

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1652

Chapter 261, Laws of 1994
(partial veto)

53rd Legislature
1994 Regular Session

ANIMAL CRUELTY LAWS MODERNIZED

EFFECTIVE DATE: 6/9/94

Passed by the House March 9, 1994
Yeas 94 Nays 2

BRIAN EBERSOLE

**Speaker of the
House of Representatives**

Passed by the Senate March 9, 1994
Yeas 41 Nays 1

JOEL PRITCHARD

President of the Senate

Approved April 1, 1994, with the
exception of sections 20 and 21, which
are vetoed.

MIKE LOWRY

Governor of the State of Washington

CERTIFICATE

I, Marilyn Showalter, Chief Clerk of
the House of Representatives of the
State of Washington, do hereby certify
that the attached is **ENGROSSED
SUBSTITUTE HOUSE BILL 1652** as passed
by the House of Representatives and
the Senate on the dates hereon set
forth.

MARILYN SHOWALTER

Chief Clerk

FILED

April 1, 1994 - 2:09 p.m.

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1652

AS RECOMMENDED BY THE CONFERENCE COMMITTEE

Passed Legislature - 1994 Regular Session

State of Washington 53rd Legislature 1994 Regular Session

By House Committee on Judiciary (originally sponsored by Representatives Romero, G. Cole, Valle, Orr, Cothorn, Brown, Veloria, Holm, Zellinsky, Scott, Brough, Jones, R. Meyers, Dorn, Quall, Van Luven, Roland, L. Johnson, Long, Johanson and Anderson)

Read first time 01/14/94. Referred to Committee on .

1 AN ACT Relating to animal cruelty; amending RCW 16.52.020,
2 16.52.085, 16.52.095, 16.52.100, 16.52.117, 16.52.180, 16.52.190,
3 16.52.200, 16.52.300, 9A.48.080, 13.40.020, 81.56.120, 77.12.265, and
4 16.52.185; reenacting and amending RCW 9.94A.030; adding new sections
5 to chapter 16.52 RCW; creating a new section; repealing RCW 16.52.010,
6 16.52.030, 16.52.040, 16.52.050, 16.52.055, 16.52.060, 16.52.065,
7 16.52.070, 16.52.113, 16.52.120, 16.52.130, 16.52.140, and 16.52.160;
8 and prescribing penalties.

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

10 NEW SECTION. **Sec. 1.** The legislature finds there is a need to
11 modernize the law on animal cruelty to more appropriately address the
12 nature of the offense. It is not the intent of this act to remove or
13 decrease any of the exemptions from the statutes on animal cruelty that
14 now apply to customary animal husbandry practices, state game or fish
15 laws, rodeos, fairs under chapter 15.76 RCW, or medical research
16 otherwise authorized under federal or state law. It is the intent of
17 this act to require the enforcement of chapter 16.52 RCW by persons who
18 are accountable to elected officials at the local and state level.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 16.52 RCW
2 to read as follows:

3 (1) Principles of liability as defined in chapter 9A.08 RCW apply
4 to this chapter.

5 (2) Unless the context clearly requires otherwise, the definitions
6 in this section apply throughout this chapter.

7 (a) "Animal" means any nonhuman mammal, bird, reptile, or
8 amphibian.

9 (b) "Animal care and control agency" means any city or county
10 animal control agency or authority authorized to enforce city or county
11 municipal ordinances regulating the care, control, licensing, or
12 treatment of animals within the city or county, and any corporation
13 organized under RCW 16.52.020 that contracts with a city or county to
14 enforce the city or county ordinances governing animal care and
15 control.

16 (c) "Animal control officer" means any individual employed,
17 contracted, or appointed pursuant to section 5 of this act by an animal
18 care and control agency or humane society to aid in the enforcement of
19 ordinances or laws regulating the care and control of animals. For
20 purposes of this chapter, the term "animal control officer" shall be
21 interpreted to include "humane officer" as defined in (e) of this
22 subsection and section 5 of this act.

23 (d) "Euthanasia" means the humane destruction of an animal
24 accomplished by a method that involves instantaneous unconsciousness
25 and immediate death, or by a method that causes painless loss of
26 consciousness, and death during the loss of consciousness.

27 (e) "Humane officer" means any individual employed, contracted, or
28 appointed by an animal care and control agency or humane society as
29 authorized under section 5 of this act.

30 (f) "Law enforcement agency" means a general authority Washington
31 law enforcement agency as defined in RCW 10.93.020.

32 (g) "Necessary food" means the provision at suitable intervals of
33 wholesome foodstuff suitable for the animal's age and species and
34 sufficient to provide a reasonable level of nutrition for the animal.

35 (h) "Owner" means a person who has a right, claim, title, legal
36 share, or right of possession to an animal or a person having lawful
37 control, custody, or possession of an animal.

38 (i) "Person" means individuals, corporations, partnerships,
39 associations, or other legal entities, and agents of those entities.

1 (j) "Substantial bodily harm" means substantial bodily harm as
2 defined in RCW 9A.04.110.

3 NEW SECTION. **Sec. 3.** A new section is added to chapter 16.52 RCW
4 to read as follows:

5 (1) Law enforcement agencies and animal care and control agencies
6 may enforce the provisions of this chapter. Animal care and control
7 agencies may enforce the provisions of this chapter in a county or city
8 only if the county or city legislative authority has entered into a
9 contract with the agency to enforce the provisions of this chapter.

10 (2) Animal control officers enforcing this chapter shall comply
11 with the same constitutional and statutory restrictions concerning the
12 execution of police powers imposed on law enforcement officers who
13 enforce this chapter and other criminal laws of the state of
14 Washington.

15 (3) Animal control officers have the following enforcement powers
16 when enforcing this chapter:

17 (a) The power to issue citations based on probable cause to
18 offenders for misdemeanor and gross misdemeanor violations of this
19 chapter or RCW 9.08.070 or 81.56.120;

20 (b) The power to cause a law enforcement officer to arrest and take
21 into custody any person the animal control officer has probable cause
22 to believe has committed or is committing a violation of this chapter
23 or RCW 9.08.070 or 81.56.120. Animal control officers may make an oral
24 complaint to a prosecuting attorney or a law enforcement officer to
25 initiate arrest. The animal control officer causing the arrest shall
26 file with the arresting agency a written complaint within twenty-four
27 hours of the arrest, excluding Sundays and legal holidays, stating the
28 alleged act or acts constituting a violation;

29 (c) The power to carry nonfirearm protective devices for personal
30 protection;

31 (d) The power to prepare affidavits in support of search warrants
32 and to execute search warrants when accompanied by law enforcement
33 officers to investigate violations of this chapter or RCW 9.08.070 or
34 81.56.120, and to seize evidence of those violations.

