

CERTIFICATION OF ENROLLMENT

ENGROSSED SENATE BILL 5790

57th Legislature
2001 Regular Session

Passed by the Senate April 18, 2001
YEAS 48 NAYS 0

President of the Senate

Passed by the House April 12, 2001
YEAS 96 NAYS 0

**Speaker of the
House of Representatives**

**Speaker of the
House of Representatives**

Approved

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 5790** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

Governor of the State of Washington

**Secretary of State
State of Washington**

ENGROSSED SENATE BILL 5790

AS AMENDED BY THE HOUSE

Passed Legislature - 2001 Regular Session

State of Washington 57th Legislature 2001 Regular Session

By Senators Kline, Costa, Shin, Sheahan, McCaslin, Deccio, Winsley and Constantine

Read first time 02/02/2001. Referred to Committee on Judiciary.

1 AN ACT Relating to vehicular assault; amending RCW 46.61.522,
2 9.41.010, and 9.94A.030; reenacting and amending RCW 9.94A.320; and
3 prescribing penalties.

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

5 **Sec. 1.** RCW 46.61.522 and 1996 c 199 s 8 are each amended to read
6 as follows:

7 (1) A person is guilty of vehicular assault if he or she operates
8 or drives any vehicle:

9 (a) In a reckless manner(~~(7)~~) and (~~this conduct is the proximate~~
10 ~~cause of serious~~) causes substantial bodily (~~injury~~) harm to
11 another; or

12 (b) While under the influence of intoxicating liquor or any drug,
13 as defined by RCW 46.61.502, and (~~this conduct is the proximate cause~~
14 ~~of serious~~) causes substantial bodily (~~injury~~) harm to another; or

15 (c) With disregard for the safety of others and causes substantial
16 bodily harm to another.

17 (2) (~~"Serious bodily injury" means bodily injury which involves a~~
18 ~~substantial risk of death, serious permanent disfigurement, or~~

1 ~~protracted loss or impairment of the function of any part or organ of~~
2 ~~the body.~~

3 (3)) Vehicular assault is a class B felony punishable under
4 chapter 9A.20 RCW.

5 (3) As used in this section, "substantial bodily harm" has the same
6 meaning as in RCW 9A.04.110.

7 **Sec. 2.** RCW 9.41.010 and 1997 c 338 s 46 are each amended to read
8 as follows:

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

11 (1) "Firearm" means a weapon or device from which a projectile or
12 projectiles may be fired by an explosive such as gunpowder.

13 (2) "Pistol" means any firearm with a barrel less than sixteen
14 inches in length, or is designed to be held and fired by the use of a
15 single hand.

16 (3) "Rifle" means a weapon designed or redesigned, made or remade,
17 and intended to be fired from the shoulder and designed or redesigned,
18 made or remade, and intended to use the energy of the explosive in a
19 fixed metallic cartridge to fire only a single projectile through a
20 rifled bore for each single pull of the trigger.

21 (4) "Short-barreled rifle" means a rifle having one or more barrels
22 less than sixteen inches in length and any weapon made from a rifle by
23 any means of modification if such modified weapon has an overall length
24 of less than twenty-six inches.

25 (5) "Shotgun" means a weapon with one or more barrels, designed or
26 redesigned, made or remade, and intended to be fired from the shoulder
27 and designed or redesigned, made or remade, and intended to use the
28 energy of the explosive in a fixed shotgun shell to fire through a
29 smooth bore either a number of ball shot or a single projectile for
30 each single pull of the trigger.

31 (6) "Short-barreled shotgun" means a shotgun having one or more
32 barrels less than eighteen inches in length and any weapon made from a
33 shotgun by any means of modification if such modified weapon has an
34 overall length of less than twenty-six inches.

35 (7) "Machine gun" means any firearm known as a machine gun,
36 mechanical rifle, submachine gun, or any other mechanism or instrument
37 not requiring that the trigger be pressed for each shot and having a
38 reservoir clip, disc, drum, belt, or other separable mechanical device

1 for storing, carrying, or supplying ammunition which can be loaded into
2 the firearm, mechanism, or instrument, and fired therefrom at the rate
3 of five or more shots per second.

4 (8) "Antique firearm" means a firearm or replica of a firearm not
5 designed or redesigned for using rim fire or conventional center fire
6 ignition with fixed ammunition and manufactured in or before 1898,
7 including any matchlock, flintlock, percussion cap, or similar type of
8 ignition system and also any firearm using fixed ammunition
9 manufactured in or before 1898, for which ammunition is no longer
10 manufactured in the United States and is not readily available in the
11 ordinary channels of commercial trade.

