070)
5 Use of Proceeds of Criminal Profiteering (RCW 9A.82.080
6 (1) and (2))
7 Knowingly Trafficking in Stolen Property (RCW 9A.82.050(2))
8 III Criminal mistreatment 2 (RCW 9A.42.030)
9 Extortion 2 (RCW 9A.56.130)
10 Unlawful Imprisonment (RCW 9A.40.040)
11 Assault 3 (RCW 9A.36.031)
12 Custodial Assault (RCW 9A.36.100)
13 Unlawful possession of firearm or pistol by felon
14 (RCW 9.41.040)
15 Harassment (RCW 9A.46.020)
16 Promoting Prostitution 2 (RCW 9A.88.080)
17 Willful Failure to Return from Work Release (RCW 72.65.070)
18 Burglary 2 (RCW 9A.52.030)
19 Introducing Contraband 2 (RCW 9A.76.150)
20 Communication with a Minor for Immoral Purposes
21 (RCW 9.68A.090)
22 Patronizing a Juvenile Prostitute (RCW 9.68A.100)
23 Escape 2 (RCW 9A.76.120)
24 Perjury 2 (RCW 9A.72.030)
25 Bail Jumping with class B or C Felony (RCW 9A.76.170(2)(c))
26 Intimidating a Public Servant (RCW 9A.76.180)
27 Tampering with a Witness (RCW 9A.72.120)
28 Manufacture, deliver, or possess with intent to deliver
29 marijuana (RCW 69.50.401(a)(1)(ii))

1 Delivery of a material in lieu of a controlled substance
2 (RCW 69.50.401(c))
3 Manufacture, distribute, or possess with intent to
4 distribute an imitation controlled substance
5 (RCW 69.52.030(1))
6 Recklessly Trafficking in Stolen Property
7 (RCW 9A.82.050(1))
8 Theft of livestock 2 (RCW 9A.56.080)
9 Securities Act violation (RCW 21.20.400)
10 II Malicious Mischief 1(RCW 9A.48.070)
11 Possession of Stolen Property 1 (RCW 9A.56.150)
12 Theft 1 (RCW 9A.56.030)
13 Possession of controlled substance that is either heroin
14 or narcotics from Schedule I or II (RCW 69.50.401(d))
15 Possession of phencyclidine (PCP) (RCW 69.50.401(d))
16 Create, deliver, or possess a counterfeit controlled
17 substance (RCW 69.50.401(b))
18 Computer Trespass 1 (RCW 9A.52.110)
19 Reckless Endangerment 1 (RCW 9A.36.045)
20 I Theft 2 (RCW 9A.56.040)
21 Possession of Stolen Property 2 (RCW 9A.56.160)
22 Forgery (RCW 9A.60.020)
23 Taking Motor Vehicle Without Permission (RCW 9A.56.070)
24 Vehicle Prowl 1 (RCW 9A.52.095)
25 Attempting to Elude a Pursuing Police Vehicle
26 (RCW 46.61.024)
27 Malicious Mischief 2 (RCW 9A.48.080)
28 Reckless Burning 1 (RCW 9A.48.040)
29 Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)
30 Unlawful Use of Food Stamps (RCW 9.91.140 (2) and (3))

1 False Verification for Welfare (RCW 74.08.055)
2 Forged Prescription (RCW 69.41.020)
3 Forged Prescription for a Controlled Substance
4 (RCW 69.50.403)
5 Possess Controlled Substance that is a Narcotic from
6 Schedule III, IV, or V or Non-narcotic from Schedule
7 I-V (except phencyclidine) (RCW 69.50.401(d))

8 **Sec. 4.** RCW 69.50.435 and 1990 c 244 s 1 and 1990 c 33 s 588 are
9 each reenacted and amended to read as follows:

10 (a) Any person who violates RCW 69.50.401(a) by manufacturing,
11 selling, delivering, or possessing with the intent to manufacture,
12 sell, or deliver a controlled substance listed under that subsection or
13 who violates RCW 69.50.410 by selling for profit any controlled
14 substance or counterfeit substance classified in schedule I, RCW
15 69.50.204, except leaves and flowering tops of marihuana to a person in
16 a school or on a school bus or within one thousand feet of a school bus
17 route stop designated by the school district or within one thousand
18 feet of the perimeter of the school grounds, in a public park or on a
19 public transit vehicle, or in a public transit stop shelter may be
20 punished by a fine of up to twice the fine otherwise authorized by this
21 chapter, but not including twice the fine authorized by RCW 69.50.406,
22 or by imprisonment of up to twice the imprisonment otherwise authorized
23 by this chapter, but not including twice the imprisonment authorized by
24 RCW 69.50.406, or by both such fine and imprisonment. The provisions
25 of this section shall not operate to more than double the fine or
26 imprisonment otherwise authorized by this chapter for an offense.