35 (4) Upon request of an animal control officer who has probable
36 cause to believe that a person has violated this chapter or RCW
37 9.08.070 or 81.56.120, a law enforcement agency officer may arrest the
38 alleged offender.

1 **Sec. 4.** RCW 16.52.020 and 1973 1st ex.s. c 125 s 1 are each
2 amended to read as follows:

3 Any citizens of the state of Washington (~~((who have heretofore, or~~
4 ~~who shall hereafter, incorporate as a body corporate,))~~ incorporated
5 under the laws of this state as a humane society or as a society for
6 the prevention of cruelty to animals may (~~(avail themselves of the~~
7 ~~privileges of RCW 16.52.010 through 16.52.050, 16.52.070 through~~
8 ~~16.52.090 and 16.52.100 through 16.52.180: PROVIDED, That))~~ enforce
9 the provisions of this chapter through its animal control officers
10 subject to the limitations in sections 3 and 5 of this act. The
11 legislative authority in each county may grant exclusive authority to
12 exercise the privileges and authority granted by this section to one or
13 more qualified corporations for a period of up to three years based
14 upon ability to fulfill the purposes of this chapter.

15 NEW SECTION. **Sec. 5.** A new section is added to chapter 16.52 RCW
16 to read as follows:

17 Trustees of humane societies incorporated pursuant to RCW 16.52.020
18 may appoint society members to act as animal control officers. The
19 trustee appointments shall be in writing. The appointment shall be
20 effective in a particular county only if an appointee obtains written
21 authorization from the superior court of the county in which the
22 appointee seeks to enforce this chapter. To obtain judicial
23 authorization, an appointee seeking judicial authorization on or after
24 the effective date of this section shall provide evidence satisfactory
25 to the judge that the appointee has successfully completed training
26 which has prepared the appointee to assume the powers granted to animal
27 control officers pursuant to section 3 of this act. The trustees shall
28 review appointments every three years and may revoke an appointment at
29 any time by filing a certified revocation with the superior court that
30 approved the appointment. Authorizations shall not exceed three years
31 or trustee termination, whichever occurs first. To qualify for
32 reappointment when a term expires on or after the effective date of
33 this section, the officer shall obtain training or satisfy the court
34 that the officer has sufficient experience to exercise the powers
35 granted to animal control officers pursuant to section 3 of this act.

36 **Sec. 6.** RCW 16.52.085 and 1987 c 335 s 1 are each amended to read
37 as follows:

1 (1) If ~~((the county sheriff or other))~~ a law enforcement officer
2 ~~((shall find))~~ or animal control officer has probable cause to believe
3 that ~~((said))~~ an owner of a domestic animal has ~~((been neglected by its~~
4 ~~owner, he or she))~~ violated this chapter and no responsible person can
5 be found to assume the animal's care, the officer may authorize, with
6 a warrant, the removal of the animal to a ~~((proper pasture or other))~~
7 suitable place for feeding and ~~((restoring to health.))~~ care, or may
8 place the animal under the custody of an animal care and control
9 agency. In determining what is a suitable place, the officer shall
10 consider the animal's needs, including its size and behavioral
11 characteristics. An officer may remove an animal under this subsection
12 without a warrant only if the animal is in an immediate life-
13 threatening condition.

14 (2) If a law enforcement officer or an animal control officer has
15 probable cause to believe a violation of this chapter has occurred, the
16 officer may authorize an examination of ~~((an))~~ a domestic animal
17 allegedly neglected ~~((domestic animal))~~ or abused in violation of this
18 chapter by a veterinarian to determine whether the level of neglect or
19 abuse in violation of this chapter is sufficient to require removal of
20 the animal. This section does not condone illegal entry onto private
21 property.

22 (3) Any owner whose domestic animal is removed ~~((to a suitable~~
23 ~~place))~~ pursuant to this chapter shall be given written notice of the
24 circumstances of the removal and notice of legal remedies available to
25 the owner. The notice shall be given by posting at the place of
26 seizure, by delivery to a person residing at the place of seizure, or
27 by registered mail if the owner is known. In making the decision to
28 remove an animal pursuant to this chapter, the ~~((law enforcement))~~
29 officer shall make a good faith effort to contact the animal's owner
30 before removal ~~((unless the animal is in a life threatening condition~~
31 or unless the officer reasonably believes that the owner would remove
32 the animal from the jurisdiction)).

33 (4) The agency having custody of the animal may euthanize the
34 animal or may find a responsible person to adopt the animal not less
35 than fifteen business days after the animal is taken into custody. A
36 custodial agency may euthanize severely injured, diseased, or suffering
37 animals at any time. An owner may prevent the animal's destruction or
38 adoption by: (a) Petitioning the district court of the county where
39 the animal was seized for the animal's immediate return subject to

1 court-imposed conditions, or (b) posting a bond or security in an
2 amount sufficient to provide for the animal's care for a minimum of
3 thirty days from the seizure date. If the custodial agency still has
4 custody of the animal when the bond or security expires, the animal
5 shall become the agency's property unless the court orders an
6 alternative disposition. If a court order prevents the agency from
7 assuming ownership and the agency continues to care for the animal, the
8 court shall order the owner to renew a bond or security for the
9 agency's continuing costs for the animal's care.

10 ~~((5))~~ (5) If no criminal case is filed within ~~((seventy-two hours))~~
11 fourteen business days of the ~~((removal of the animal))~~ animal's
12 removal, the owner may petition the district court of the county where
13 the ~~((removal of the))~~ animal ~~((occurred))~~ was removed for the ~~((return~~
14 ~~of the animal))~~ animal's return. The petition shall be filed with the
15 court, with copies served to the law enforcement or animal care and
16 control agency responsible for removing the animal and to the
17 prosecuting attorney. If the court grants the petition, the agency
18 which seized the animal must deliver the animal to the owner at no cost
19 to the owner. If a criminal action is filed after the petition is
20 filed but before the animal is returned, the petition shall be joined
21 with the criminal matter.

22 ~~((+5))~~ (6) In a motion or petition for the ~~((return of the removed~~
23 ~~animal))~~ animal's return before a trial, the burden is on the owner to
24 prove by a preponderance of the evidence that the animal will not
25 suffer future neglect or abuse and is not in need of being restored to
26 health.

27 ~~((+6))~~ (7) Any authorized person treating or attempting to restore
28 an animal to health under this chapter shall not be civilly or
29 criminally liable for such action.