12 (9) "Loaded" means:

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

14 (b) Cartridges are in a clip that is locked in place in the
15 firearm;

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

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

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

22 (10) "Dealer" means a person engaged in the business of selling
23 firearms at wholesale or retail who has, or is required to have, a
24 federal firearms license under 18 U.S.C. Sec. 923(a). A person who
25 does not have, and is not required to have, a federal firearms license
26 under 18 U.S.C. Sec. 923(a), is not a dealer if that person makes only
27 occasional sales, exchanges, or purchases of firearms for the
28 enhancement of a personal collection or for a hobby, or sells all or
29 part of his or her personal collection of firearms.

30 (11) "Crime of violence" means:

31 (a) Any of the following felonies, as now existing or hereafter
32 amended: Any felony defined under any law as a class A felony or an
33 attempt to commit a class A felony, criminal solicitation of or
34 criminal conspiracy to commit a class A felony, manslaughter in the
35 first degree, manslaughter in the second degree, indecent liberties if
36 committed by forcible compulsion, kidnapping in the second degree,
37 arson in the second degree, assault in the second degree, assault of a
38 child in the second degree, extortion in the first degree, burglary in

1 the second degree, residential burglary, and robbery in the second
2 degree;

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

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

9 (12) "Serious offense" means any of the following felonies or a
10 felony attempt to commit any of the following felonies, as now existing
11 or hereafter amended:

12 (a) Any crime of violence;

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

16 (c) Child molestation in the second degree;

17 (d) Incest when committed against a child under age fourteen;

18 (e) Indecent liberties;

19 (f) Leading organized crime;

20 (g) Promoting prostitution in the first degree;

21 (h) Rape in the third degree;

22 (i) Drive-by shooting;

23 (j) Sexual exploitation;

24 (k) Vehicular assault, when caused by the operation or driving of
25 a vehicle by a person while under the influence of intoxicating liquor
26 or any drug or by the operation or driving of a vehicle in a reckless
27 manner;

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

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

34 (n) Any other felony with a deadly weapon verdict under RCW
35 9.94A.125; or

36 (o) Any felony offense in effect at any time prior to June 6, 1996,
37 that is comparable to a serious offense, or any federal or out-of-state
38 conviction for an offense that under the laws of this state would be a
39 felony classified as a serious offense.

1 (13) "Law enforcement officer" includes a general authority
2 Washington peace officer as defined in RCW 10.93.020, or a specially
3 commissioned Washington peace officer as defined in RCW 10.93.020.
4 "Law enforcement officer" also includes a limited authority Washington
5 peace officer as defined in RCW 10.93.020 if such officer is duly
6 authorized by his or her employer to carry a concealed pistol.

7 (14) "Felony" means any felony offense under the laws of this state
8 or any federal or out-of-state offense comparable to a felony offense
9 under the laws of this state.

10 (15) "Sell" refers to the actual approval of the delivery of a
11 firearm in consideration of payment or promise of payment of a certain
12 price in money.

13 (16) "Barrel length" means the distance from the bolt face of a
14 closed action down the length of the axis of the bore to the crown of
15 the muzzle, or in the case of a barrel with attachments to the end of
16 any legal device permanently attached to the end of the muzzle.

17 (17) "Family or household member" means "family" or "household
18 member" as used in RCW 10.99.020.

19 **Sec. 3.** RCW 9.94A.030 and 2000 c 28 s 2 are each amended to read
20 as follows:

21 Unless the context clearly requires otherwise, the definitions in
22 this section apply throughout this chapter.

23 (1) "Collect," or any derivative thereof, "collect and remit," or
24 "collect and deliver," when used with reference to the department,
25 means that the department, either directly or through a collection
26 agreement authorized by RCW 9.94A.145, is responsible for monitoring
27 and enforcing the offender's sentence with regard to the legal
28 financial obligation, receiving payment thereof from the offender, and,
29 consistent with current law, delivering daily the entire payment to the
30 superior court clerk without depositing it in a departmental account.