27 (b) It is not a defense to a prosecution for a violation of this
28 section that the person was unaware that the prohibited conduct took
29 place while in a school or school bus or within one thousand feet of

1 the school or school bus route stop, in a public park, on a public
2 transit vehicle, or in a public transit stop shelter.

3 (c) It is not a defense to a prosecution for a violation of this
4 section or any other prosecution under this chapter that persons under
5 the age of eighteen were not present in the school, the school bus, the
6 public park, or the public transit vehicle, or at the school bus route
7 stop or the public transit vehicle stop shelter at the time of the
8 offense or that school was not in session.

9 (d) It is an affirmative defense to a prosecution for a violation
10 of this section that the prohibited conduct took place entirely within
11 a private residence, that no person under eighteen years of age or
12 younger was present in such private residence at any time during the
13 commission of the offense, and that the prohibited conduct did not
14 involve delivering, manufacturing, selling, or possessing with the
15 intent to manufacture, sell, or deliver any controlled substance in RCW
16 69.50.401(a) for profit. The affirmative defense established in this
17 section shall be proved by the defendant by a preponderance of the
18 evidence. This section shall not be construed to establish an
19 affirmative defense with respect to a prosecution for an offense
20 defined in any other section of this chapter.

21 (e) In a prosecution under this section, a map produced or
22 reproduced by any municipal, school district, county, or transit
23 authority engineer for the purpose of depicting the location and
24 boundaries of the area on or within one thousand feet of any property
25 used for a school, school bus route stop, public park, or public
26 transit vehicle stop shelter, or a true copy of such a map, shall under
27 proper authentication, be admissible and shall constitute prima facie
28 evidence of the location and boundaries of those areas if the governing
29 body of the municipality, school district, county, or transit authority
30 has adopted a resolution or ordinance approving the map as the official

1 location and record of the location and boundaries of the area on or
2 within one thousand feet of the school, school bus route stop, public
3 park, or public transit vehicle stop shelter. Any map approved under
4 this section or a true copy of the map shall be filed with the clerk of
5 the municipality or county, and shall be maintained as an official
6 record of the municipality or county. This section shall not be
7 construed as precluding the prosecution from introducing or relying
8 upon any other evidence or testimony to establish any element of the
9 offense. This section shall not be construed as precluding the use or
10 admissibility of any map or diagram other than the one which has been
11 approved by the governing body of a municipality, school district,
12 county, or transit authority if the map or diagram is otherwise
13 admissible under court rule.

14 (f) As used in this section the following terms have the meanings
15 indicated unless the context clearly requires otherwise:

16 (1) "School" has the meaning under RCW 28A.150.010 or
17 28A.150.020. The term "school" also includes a private school approved
18 under RCW 28A.195.010;

19 (2) "School bus" means a school bus as defined by the
20 superintendent of public instruction by rule which is owned and
21 operated by any school district and all school buses which are
22 privately owned and operated under contract or otherwise with any
23 school district in the state for the transportation of students. The
24 term does not include buses operated by common carriers in the urban
25 transportation of students such as transportation of students through
26 a municipal transportation system;

27 (3) "School bus route stop" means a school bus stop as designated
28 on maps submitted by school districts to the office of the
29 superintendent of public instruction;

1 (4) "Public park" means land, including any facilities or
2 improvements on the land, that is operated as a park by the state or a
3 local government;

4 (5) "Public transit vehicle" means any motor vehicle, street car,
5 train, trolley vehicle, or any other device, vessel, or vehicle which
6 is owned or operated by a transit authority and which is used for the
7 purpose of carrying passengers on a regular schedule;

8 (6) "Transit authority" means a city, county, or state
9 transportation system, transportation authority, public transportation
10 benefit area, public transit authority, or metropolitan municipal
11 corporation within the state that operates public transit vehicles;

12 (7) "Stop shelter" means a passenger shelter designated by a
13 transit authority.