30 **Sec. 7.** RCW 16.52.095 and Code 1881 s 840 are each amended to read
31 as follows:

32 It shall not be lawful for any person to cut off more than one-half
33 of the ear or ears of any domestic animal such as an ox, cow, bull,
34 calf, sheep, goat or hog, or dog, and any person cutting off more than
35 one-half of the ear or ears of any such animals, shall be deemed guilty
36 of a misdemeanor, and upon conviction, shall be fined in any sum less
37 than twenty dollars. This section does not apply if cutting off more

1 than one-half of the ear of the animal is a customary husbandry
2 practice.

3 NEW SECTION. **Sec. 8.** A new section is added to chapter 16.52 RCW
4 to read as follows:

5 (1) A person is guilty of animal cruelty in the first degree when,
6 except as authorized in law, he or she intentionally (a) inflicts
7 substantial pain on, (b) causes physical injury to, or (c) kills an
8 animal by a means causing undue suffering, or forces a minor to inflict
9 unnecessary pain, injury, or death on an animal.

10 (2) Animal cruelty in the first degree is a class C felony.

11 NEW SECTION. **Sec. 9.** A new section is added to chapter 16.52 RCW
12 to read as follows:

13 (1) A person is guilty of animal cruelty in the second degree if,
14 under circumstances not amounting to first degree animal cruelty, the
15 person knowingly, recklessly, or with criminal negligence inflicts
16 unnecessary suffering or pain upon an animal.

17 (2) An owner of an animal is guilty of animal cruelty in the second
18 degree if, under circumstances not amounting to first degree animal
19 cruelty, the owner knowingly, recklessly, or with criminal negligence:

20 (a) Fails to provide the animal with necessary food, water,
21 shelter, rest, sanitation, ventilation, space, or medical attention and
22 the animal suffers unnecessary or unjustifiable physical pain as a
23 result of the failure; or

24 (b) Abandons the animal.

25 (3) Animal cruelty in the second degree is a misdemeanor.

26 (4) In any prosecution of animal cruelty in the second degree, it
27 shall be an affirmative defense, if established by the defendant by a
28 preponderance of the evidence, that the defendant's failure was due to
29 economic distress beyond the defendant's control.

30 **Sec. 10.** RCW 16.52.100 and 1982 c 114 s 6 are each amended to read
31 as follows:

32 (~~Any person who shall impound or confine or cause to be impounded~~
33 ~~or confined any domestic animal, shall supply the same during such~~
34 ~~confinement with a sufficient quantity of good and wholesome food and~~
35 ~~water, and in default thereof shall be guilty of a misdemeanor. In~~
36 ~~ease)) If any domestic animal ((~~shall be~~)) is impounded or confined~~

1 (~~as aforesaid and shall continue to be~~) without necessary food and
2 water for more than (~~twenty-four~~) thirty-six consecutive hours, (~~it~~
3 ~~shall be lawful for~~) any person may, from time to time, as (~~it shall~~
4 ~~be deemed~~) is necessary (~~to~~), enter into and open any pound or place
5 of confinement in which any domestic animal (~~shall be~~) is confined,
6 and supply it with necessary food and water so long as it (~~shall be~~)
7 is confined. (~~Such~~) The person shall not be liable to action for
8 (~~such~~) the entry, and may collect from the animal's owner the
9 reasonable cost of (~~such~~) the food and water (~~may be collected by~~
10 ~~him of the owner of such animal, and the said~~). The animal shall be
11 subject to attachment (~~therefor~~) for the costs and shall not be
12 exempt from levy and sale upon execution issued upon a judgment
13 (~~therefor~~). If an investigating officer finds it extremely difficult
14 to supply (~~such~~) confined animals with food and water, the officer
15 may remove the animals to protective custody for that purpose.

16 **Sec. 11.** RCW 16.52.117 and 1982 c 114 s 9 are each amended to read
17 as follows:

18 (1) Any person who does any of the following is guilty of a gross
19 misdemeanor punishable by imprisonment not to exceed one year, or by a
20 fine not to exceed five thousand dollars, or by both fine and
21 imprisonment:

22 (a) Owns, possesses, keeps, or trains any (~~dog~~) animal with the
23 intent that the (~~dog~~) animal shall be engaged in an exhibition of
24 fighting with another (~~dog~~) animal;

25 (b) For amusement or gain causes any (~~dog~~) animal to fight with
26 another (~~dog~~) animal, or causes any (~~dogs~~) animals to injure each
27 other; or

28 (c) Permits any act in violation of (a) or (b) of this subsection
29 to be done on any premises under his or her charge or control, or
30 promotes or aids or abets any such act.

31 (2) Any person who is knowingly present, as a spectator, at any
32 place or building where preparations are being made for an exhibition
33 of the fighting of (~~dogs~~) animals, with the intent to be present at
34 such preparations, or is knowingly present at such exhibition or at any
35 other fighting or injuring as described in subsection (1)(b) of this
36 section, with the intent to be present at such exhibition, fighting, or
37 injuring, is guilty of a misdemeanor.

38 (3) Nothing in this section may prohibit the following:

1 (a) The use of dogs in the management of livestock, as defined by
2 chapter 16.57 RCW, by the owner of the livestock or the owner's
3 employees or agents or other persons in lawful custody of the
4 livestock;

5 (b) The use of dogs in hunting as permitted by law; or

6 (c) The training of ~~((dogs))~~ animals or the use of equipment in the
7 training of ~~((dogs))~~ animals for any purpose not prohibited by law.

8 **Sec. 12.** RCW 16.52.180 and 1901 c 146 s 18 are each amended to
9 read as follows:

10 No part of ~~((RCW 16.52.010 through 16.52.050, 16.52.070 through~~
11 ~~16.52.090 and 16.52.100 through 16.52.180))~~ this chapter shall be
12 deemed to interfere with any of the laws of this state known as the
13 "game laws," nor ~~((shall RCW 16.52.010 through 16.52.050, 16.52.070~~
14 ~~through 16.52.090 and 16.52.100 through 16.52.180))~~ be deemed to
15 interfere with the right to destroy any venomous reptile or any known
16 as dangerous to life, limb or property, or to interfere with the right
17 to kill animals to be used for food or with any properly conducted
18 scientific experiments or investigations, which experiments or
19 investigations shall be performed only under the authority of the
20 faculty of some regularly incorporated college or university of the
21 state of Washington or a research facility registered with the United
22 States department of agriculture and regulated by 7 U.S.C. Sec. 2131 et
23 seq.

24 **Sec. 13.** RCW 16.52.190 and 1941 c 105 s 1 are each amended to read
25 as follows:

26 ~~((It shall be unlawful for any person to wilfully or maliciously~~
27 ~~poison any domestic animal or domestic bird:— PROVIDED, That the~~
28 ~~provisions))~~ (1) Except as provided in subsections (2) and (3) of this
29 section, a person is guilty of the crime of poisoning animals if the
30 person intentionally or knowingly poisons an animal under circumstances
31 which do not constitute animal cruelty in the first degree.