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

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

36 (4) "Community custody" means that portion of an offender's
37 sentence of confinement in lieu of earned release time or imposed
38 pursuant to RCW 9.94A.120(2)(b), 9.94A.650 through 9.94A.670,

1 9.94A.137, 9.94A.700 through 9.94A.715, or 9.94A.383, served in the
2 community subject to controls placed on the offender's movement and
3 activities by the department. For offenders placed on community
4 custody for crimes committed on or after July 1, 2000, the department
5 shall assess the offender's risk of reoffense and may establish and
6 modify conditions of community custody, in addition to those imposed by
7 the court, based upon the risk to community safety.

8 (5) "Community custody range" means the minimum and maximum period
9 of community custody included as part of a sentence under RCW
10 9.94A.715, as established by the commission or the legislature under
11 RCW 9.94A.040, for crimes committed on or after July 1, 2000.

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

19 (7) "Community service" means compulsory service, without
20 compensation, performed for the benefit of the community by the
21 offender.

22 (8) "Community supervision" means a period of time during which a
23 convicted offender is subject to crime-related prohibitions and other
24 sentence conditions imposed by a court pursuant to this chapter or RCW
25 16.52.200(6) or 46.61.524. Where the court finds that any offender has
26 a chemical dependency that has contributed to his or her offense, the
27 conditions of supervision may, subject to available resources, include
28 treatment. For purposes of the interstate compact for out-of-state
29 supervision of parolees and probationers, RCW 9.95.270, community
30 supervision is the functional equivalent of probation and should be
31 considered the same as probation by other states.

32 (9) "Confinement" means total or partial confinement.

33 (10) "Conviction" means an adjudication of guilt pursuant to Titles
34 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
35 acceptance of a plea of guilty.

36 (11) "Crime-related prohibition" means an order of a court
37 prohibiting conduct that directly relates to the circumstances of the
38 crime for which the offender has been convicted, and shall not be
39 construed to mean orders directing an offender affirmatively to

1 participate in rehabilitative programs or to otherwise perform
2 affirmative conduct. However, affirmative acts necessary to monitor
3 compliance with the order of a court may be required by the department.

4 (12) "Criminal history" means the list of a defendant's prior
5 convictions and juvenile adjudications, whether in this state, in
6 federal court, or elsewhere. The history shall include, where known,
7 for each conviction (a) whether the defendant has been placed on
8 probation and the length and terms thereof; and (b) whether the
9 defendant has been incarcerated and the length of incarceration.

10 (13) "Day fine" means a fine imposed by the sentencing court that
11 equals the difference between the offender's net daily income and the
12 reasonable obligations that the offender has for the support of the
13 offender and any dependents.

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

19 (15) "Department" means the department of corrections.

20 (16) "Determinate sentence" means a sentence that states with
21 exactitude the number of actual years, months, or days of total
22 confinement, of partial confinement, of community supervision, the
23 number of actual hours or days of community service work, or dollars or
24 terms of a legal financial obligation. The fact that an offender
25 through earned release can reduce the actual period of confinement
26 shall not affect the classification of the sentence as a determinate
27 sentence.

28 (17) "Disposable earnings" means that part of the earnings of an
29 offender remaining after the deduction from those earnings of any
30 amount required by law to be withheld. For the purposes of this
31 definition, "earnings" means compensation paid or payable for personal
32 services, whether denominated as wages, salary, commission, bonuses, or
33 otherwise, and, notwithstanding any other provision of law making the
34 payments exempt from garnishment, attachment, or other process to
35 satisfy a court-ordered legal financial obligation, specifically
36 includes periodic payments pursuant to pension or retirement programs,
37 or insurance policies of any type, but does not include payments made
38 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
39 or Title 74 RCW.

1 (18) "Drug offender sentencing alternative" is a sentencing option
2 available to persons convicted of a felony offense other than a violent
3 offense or a sex offense and who are eligible for the option under RCW
4 9.94A.660.

5 (19) "Drug offense" means:

6 (a) Any felony violation of chapter 69.50 RCW except possession of
7 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
8 controlled substance (RCW 69.50.403);

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

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

15 (20) "Earned release" means earned release from confinement as
16 provided in RCW 9.94A.150.

17 (21) "Escape" means:

18 (a) Escape in the first degree (RCW 9A.76.110), escape in the
19 second degree (RCW 9A.76.120), willful failure to return from furlough
20 (RCW 72.66.060), willful failure to return from work release (RCW
21 72.65.070), or willful failure to be available for supervision by the
22 department while in community custody (RCW 72.09.310); or

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

26 (22) "Felony traffic offense" means:

27 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
28 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
29 and-run injury-accident (RCW 46.52.020(4)); or

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

33 (23) "Fine" means a specific sum of money ordered by the sentencing
34 court to be paid by the offender to the court over a specific period of
35 time.