32 (2) Subsection (1) of this section shall not apply to ((the
33 killing)) euthanizing by poison ((such)) an animal ((or bird)) in a

34 lawful and humane manner by the animal's owner ((thereof)), or by a
35 duly authorized servant or agent of ((such)) the owner, or by a person
36 acting pursuant to instructions from a duly constituted public
37 authority.

1 (3) Subsection (1) of this section shall not apply to the
2 reasonable use of rodent or pest poison, insecticides, fungicides, or
3 slug bait for their intended purposes. As used in this section, the
4 term "rodent" includes but is not limited to Columbia ground squirrels,
5 other ground squirrels, rats, mice, gophers, rabbits, and any other
6 rodent designated as injurious to the agricultural interests of the
7 state as provided in chapter 17.16 RCW. The term "pest" as used in
8 this section includes any pest as defined in RCW 17.21.020.

9 **Sec. 14.** RCW 16.52.200 and 1987 c 335 s 2 are each amended to read
10 as follows:

11 (1) The sentence imposed for a misdemeanor or gross misdemeanor
12 violation of this chapter may be deferred or suspended in accordance
13 with RCW 3.66.067 and 3.66.068, however the probationary period shall
14 be two years.

15 (2) In case of multiple misdemeanor or gross misdemeanor
16 convictions, the sentences shall be consecutive, however the
17 probationary period shall remain two years.

18 (3) In addition to the penalties imposed by the court, the court
19 shall order the forfeiture of all animals held by law enforcement or
20 animal care and control authorities under the provisions of this
21 chapter if any one of the animals involved dies as a result of a
22 violation of this chapter or if the defendant has a prior conviction
23 under this chapter. In other cases the court may enter an order
24 requiring the owner to forfeit the animal if the court deems the
25 ~~((owner))~~ animal's treatment to have been severe and likely to reoccur.
26 If forfeiture is ordered, the owner shall be prohibited from owning or
27 caring for any similar animals for a period of two years. The court
28 may delay its decision on forfeiture under this subsection until the
29 end of the probationary period.

30 (4) In addition to fines and court costs, the ~~((owner))~~ defendant,
31 only if convicted or in agreement, shall be liable for reasonable costs
32 incurred pursuant to this chapter by ~~((the))~~ law enforcement agencies,
33 animal care and control agencies, or authorized private or public
34 entities involved with the care of the animals. Reasonable costs
35 include expenses of the investigation, and the animal's care,
36 euthanization, or adoption.

37 (5) If convicted, the ~~((owner))~~ defendant shall also pay a civil
38 penalty of one ~~((hundred))~~ thousand dollars to the county to prevent

1 cruelty to animals. These funds shall be used to prosecute offenses
2 under this chapter and to care for forfeited animals pending trial.

3 (6) As a condition of the sentence imposed under this chapter or
4 RCW 9.08.070, the court may also order the defendant to participate in
5 an available animal cruelty prevention or education program or obtain
6 available psychological counseling to treat mental health problems
7 contributing to the violation's commission. The defendant shall bear
8 the costs of the program or treatment.

9 **Sec. 15.** RCW 16.52.300 and 1990 c 226 s 1 are each amended to read
10 as follows:

11 (1) If any person ((who uses)) commits the crime of animal cruelty
12 in the first or second degree by using or trapping to use domestic dogs
13 or cats as bait, prey, or targets for the purpose of training dogs or
14 other animals to track, fight, or hunt, ((in such a fashion as to
15 torture, torment, deprive of necessary sustenance, cruelly beat, or
16 mutilate such animals, shall be guilty of a misdemeanor.

17 ~~(2) Any person who violates the provisions of subsection (1) of~~
18 ~~this section, and whose actions result in the death of the animal,~~
19 ~~shall be guilty of a gross misdemeanor.~~

20 ~~(3) Any person who captures by trap a domestic dog or cat to be~~
21 ~~used as bait, prey, or targets for the purpose of training dogs or~~
22 ~~other animals to track, fight, or hunt, in such a fashion as to~~
23 ~~torture, torment, deprive of necessary sustenance, cruelly beat, or~~
24 ~~mutilate such animals, shall be guilty of a misdemeanor.~~

25 ~~(4) Any person who violates the provisions of subsection (3) of~~
26 ~~this section, and whose actions result in the death of the animal,~~
27 ~~shall be guilty of a gross misdemeanor.~~

28 ~~(5) If a person violates this section,)) law enforcement~~
29 ~~((authorities)) officers or animal control officers shall seize and~~
30 ~~hold the animals being trained. ((Such)) The seized animals shall be~~
31 ~~disposed of by the court pursuant to the provisions of RCW~~
32 ~~16.52.200(3).~~

33 ~~((+6)) (2) This section shall not in any way interfere with or~~
34 ~~impair the operation of any provision of Title 28B RCW, relating to~~
35 ~~higher education or biomedical research.~~

1 **Sec. 16.** RCW 9.94A.030 and 1994 c 1 s 3 (Initiative Measure No.
2 593), 1993 c 338 s 2, 1993 c 251 s 4, and 1993 c 164 s 1 are each
3 reenacted and amended to read as follows:

4 Unless the context clearly requires otherwise, the definitions in
5 this section apply throughout this chapter.

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

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

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

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

22 (5) "Community placement" means that period during which the
23 offender is subject to the conditions of community custody and/or
24 postrelease supervision, which begins either upon completion of the
25 term of confinement (postrelease supervision) or at such time as the
26 offender is transferred to community custody in lieu of earned early
27 release. Community placement may consist of entirely community
28 custody, entirely postrelease supervision, or a combination of the two.

29 (6) "Community service" means compulsory service, without
30 compensation, performed for the benefit of the community by the
31 offender.

32 (7) "Community supervision" means a period of time during which a
33 convicted offender is subject to crime-related prohibitions and other
34 sentence conditions imposed by a court pursuant to this chapter or RCW
35 16.52.200(6) or 46.61.524. For first-time offenders, the supervision
36 may include crime-related prohibitions and other conditions imposed
37 pursuant to RCW 9.94A.120(5). For purposes of the interstate compact
38 for out-of-state supervision of parolees and probationers, RCW
39 9.95.270, community supervision is the functional equivalent of

1 probation and should be considered the same as probation by other
2 states.

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

5 (9) "Conviction" means an adjudication of guilt pursuant to Titles
6 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
7 acceptance of a plea of guilty.

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

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

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

34 (b) "Criminal history" shall always include juvenile convictions
35 for sex offenses and shall also include a defendant's other prior
36 convictions in juvenile court if: (i) The conviction was for an
37 offense which is a felony or a serious traffic offense and is criminal
38 history as defined in RCW 13.40.020(~~(+6)(a)~~) (9); (ii) the defendant
39 was fifteen years of age or older at the time the offense was

1 committed; and (iii) with respect to prior juvenile class B and C
2 felonies or serious traffic offenses, the defendant was less than
3 twenty-three years of age at the time the offense for which he or she
4 is being sentenced was committed.

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

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

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

26 (16) "Drug offense" means:

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

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

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

36 (17) "Escape" means:

37 (a) Escape in the first degree (RCW 9A.76.110), escape in the
38 second degree (RCW 9A.76.120), willful failure to return from furlough
39 (RCW 72.66.060), willful failure to return from work release (RCW

1 72.65.070), or willful failure to be available for supervision by the
2 department while in community custody (RCW 72.09.310); or

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

6 (18) "Felony traffic offense" means:

7 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
8 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
9 and-run injury-accident (RCW 46.52.020(4)); or

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

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

15 (20)(a) "First-time offender" means any person who is convicted of
16 a felony (i) not classified as a violent offense or a sex offense under
17 this chapter, or (ii) that is not the manufacture, delivery, or
18 possession with intent to manufacture or deliver a controlled substance
19 classified in schedule I or II that is a narcotic drug or the selling
20 for profit of any controlled substance or counterfeit substance
21 classified in schedule I, RCW 69.50.204, except leaves and flowering
22 tops of marihuana, and except as provided in (b) of this subsection,
23 who previously has never been convicted of a felony in this state,
24 federal court, or another state, and who has never participated in a
25 program of deferred prosecution for a felony offense.

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

29 (21) "Most serious offense" means any of the following felonies or
30 a felony attempt to commit any of the following felonies, as now
31 existing or hereafter amended:

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

35 (b) Assault in the second degree;

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

37 (d) Child molestation in the second degree;

38 (e) Controlled substance homicide;

39 (f) Extortion in the first degree;

1 (g) Incest when committed against a child under age fourteen;
2 (h) Indecent liberties;
3 (i) Kidnapping in the second degree;
4 (j) Leading organized crime;
5 (k) Manslaughter in the first degree;
6 (l) Manslaughter in the second degree;
7 (m) Promoting prostitution in the first degree;
8 (n) Rape in the third degree;
9 (o) Robbery in the second degree;
10 (p) Sexual exploitation;
11 (q) Vehicular assault;
12 (r) Vehicular homicide, when proximately caused by the driving of
13 any vehicle by any person while under the influence of intoxicating
14 liquor or any drug as defined by RCW 46.61.502, or by the operation of
15 any vehicle in a reckless manner;
16 (s) Any other class B felony offense with a finding of sexual
17 motivation, as "sexual motivation" is defined under this section;
18 (t) Any other felony with a deadly weapon verdict under RCW
19 9.94A.125;
20 (u) Any felony offense in effect at any time prior to December 2,
21 1993, that is comparable to a most serious offense under this
22 subsection, or any federal or out-of-state conviction for an offense
23 that under the laws of this state would be a felony classified as a
24 most serious offense under this subsection.
25 (22) "Nonviolent offense" means an offense which is not a violent
26 offense.
27 (23) "Offender" means a person who has committed a felony
28 established by state law and is eighteen years of age or older or is
29 less than eighteen years of age but whose case has been transferred by
30 the appropriate juvenile court to a criminal court pursuant to RCW
31 13.40.110. Throughout this chapter, the terms "offender" and
32 "defendant" are used interchangeably.
33 (24) "Partial confinement" means confinement for no more than one
34 year in a facility or institution operated or utilized under contract
35 by the state or any other unit of government, or, if home detention or
36 work crew has been ordered by the court, in an approved residence, for
37 a substantial portion of each day with the balance of the day spent in
38 the community. Partial confinement includes work release, home

1 detention, work crew, and a combination of work crew and home detention
2 as defined in this section.

3 (25) "Persistent offender" is an offender who:

4 (a) Has been convicted in this state of any felony considered a
5 most serious offense; and

6 (b) Has, before the commission of the offense under (a) of this
7 subsection, been convicted as an offender on at least two separate
8 occasions, whether in this state or elsewhere, of felonies that under
9 the laws of this state would be considered most serious offenses and
10 would be included in the offender score under RCW 9.94A.360; provided
11 that of the two or more previous convictions, at least one conviction
12 must have occurred before the commission of any of the other most
13 serious offenses for which the offender was previously convicted.

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

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

20 (28) "Serious traffic offense" means:

21 (a) Driving while under the influence of intoxicating liquor or any
22 drug (RCW 46.61.502), actual physical control while under the influence
23 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving
24 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));
25 or

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

29 (29) "Serious violent offense" is a subcategory of violent offense
30 and means:

31 (a) Murder in the first degree, homicide by abuse, murder in the
32 second degree, assault in the first degree, kidnapping in the first
33 degree, or rape in the first degree, assault of a child in the first
34 degree, or an attempt, criminal solicitation, or criminal conspiracy to
35 commit one of these felonies; or

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

1 (30) "Sentence range" means the sentencing court's discretionary
2 range in imposing a nonappealable sentence.

3 (31) "Sex offense" means:

4 (a) A felony that is a violation of chapter 9A.44 RCW or RCW
5 9A.64.020 or 9.68A.090 or that is, under chapter 9A.28 RCW, a criminal
6 attempt, criminal solicitation, or criminal conspiracy to commit such
7 crimes;

8 (b) A felony with a finding of sexual motivation under RCW
9 9.94A.127; or

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

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

16 (33) "Total confinement" means confinement inside the physical
17 boundaries of a facility or institution operated or utilized under
18 contract by the state or any other unit of government for twenty-four
19 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

20 (34) "Transition training" means written and verbal instructions
21 and assistance provided by the department to the offender during the
22 two weeks prior to the offender's successful completion of the work
23 ethic camp program. The transition training shall include instructions
24 in the offender's requirements and obligations during the offender's
25 period of community custody.