36 (24) "First-time offender" means any person who has no prior
37 convictions for a felony and is eligible for the first-time offender
38 waiver under RCW 9.94A.650.

1 (25) "Home detention" means a program of partial confinement
2 available to offenders wherein the offender is confined in a private
3 residence subject to electronic surveillance.

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

18 (27) "Most serious offense" means any of the following felonies or
19 a felony attempt to commit any of the following felonies:

20 (a) Any felony defined under any law as a class A felony or
21 criminal solicitation of or criminal conspiracy to commit a class A
22 felony;

23 (b) Assault in the second degree;

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

25 (d) Child molestation in the second degree;

26 (e) Controlled substance homicide;

27 (f) Extortion in the first degree;

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

29 (h) Indecent liberties;

30 (i) Kidnapping in the second degree;

31 (j) Leading organized crime;

32 (k) Manslaughter in the first degree;

33 (l) Manslaughter in the second degree;

34 (m) Promoting prostitution in the first degree;

35 (n) Rape in the third degree;

36 (o) Robbery in the second degree;

37 (p) Sexual exploitation;

38 (q) Vehicular assault, when caused by the operation or driving of
39 a vehicle by a person while under the influence of intoxicating liquor

1 or any drug or by the operation or driving of a vehicle in a reckless
2 manner;

3 (r) Vehicular homicide, when proximately caused by the driving of
4 any vehicle by any person while under the influence of intoxicating
5 liquor or any drug as defined by RCW 46.61.502, or by the operation of
6 any vehicle in a reckless manner;

7 (s) Any other class B felony offense with a finding of sexual
8 motivation;

9 (t) Any other felony with a deadly weapon verdict under RCW
10 9.94A.125;

11 (u) Any felony offense in effect at any time prior to December 2,
12 1993, that is comparable to a most serious offense under this
13 subsection, or any federal or out-of-state conviction for an offense
14 that under the laws of this state would be a felony classified as a
15 most serious offense under this subsection;

16 (v)(i) A prior conviction for indecent liberties under RCW
17 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
18 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
19 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
20 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

21 (ii) A prior conviction for indecent liberties under RCW
22 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
23 if: (A) The crime was committed against a child under the age of
24 fourteen; or (B) the relationship between the victim and perpetrator is
25 included in the definition of indecent liberties under RCW
26 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
27 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
28 through July 27, 1997.

29 (28) "Nonviolent offense" means an offense which is not a violent
30 offense.

31 (29) "Offender" means a person who has committed a felony
32 established by state law and is eighteen years of age or older or is
33 less than eighteen years of age but whose case is under superior court
34 jurisdiction under RCW 13.04.030 or has been transferred by the
35 appropriate juvenile court to a criminal court pursuant to RCW
36 13.40.110. Throughout this chapter, the terms "offender" and
37 "defendant" are used interchangeably.

38 (30) "Partial confinement" means confinement for no more than one
39 year in a facility or institution operated or utilized under contract

1 by the state or any other unit of government, or, if home detention or
2 work crew has been ordered by the court, in an approved residence, for
3 a substantial portion of each day with the balance of the day spent in
4 the community. Partial confinement includes work release, home
5 detention, work crew, and a combination of work crew and home
6 detention.

7 (31) "Persistent offender" is an offender who:

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

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

18 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
19 of a child in the first degree, child molestation in the first degree,
20 rape in the second degree, rape of a child in the second degree, or
21 indecent liberties by forcible compulsion; (B) murder in the first
22 degree, murder in the second degree, homicide by abuse, kidnapping in
23 the first degree, kidnapping in the second degree, assault in the first
24 degree, assault in the second degree, assault of a child in the first
25 degree, or burglary in the first degree, with a finding of sexual
26 motivation; or (C) an attempt to commit any crime listed in this
27 subsection (31)(b)(i); and

28 (ii) Has, before the commission of the offense under (b)(i) of this
29 subsection, been convicted as an offender on at least one occasion,
30 whether in this state or elsewhere, of an offense listed in (b)(i) of
31 this subsection. A conviction for rape of a child in the first degree
32 constitutes a conviction under (b)(i) of this subsection only when the
33 offender was sixteen years of age or older when the offender committed
34 the offense. A conviction for rape of a child in the second degree
35 constitutes a conviction under (b)(i) of this subsection only when the
36 offender was eighteen years of age or older when the offender committed
37 the offense.