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

29 (36) "Violent offense" means:

30 (a) Any of the following felonies, as now existing or hereafter
31 amended: Any felony defined under any law as a class A felony or an
32 attempt to commit a class A felony, criminal solicitation of or
33 criminal conspiracy to commit a class A felony, manslaughter in the
34 first degree, manslaughter in the second degree, indecent liberties if
35 committed by forcible compulsion, kidnapping in the second degree,
36 arson in the second degree, assault in the second degree, assault of a
37 child in the second degree, extortion in the first degree, robbery in
38 the second degree, vehicular assault, and vehicular homicide, when
39 proximately caused by the driving of any vehicle by any person while

1 under the influence of intoxicating liquor or any drug as defined by
2 RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

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

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

9 (37) "Work crew" means a program of partial confinement consisting
10 of civic improvement tasks for the benefit of the community of not less
11 than thirty-five hours per week that complies with RCW 9.94A.135. The
12 civic improvement tasks shall have minimal negative impact on existing
13 private industries or the labor force in the county where the service
14 or labor is performed. The civic improvement tasks shall not affect
15 employment opportunities for people with developmental disabilities
16 contracted through sheltered workshops as defined in RCW 82.04.385.
17 Only those offenders sentenced to a facility operated or utilized under
18 contract by a county or the state are eligible to participate on a work
19 crew. Offenders sentenced for a sex offense as defined in subsection
20 (31) of this section are not eligible for the work crew program.

21 (38) "Work ethic camp" means an alternative incarceration program
22 designed to reduce recidivism and lower the cost of corrections by
23 requiring offenders to complete a comprehensive array of real-world job
24 and vocational experiences, character-building work ethics training,
25 life management skills development, substance abuse rehabilitation,
26 counseling, literacy training, and basic adult education.

27 (39) "Work release" means a program of partial confinement
28 available to offenders who are employed or engaged as a student in a
29 regular course of study at school. Participation in work release shall
30 be conditioned upon the offender attending work or school at regularly
31 defined hours and abiding by the rules of the work release facility.

32 (40) "Home detention" means a program of partial confinement
33 available to offenders wherein the offender is confined in a private
34 residence subject to electronic surveillance. Home detention may not
35 be imposed for offenders convicted of a violent offense, any sex
36 offense, any drug offense, reckless burning in the first or second
37 degree as defined in RCW 9A.48.040 or 9A.48.050, assault in the third
38 degree as defined in RCW 9A.36.031, assault of a child in the third
39 degree, unlawful imprisonment as defined in RCW 9A.40.040, or

1 harassment as defined in RCW 9A.46.020. Home detention may be imposed
2 for offenders convicted of possession of a controlled substance (RCW
3 69.50.401(d)) or forged prescription for a controlled substance (RCW
4 69.50.403) if the offender fulfills the participation conditions set
5 forth in this subsection and is monitored for drug use by treatment
6 alternatives to street crime (TASC) or a comparable court or agency-
7 referred program.

8 (a) Home detention may be imposed for offenders convicted of
9 burglary in the second degree as defined in RCW 9A.52.030 or
10 residential burglary conditioned upon the offender: (i) Successfully
11 completing twenty-one days in a work release program, (ii) having no
12 convictions for burglary in the second degree or residential burglary
13 during the preceding two years and not more than two prior convictions
14 for burglary or residential burglary, (iii) having no convictions for
15 a violent felony offense during the preceding two years and not more
16 than two prior convictions for a violent felony offense, (iv) having no
17 prior charges of escape, and (v) fulfilling the other conditions of the
18 home detention program.

19 (b) Participation in a home detention program shall be conditioned
20 upon: (i) The offender obtaining or maintaining current employment or
21 attending a regular course of school study at regularly defined hours,
22 or the offender performing parental duties to offspring or minors
23 normally in the custody of the offender, (ii) abiding by the rules of
24 the home detention program, and (iii) compliance with court-ordered
25 legal financial obligations. The home detention program may also be
26 made available to offenders whose charges and convictions do not
27 otherwise disqualify them if medical or health-related conditions,
28 concerns or treatment would be better addressed under the home
29 detention program, or where the health and welfare of the offender,
30 other inmates, or staff would be jeopardized by the offender's
31 incarceration. Participation in the home detention program for medical
32 or health-related reasons is conditioned on the offender abiding by the
33 rules of the home detention program and complying with court-ordered
34 restitution.

35 **Sec. 17.** RCW 9A.48.080 and 1979 c 145 s 2 are each amended to read
36 as follows:

37 (1) A person is guilty of malicious mischief in the second degree
38 if he or she knowingly and maliciously:

1 (a) Causes physical damage to the property of another in an amount
2 exceeding two hundred fifty dollars; or

3 (b) Creates a substantial risk of interruption or impairment of
4 service rendered to the public, by physically damaging or tampering
5 with an emergency vehicle or property of the state, a political
6 subdivision thereof, or a public utility or mode of public
7 transportation, power, or communication((; or

8 ~~(c) Notwithstanding RCW 16.52.070, causes physical damage,
9 destruction, or injury by amputation, mutilation, castration, or other
10 malicious act to a horse, mule, cow, heifer, bull, steer, swine, goat,
11 or sheep which is the property of another)).~~

12 (2) Malicious mischief in the second degree is a class C felony.

13 **Sec. 18.** RCW 13.40.020 and 1993 c 373 s 1 are each amended to read
14 as follows:

15 For the purposes of this chapter:

16 (1) "Serious offender" means a person fifteen years of age or older
17 who has committed an offense which if committed by an adult would be:

18 (a) A class A felony, or an attempt to commit a class A felony;

19 (b) Manslaughter in the first degree; or

20 (c) Assault in the second degree, extortion in the first degree,
21 child molestation in the second degree, kidnapping in the second
22 degree, robbery in the second degree, residential burglary, or burglary
23 in the second degree, where such offenses include the infliction of
24 bodily harm upon another or where during the commission of or immediate
25 withdrawal from such an offense the perpetrator is armed with a deadly
26 weapon or firearm as defined in RCW 9A.04.110;

27 (2) "Community service" means compulsory service, without
28 compensation, performed for the benefit of the community by the
29 offender as punishment for committing an offense. Community service
30 may be performed through public or private organizations or through
31 work crews;

32 (3) "Community supervision" means an order of disposition by the
33 court of an adjudicated youth not committed to the department. A
34 community supervision order for a single offense may be for a period of
35 up to two years for a sex offense as defined by RCW 9.94A.030 and up to
36 one year for other offenses. Community supervision is an
37 individualized program comprised of one or more of the following:

38 (a) Community-based sanctions;

1 (b) Community-based rehabilitation;
2 (c) Monitoring and reporting requirements;
3 (4) Community-based sanctions may include one or more of the
4 following:

5 (a) A fine, not to exceed one hundred dollars;

6 (b) Community service not to exceed one hundred fifty hours of
7 service;

8 (5) "Community-based rehabilitation" means one or more of the
9 following: Attendance of information classes; counseling, outpatient
10 substance abuse treatment programs, outpatient mental health programs,
11 anger management classes, education or outpatient treatment programs to
12 prevent animal cruelty, or other services; or attendance at school or
13 other educational programs appropriate for the juvenile as determined
14 by the school district. Placement in community-based rehabilitation
15 programs is subject to available funds;