38 (32) "Postrelease supervision" is that portion of an offender's
39 community placement that is not community custody.

1 (33) "Restitution" means a specific sum of money ordered by the
2 sentencing court to be paid by the offender to the court over a
3 specified period of time as payment of damages. The sum may include
4 both public and private costs.

5 (34) "Risk assessment" means the application of an objective
6 instrument supported by research and adopted by the department for the
7 purpose of assessing an offender's risk of reoffense, taking into
8 consideration the nature of the harm done by the offender, place and
9 circumstances of the offender related to risk, the offender's
10 relationship to any victim, and any information provided to the
11 department by victims. The results of a risk assessment shall not be
12 based on unconfirmed or unconfirmable allegations.

13 (35) "Serious traffic offense" means:

14 (a) Driving while under the influence of intoxicating liquor or any
15 drug (RCW 46.61.502), actual physical control while under the influence
16 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving
17 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));
18 or

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

22 (36) "Serious violent offense" is a subcategory of violent offense
23 and means:

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

25 (ii) Homicide by abuse;

26 (iii) Murder in the second degree;

27 (iv) Manslaughter in the first degree;

28 (v) Assault in the first degree;

29 (vi) Kidnapping in the first degree;

30 (vii) Rape in the first degree;

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

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

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

37 (37) "Sex offense" means:

38 (a) A felony that is a violation of:

39 (i) Chapter 9A.44 RCW other than RCW 9A.44.130(11);

1 (ii) RCW 9A.64.020;
2 (iii) RCW 9.68A.090; or
3 (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt,
4 criminal solicitation, or criminal conspiracy to commit such crimes;
5 (b) Any conviction for a felony offense in effect at any time prior
6 to July 1, 1976, that is comparable to a felony classified as a sex
7 offense in (a) of this subsection;
8 (c) A felony with a finding of sexual motivation under RCW
9 9.94A.127 or 13.40.135; or
10 (d) Any federal or out-of-state conviction for an offense that
11 under the laws of this state would be a felony classified as a sex
12 offense under (a) of this subsection.
13 (38) "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 (39) "Standard sentence range" means the sentencing court's
17 discretionary range in imposing a nonappealable sentence.
18 (40) "Statutory maximum sentence" means the maximum length of time
19 for which an offender may be confined as punishment for a crime as
20 prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the
21 crime, or other statute defining the maximum penalty for a crime.
22 (41) "Total confinement" means confinement inside the physical
23 boundaries of a facility or institution operated or utilized under
24 contract by the state or any other unit of government for twenty-four
25 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.
26 (42) "Transition training" means written and verbal instructions
27 and assistance provided by the department to the offender during the
28 two weeks prior to the offender's successful completion of the work
29 ethic camp program. The transition training shall include instructions
30 in the offender's requirements and obligations during the offender's
31 period of community custody.
32 (43) "Victim" means any person who has sustained emotional,
33 psychological, physical, or financial injury to person or property as
34 a direct result of the crime charged.
35 (44) "Violent offense" means:
36 (a) Any of the following felonies:
37 (i) Any felony defined under any law as a class A felony or an
38 attempt to commit a class A felony;

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

3 (iii) Manslaughter in the first degree;

4 (iv) Manslaughter in the second degree;

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

6 (vi) Kidnapping in the second degree;

7 (vii) Arson in the second degree;

8 (viii) Assault in the second degree;

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

10 (x) Extortion in the first degree;

11 (xi) Robbery in the second degree;

12 (xii) Drive-by shooting;

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

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

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

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

27 (45) "Work crew" means a program of partial confinement consisting
28 of civic improvement tasks for the benefit of the community that
29 complies with RCW 9.94A.135.

30 (46) "Work ethic camp" means an alternative incarceration program
31 as provided in RCW 9.94A.137 designed to reduce recidivism and lower
32 the cost of corrections by requiring offenders to complete a
33 comprehensive array of real-world job and vocational experiences,
34 character-building work ethics training, life management skills
35 development, substance abuse rehabilitation, counseling, literacy
36 training, and basic adult education.

37 (47) "Work release" means a program of partial confinement
38 available to offenders who are employed or engaged as a student in a
39 regular course of study at school.