16 (6) "Monitoring and reporting requirements" means one or more of
17 the following: Curfews; requirements to remain at home, school, work,
18 or court-ordered treatment programs during specified hours;
19 restrictions from leaving or entering specified geographical areas;
20 requirements to report to the probation officer as directed and to
21 remain under the probation officer's supervision; and other conditions
22 or limitations as the court may require which may not include
23 confinement;

24 (7) "Confinement" means physical custody by the department of
25 social and health services in a facility operated by or pursuant to a
26 contract with the state, or physical custody in a detention facility
27 operated by or pursuant to a contract with any county. The county may
28 operate or contract with vendors to operate county detention
29 facilities. The department may operate or contract to operate
30 detention facilities for juveniles committed to the department.
31 Pretrial confinement or confinement of less than thirty-one days
32 imposed as part of a disposition or modification order may be served
33 consecutively or intermittently, in the discretion of the court and may
34 be served in a detention group home, detention foster home, or with
35 electronic monitoring. Detention group homes and detention foster
36 homes used for confinement shall not also be used for the placement of
37 dependent children. Confinement in detention group homes and detention
38 foster homes and electronic monitoring are subject to available funds;

1 (8) "Court", when used without further qualification, means the
2 juvenile court judge(s) or commissioner(s);

3 (9) "Criminal history" includes all criminal complaints against the
4 respondent for which, prior to the commission of a current offense:
5 (a) The allegations were found correct by a court. If a respondent
6 is convicted of two or more charges arising out of the same course of
7 conduct, only the highest charge from among these shall count as an
8 offense for the purposes of this chapter; or
9 (b) The criminal complaint was diverted by a prosecutor pursuant to
10 the provisions of this chapter on agreement of the respondent and after
11 an advisement to the respondent that the criminal complaint would be
12 considered as part of the respondent's criminal history;

13 (10) "Department" means the department of social and health
14 services;

15 (11) "Detention facility" means a county facility for the physical
16 confinement of a juvenile alleged to have committed an offense or an
17 adjudicated offender subject to a disposition or modification order;

18 (12) "Diversion unit" means any probation counselor who enters into
19 a diversion agreement with an alleged youthful offender, or any other
20 person or entity except a law enforcement official or entity, with whom
21 the juvenile court administrator has contracted to arrange and
22 supervise such agreements pursuant to RCW 13.40.080, or any person or
23 entity specially funded by the legislature to arrange and supervise
24 diversion agreements in accordance with the requirements of this
25 chapter;

26 (13) "Institution" means a juvenile facility established pursuant
27 to chapters 72.05 and 72.16 through 72.20 RCW;

28 (14) "Juvenile," "youth," and "child" mean any individual who is
29 under the chronological age of eighteen years and who has not been
30 previously transferred to adult court;

31 (15) "Juvenile offender" means any juvenile who has been found by
32 the juvenile court to have committed an offense, including a person
33 eighteen years of age or older over whom jurisdiction has been extended
34 under RCW 13.40.300;

35 (16) "Manifest injustice" means a disposition that would either
36 impose an excessive penalty on the juvenile or would impose a serious,
37 and clear danger to society in light of the purposes of this chapter;

38 (17) "Middle offender" means a person who has committed an offense
39 and who is neither a minor or first offender nor a serious offender;

1 (18) "Minor or first offender" means a person sixteen years of age
2 or younger whose current offense(s) and criminal history fall entirely
3 within one of the following categories:

4 (a) Four misdemeanors;

5 (b) Two misdemeanors and one gross misdemeanor;

6 (c) One misdemeanor and two gross misdemeanors;

7 (d) Three gross misdemeanors;

8 (e) One class C felony except manslaughter in the second degree and
9 one misdemeanor or gross misdemeanor;

10 (f) One class B felony except: Any felony which constitutes an
11 attempt to commit a class A felony; manslaughter in the first degree;
12 assault in the second degree; extortion in the first degree; indecent
13 liberties; kidnapping in the second degree; robbery in the second
14 degree; burglary in the second degree; residential burglary; vehicular
15 homicide; or arson in the second degree.

16 For purposes of this definition, current violations shall be
17 counted as misdemeanors;

18 (19) "Offense" means an act designated a violation or a crime if
19 committed by an adult under the law of this state, under any ordinance
20 of any city or county of this state, under any federal law, or under
21 the law of another state if the act occurred in that state;

22 (20) "Respondent" means a juvenile who is alleged or proven to have
23 committed an offense;

24 (21) "Restitution" means financial reimbursement by the offender to
25 the victim, and shall be limited to easily ascertainable damages for
26 injury to or loss of property, actual expenses incurred for medical
27 treatment for physical injury to persons, lost wages resulting from
28 physical injury, and costs of the victim's counseling reasonably
29 related to the offense if the offense is a sex offense. Restitution
30 shall not include reimbursement for damages for mental anguish, pain
31 and suffering, or other intangible losses. Nothing in this chapter
32 shall limit or replace civil remedies or defenses available to the
33 victim or offender;

34 (22) "Secretary" means the secretary of the department of social
35 and health services;

36 (23) "Services" mean services which provide alternatives to
37 incarceration for those juveniles who have pleaded or been adjudicated
38 guilty of an offense or have signed a diversion agreement pursuant to
39 this chapter;

1 (24) "Sex offense" means an offense defined as a sex offense in RCW
2 9.94A.030;

3 (25) "Sexual motivation" means that one of the purposes for which
4 the respondent committed the offense was for the purpose of his or her
5 sexual gratification;

6 (26) "Foster care" means temporary physical care in a foster family
7 home or group care facility as defined in RCW 74.15.020 and licensed by
8 the department, or other legally authorized care;

9 (27) "Violation" means an act or omission, which if committed by an
10 adult, must be proven beyond a reasonable doubt, and is punishable by
11 sanctions which do not include incarceration.

12 **Sec. 19.** RCW 81.56.120 and 1961 c 14 s 81.56.120 are each amended
13 to read as follows:

14 Railroad companies in carrying or transporting animals shall not
15 permit them to be confined in cars for a longer period than forty-eight
16 consecutive hours without unloading them for rest, water and feeding
17 for a period of at least two consecutive hours, unless prevented from
18 so unloading them by unavoidable accident. In estimating such
19 confinement, the time during which the animals have been confined
20 without such rest on connecting roads from which they are received
21 shall be included. Animals so unloaded shall, during such rest, be
22 properly fed, watered by the owner or person having the custody of
23 them, or in case of his default in so doing, then by the railroad
24 company transporting them, at the expense of said owner or person in
25 custody thereof, and said company shall in such case have a lien upon
26 such animals for food, care and custody furnished, and shall not be
27 liable for such detention of such animals. If animals are transported
28 where they can and do have proper food, water, space and opportunity
29 for rest, the foregoing provision in regard to their being unloaded
30 shall not apply. Violators of this section shall be punished by fine
31 not exceeding one (~~hundred~~) thousand dollars per animal.