1 IX Assault of a Child 2 (RCW 9A.36.130)
2 Controlled Substance Homicide (RCW
3 69.50.415)
4 Explosive devices prohibited (RCW
5 70.74.180)
6 Homicide by Watercraft, by being under the
7 influence of intoxicating liquor or
8 any drug (RCW 79A.60.050)
9 Inciting Criminal Profiteering (RCW
10 9A.82.060(1)(b))
11 Malicious placement of an explosive 2 (RCW
12 70.74.270(2))
13 Over 18 and deliver narcotic from Schedule
14 III, IV, or V or a nonnarcotic, except
15 flunitrazepam or methamphetamine, from
16 Schedule I-V to someone under 18 and 3
17 years junior (RCW 69.50.406)
18 Robbery 1 (RCW 9A.56.200)
19 Sexual Exploitation (RCW 9.68A.040)
20 Vehicular Homicide, by being under the
21 influence of intoxicating liquor or
22 any drug (RCW 46.61.520)

23 VIII Arson 1 (RCW 9A.48.020)
24 Deliver or possess with intent to deliver
25 m e t h a m p h e t a m i n e (R C W
26 69.50.401(a)(1)(ii))
27 Hit and Run--Death (RCW 46.52.020(4)(a))
28 Homicide by Watercraft, by the operation of
29 any vessel in a reckless manner (RCW
30 79A.60.050)
31 Manslaughter 2 (RCW 9A.32.070)
32 Manufacture, deliver, or possess with
33 intent to deliver amphetamine (RCW
34 69.50.401(a)(1)(ii))
35 Manufacture, deliver, or possess with
36 intent to deliver heroin or cocaine
37 (RCW 69.50.401(a)(1)(i))
38 Possession of Ephedrine, Pseudoephedrine,
39 or Anhydrous Ammonia with intent to

1 manufacture methamphetamine (RCW
2 69.50.440)
3 Promoting Prostitution 1 (RCW 9A.88.070)
4 Selling for profit (controlled or
5 counterfeit) any controlled substance
6 (RCW 69.50.410)
7 Theft of Anhydrous Ammonia (RCW 69.55.010)
8 Vehicular Homicide, by the operation of any
9 vehicle in a reckless manner (RCW
10 46.61.520)

11 VII Burglary 1 (RCW 9A.52.020)
12 Child Molestation 2 (RCW 9A.44.086)
13 Dealing in depictions of minor engaged in
14 sexually explicit conduct (RCW
15 9.68A.050)
16 Drive-by Shooting (RCW 9A.36.045)
17 Homicide by Watercraft, by disregard for
18 the safety of others (RCW 79A.60.050)
19 Indecent Liberties (without forcible
20 compulsion) (RCW 9A.44.100(1) (b) and
21 (c))
22 Introducing Contraband 1 (RCW 9A.76.140)
23 Involving a minor in drug dealing (RCW
24 69.50.401(f))
25 Malicious placement of an explosive 3 (RCW
26 70.74.270(3))
27 Sending, bringing into state depictions of
28 minor engaged in sexually explicit
29 conduct (RCW 9.68A.060)
30 Unlawful Possession of a Firearm in the
31 first degree (RCW 9.41.040(1)(a))
32 Use of a Machine Gun in Commission of a
33 Felony (RCW 9.41.225)
34 Vehicular Homicide, by disregard for the
35 safety of others (RCW 46.61.520)

36 VI Bail Jumping with Murder 1 (RCW
37 9A.76.170(2)(a))
38 Bribery (RCW 9A.68.010)

1 Incest 1 (RCW 9A.64.020(1))
2 Intimidating a Judge (RCW 9A.72.160)
3 Intimidating a Juror/Witness (RCW
4 9A.72.110, 9A.72.130)
5 Malicious placement of an imitation device
6 2 (RCW 70.74.272(1)(b))
7 Manufacture, deliver, or possess with
8 intent to deliver narcotics from
9 Schedule I or II (except heroin or
10 cocaine) or flunitrazepam from
11 Schedule IV (RCW 69.50.401(a)(1)(i))
12 Rape of a Child 3 (RCW 9A.44.079)
13 Theft of a Firearm (RCW 9A.56.300)
14 Unlawful Storage of Anhydrous Ammonia (RCW
15 69.55.020)

16 V Abandonment of dependent person 1 (RCW
17 9A.42.060)

18 Advancing money or property for
19 extortionate extension of credit (RCW
20 9A.82.030)

21 Bail Jumping with class A Felony (RCW
22 9A.76.170(2)(b))

23 Child Molestation 3 (RCW 9A.44.089)

24 Criminal Mistreatment 1 (RCW 9A.42.020)

25 Custodial Sexual Misconduct 1 (RCW
26 9A.44.160)

27 Delivery of imitation controlled substance
28 by person eighteen or over to person
29 under eighteen (RCW 69.52.030(2))

30 Domestic Violence Court Order Violation
31 (RCW 10.99.040, 10.99.050, 26.09.300,
32 26.10.220, 26.26.138, 26.50.110,
33 26.52.070, or 74.34.145)

34 Extortion 1 (RCW 9A.56.120)

35 Extortionate Extension of Credit (RCW
36 9A.82.020)

37 Extortionate Means to Collect Extensions of
38 Credit (RCW 9A.82.040)

39 Incest 2 (RCW 9A.64.020(2))

1 Kidnapping 2 (RCW 9A.40.030)
2 Perjury 1 (RCW 9A.72.020)
3 Persistent prison misbehavior (RCW
4 9.94.070)
5 Possession of a Stolen Firearm (RCW
6 9A.56.310)
7 Rape 3 (RCW 9A.44.060)
8 Rendering Criminal Assistance 1 (RCW
9 9A.76.070)
10 Sexual Misconduct with a Minor 1 (RCW
11 9A.44.093)
12 Sexually Violating Human Remains (RCW
13 9A.44.105)
14 Stalking (RCW 9A.46.110)

15 IV Arson 2 (RCW 9A.48.030)
16 Assault 2 (RCW 9A.36.021)
17 Assault by Watercraft (RCW 79A.60.060)
18 Bribing a Witness/Bribe Received by Witness
19 (RCW 9A.72.090, 9A.72.100)
20 Commercial Bribery (RCW 9A.68.060)
21 Counterfeiting (RCW 9.16.035(4))
22 Escape 1 (RCW 9A.76.110)
23 Hit and Run--Injury (RCW 46.52.020(4)(b))
24 Hit and Run with Vessel--Injury Accident
25 (RCW 79A.60.200(3))
26 Indecent Exposure to Person Under Age
27 Fourteen (subsequent sex offense) (RCW
28 9A.88.010)
29 Influencing Outcome of Sporting Event (RCW
30 9A.82.070)
31 Knowingly Trafficking in Stolen Property
32 (RCW 9A.82.050(2))
33 Malicious Harassment (RCW 9A.36.080)
34 Manufacture, deliver, or possess with
35 intent to deliver narcotics from
36 Schedule III, IV, or V or nonnarcotics
37 from Schedule I-V (except marijuana,
38 amphetamine, methamphetamines, or

1 flunitrazepam) (RCW 69.50.401(a)(1)
2 (iii) through (v))
3 Residential Burglary (RCW 9A.52.025)
4 Robbery 2 (RCW 9A.56.210)
5 Theft of Livestock 1 (RCW 9A.56.080)
6 Threats to Bomb (RCW 9.61.160)
7 Use of Proceeds of Criminal Profiteering
8 (RCW 9A.82.080 (1) and (2))
9 Vehicular Assault, by being under the
10 influence of intoxicating liquor or
11 any drug, or by the operation or
12 driving of a vehicle in a reckless
13 manner (RCW 46.61.522)
14 Willful Failure to Return from Furlough
15 (RCW 72.66.060)

16 III Abandonment of dependent person 2 (RCW
17 9A.42.070)
18 Assault 3 (RCW 9A.36.031)
19 Assault of a Child 3 (RCW 9A.36.140)
20 Bail Jumping with class B or C Felony (RCW
21 9A.76.170(2)(c))
22 Burglary 2 (RCW 9A.52.030)
23 Communication with a Minor for Immoral
24 Purposes (RCW 9.68A.090)
25 Criminal Gang Intimidation (RCW 9A.46.120)
26 Criminal Mistreatment 2 (RCW 9A.42.030)
27 Custodial Assault (RCW 9A.36.100)
28 Delivery of a material in lieu of a
29 controlled substance (RCW
30 69.50.401(c))
31 Escape 2 (RCW 9A.76.120)
32 Extortion 2 (RCW 9A.56.130)
33 Harassment (RCW 9A.46.020)
34 Intimidating a Public Servant (RCW
35 9A.76.180)
36 Introducing Contraband 2 (RCW 9A.76.150)
37 Maintaining a Dwelling or Place for
38 Controlled Substances (RCW
39 69.50.402(a)(6))