32 ****NEW SECTION. Sec. 20.*** *A new section is added to chapter 16.52*
33 *RCW to read as follows:*

34 ***A person may kill a bear or cougar that is reasonably perceived to***
35 ***be an unavoidable and immediate threat to human life.***

36 ****Sec. 20 was vetoed, see message at end of chapter.***

1 *Sec. 21. RCW 77.12.265 and 1987 c 506 s 35 are each amended to
2 read as follows:

3 The owner or tenant of real property may trap or kill on that
4 property wild animals or wild birds, other than an endangered species,
5 that is threatening human life or damaging crops, domestic animals,
6 fowl, or other property. Except in emergency situations, deer, elk,
7 and protected wildlife shall not be killed without a permit issued and
8 conditioned by the director. The director may delegate this authority.

9 For the purposes of this section, "emergency" means an unforeseen
10 circumstance beyond the control of the landowner or tenant that
11 presents a real and immediate threat to human life, crops, domestic
12 animals, fowl, or other property.

13 Alternatively, when sufficient time for the issuance of a permit by
14 the director is not available, verbal permission may be given by the
15 appropriate department regional administrator to owners or tenants of
16 real property to trap or kill on that property any cougar, bear, deer,
17 elk, or protected wildlife which is threatening human life or damaging
18 crops, domestic animals, fowl, or other property. The regional
19 administrator may delegate, in writing, a member of the regional staff
20 to give the required permission in these emergency situations. Nothing
21 in this section authorizes in any situation the trapping, hunting, or
22 killing of an endangered species.

23 Wildlife trapped or killed under this section remains the property
24 of the state, and the person trapping or killing the wildlife shall
25 notify the department immediately. The director shall dispose of
26 wildlife so taken within three working days of receiving such a
27 notification.

28 If the department receives recurring complaints regarding property
29 being damaged as described in this section from the owner or tenant of
30 real property, or receives such complaints from several such owners or
31 tenants in a locale, the commission shall consider conducting a special
32 hunt or special hunts to reduce the potential for such damage.

33 For purposes of this section, "crop" means an agricultural or
34 horticultural product growing or harvested and includes wild shrubs and
35 range land vegetation on privately owned cattle ranching lands. On
36 such lands, the land owner or lessee may declare an emergency when the
37 department has not responded within forty-eight hours after having been
38 contacted by the land owner or lessee regarding crop damage by wild

1 animals or wild birds. However, the department shall not allow claims
2 for damage to wild shrubs or range land vegetation on such lands.

3 Deer and elk shall not be killed under the authority of this
4 section on privately owned cattle ranching lands that were closed to
5 public hunting during the previous hunting season, except for land
6 closures which are coordinated with the department to protect property
7 and livestock.

8 The department shall work closely with landowners and tenants
9 suffering game damage problems to control damage without killing the
10 animals when practical, to increase the harvest of damage-causing
11 animals in hunting seasons, or to kill the animals when no other
12 practical means of damage control is feasible.

13 *Sec. 21 was vetoed, see message at end of chapter.

14 **Sec. 22.** RCW 16.52.185 and 1982 c 114 s 10 are each amended to
15 read as follows:

16 Nothing in this chapter applies to accepted husbandry practices
17 used in the commercial raising or slaughtering of livestock or poultry,
18 or products thereof or to the use of animals in the normal and usual
19 course of rodeo events or to the customary use or exhibiting of animals
20 in normal and usual events at fairs as defined in RCW 15.76.120.

21 NEW SECTION. **Sec. 23.** The following acts or parts of acts are
22 each repealed:

- 23 (1) RCW 16.52.010 and 1901 c 146 s 17;
24 (2) RCW 16.52.030 and 1982 c 114 s 2 & 1901 c 146 s 2;
25 (3) RCW 16.52.040 and 1901 c 146 s 14;
26 (4) RCW 16.52.050 and 1901 c 146 s 10;
27 (5) RCW 16.52.055 and 1901 c 146 s 3;
28 (6) RCW 16.52.060 and 1987 c 202 s 182 & 1893 c 27 s 9;
29 (7) RCW 16.52.065 and 1982 c 114 s 3 & 1893 c 27 s 8;
30 (8) RCW 16.52.070 and 1982 c 114 s 4, 1979 c 145 s 4, & 1901 c 146
31 s 4;
32 (9) RCW 16.52.113 and 1982 c 114 s 8;
33 (10) RCW 16.52.120 and 1982 c 114 s 11 & 1901 c 146 s 7;
34 (11) RCW 16.52.130 and 1982 c 114 s 12 & 1901 c 146 s 8;
35 (12) RCW 16.52.140 and 1901 c 146 s 11; and
36 (13) RCW 16.52.160 and 1901 c 146 s 9.

Passed the House March 9, 1994.
Passed the Senate March 9, 1994.
Approved by the Governor April 1, 1994, with the exception of
certain items which were vetoed.
Filed in Office of Secretary of State April 1, 1994.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to sections 20 and
3 21, Engrossed Substitute House Bill No. 1652 entitled:

4 "AN ACT Relating to animal cruelty;"

5 Engrossed Substitute House Bill No. 1652 provides for a
6 comprehensive overhaul of animal cruelty statutes. A broad spectrum of
7 interest groups participated in the development of this legislation,
8 from animal rights advocates to cattlemen and hunters. While I support
9 the effort to modernize and improve outdated statutes, I am opposed to
10 sections 20 and 21 of this act.

11 Section 20 provides that a person may kill a bear or a cougar
12 "reasonably perceived" to be an unavoidable and immediate threat to
13 human life. While I support the ability of anyone to take action
14 against animals threatening human life, the defense of necessity is
15 already available in legitimate cases. To broaden the language to
16 "reasonably perceived" sets up a subjective defense and could cause
17 prosecutorial problems. For this reason, I am vetoing section 20.

18 Section 21 attempts to expand the authority to kill cougars or
19 bears threatening human life. However, the language as passed would
20 not allow a person to kill or trap endangered species if they were
21 threatening human life. Since the defense of necessity already exists,
22 I am vetoing section 21.

23 With the exception of sections 20 and 21, Engrossed Substitute
24 House Bill No. 1652 is approved."