1 Malicious Injury to Railroad Property (RCW
2 81.60.070)
3 Manufacture, deliver, or possess with
4 intent to deliver marijuana (RCW
5 69.50.401(a)(1)(iii))
6 Manufacture, distribute, or possess with
7 intent to distribute an imitation
8 controlled substance (RCW
9 69.52.030(1))
10 Patronizing a Juvenile Prostitute (RCW
11 9.68A.100)
12 Perjury 2 (RCW 9A.72.030)
13 Possession of Incendiary Device (RCW
14 9.40.120)
15 Possession of Machine Gun or Short-Barreled
16 Shotgun or Rifle (RCW 9.41.190)
17 Promoting Prostitution 2 (RCW 9A.88.080)
18 Recklessly Trafficking in Stolen Property
19 (RCW 9A.82.050(1))
20 Securities Act violation (RCW 21.20.400)
21 Tampering with a Witness (RCW 9A.72.120)
22 Telephone Harassment (subsequent conviction
23 or threat of death) (RCW 9.61.230)
24 Theft of Livestock 2 (RCW 9A.56.080)
25 Unlawful Imprisonment (RCW 9A.40.040)
26 Unlawful possession of firearm in the
27 second degree (RCW 9.41.040(1)(b))
28 Unlawful Use of Building for Drug Purposes
29 (RCW 69.53.010)
30 Vehicular Assault, by the operation or
31 driving of a vehicle with disregard
32 for the safety of others (RCW
33 46.61.522)
34 Willful Failure to Return from Work Release
35 (RCW 72.65.070)
36 II Computer Trespass 1 (RCW 9A.52.110)
37 Counterfeiting (RCW 9.16.035(3))

1 Create, deliver, or possess a counterfeit
2 controlled substance (RCW
3 69.50.401(b))
4 Escape from Community Custody (RCW
5 72.09.310)
6 Health Care False Claims (RCW 48.80.030)
7 Malicious Mischief 1 (RCW 9A.48.070)
8 Possession of controlled substance that is
9 either heroin or narcotics from
10 Schedule I or II or flunitrazepam from
11 Schedule IV (RCW 69.50.401(d))
12 Possession of phencyclidine (PCP) (RCW
13 69.50.401(d))
14 Possession of Stolen Property 1 (RCW
15 9A.56.150)
16 Theft 1 (RCW 9A.56.030)
17 Theft of Rental, Leased, or Lease-purchased
18 Property (valued at one thousand five
19 hundred dollars or more) (RCW
20 9A.56.096(4))
21 Trafficking in Insurance Claims (RCW
22 48.30A.015)
23 Unlawful Practice of Law (RCW 2.48.180)
24 Unlicensed Practice of a Profession or
25 Business (RCW 18.130.190(7))
26 I Attempting to Elude a Pursuing Police
27 Vehicle (RCW 46.61.024)
28 False Verification for Welfare (RCW
29 74.08.055)
30 Forged Prescription (RCW 69.41.020)
31 Forged Prescription for a Controlled
32 Substance (RCW 69.50.403)
33 Forgery (RCW 9A.60.020)
34 Malicious Mischief 2 (RCW 9A.48.080)
35 Possess Controlled Substance that is a
36 Narcotic from Schedule III, IV, or V
37 or Non-narcotic from Schedule I-V
38 (except phencyclidine or
39 flunitrazepam) (RCW 69.50.401(d))

1 Possession of Stolen Property 2 (RCW
2 9A.56.160)
3 Reckless Burning 1 (RCW 9A.48.040)
4 Taking Motor Vehicle Without Permission
5 (RCW 9A.56.070)
6 Theft 2 (RCW 9A.56.040)
7 Theft of Rental, Leased, or Lease-purchased
8 Property (valued at two hundred fifty
9 dollars or more but less than one
10 thousand five hundred dollars) (RCW
11 9A.56.096(4))
12 Unlawful Issuance of Checks or Drafts (RCW
13 9A.56.060)
14 Unlawful Use of Food Stamps (RCW 9.91.140
15 (2) and (3))
16 Vehicle Prowl 1 (RCW 9A.52.095)

--- END ---