

SHB 1175 - S COMM AMD

By Committee on Children & Family Services & Corrections

ADOPTED AS AMENDED 04/17/2003

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

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 9A.40 RCW
4 to read as follows:

5 (1)(a) A person is guilty of trafficking in the first degree when:

6 (i) Such person:

7 (A) Recruits, harbors, transports, provides, or obtains by any
8 means another person knowing that force, fraud, or coercion as defined
9 in RCW 9A.36.070 will be used to cause the person to engage in forced
10 labor or involuntary servitude; or

11 (B) Benefits financially or by receiving anything of value from
12 participation in a venture that has engaged in acts set forth in
13 (a)(i)(A) of this subsection; and

14 (ii) The acts or venture set forth in (a)(i) of this subsection:

15 (A) Involve committing or attempting to commit kidnapping;

16 (B) Involve a finding of sexual motivation under RCW 9.94A.835; or

17 (C) Result in a death.

18 (b) Trafficking in the first degree is a class A felony.

19 (2)(a) A person is guilty of trafficking in the second degree when
20 such person:

21 (i) Recruits, harbors, transports, provides, or obtains by any
22 means another person knowing that force, fraud, or coercion as defined
23 in RCW 9A.36.070 will be used to cause the person to engage in forced
24 labor or involuntary servitude; or

25 (ii) Benefits financially or by receiving anything of value from
26 participation in a venture that has engaged in acts set forth in (a)(i)
27 of this subsection.

28 (b) Trafficking in the second degree is a class A felony.

1 Malicious explosion 3 (RCW
2 70.74.280(3))
3 Manufacture of methamphetamine
4 (RCW 69.50.401(a)(1)(ii))
5 Over 18 and deliver heroin,
6 methamphetamine, a narcotic
7 from Schedule I or II, or
8 flunitrazepam from Schedule IV
9 to someone under 18 (RCW
10 69.50.406)
11 Sexually Violent Predator Escape
12 (RCW 9A.76.115)
13 IX Assault of a Child 2 (RCW 9A.36.130)
14 Controlled Substance Homicide (RCW
15 69.50.415)
16 Explosive devices prohibited (RCW
17 70.74.180)
18 Hit and Run--Death (RCW
19 46.52.020(4)(a))
20 Homicide by Watercraft, by being
21 under the influence of intoxicating
22 liquor or any drug (RCW
23 79A.60.050)
24 Inciting Criminal Profiteering (RCW
25 9A.82.060(1)(b))
26 Malicious placement of an explosive 2
27 (RCW 70.74.270(2))
28 Over 18 and deliver narcotic from
29 Schedule III, IV, or V or a
30 nonnarcotic, except flunitrazepam
31 or methamphetamine, from
32 Schedule I-V to someone under 18
33 and 3 years junior (RCW
34 69.50.406)
35 Robbery 1 (RCW 9A.56.200)
36 Sexual Exploitation (RCW 9.68A.040)

1 Vehicular Homicide, by being under
2 the influence of intoxicating
3 liquor or any drug (RCW
4 46.61.520)

5 VIII Arson 1 (RCW 9A.48.020)

6 Deliver or possess with intent to
7 deliver methamphetamine (RCW
8 69.50.401(a)(1)(ii))

9 Homicide by Watercraft, by the
10 operation of any vessel in a
11 reckless manner (RCW
12 79A.60.050)

13 Manslaughter 2 (RCW 9A.32.070)

14 Manufacture, deliver, or possess with
15 intent to deliver amphetamine
16 (RCW 69.50.401(a)(1)(ii))

17 Manufacture, deliver, or possess with
18 intent to deliver heroin or cocaine
19 (when the offender has a criminal
20 history in this state or any other
21 state that includes a sex offense or
22 serious violent offense or the
23 Washington equivalent) (RCW
24 69.50.401(a)(1)(i))

25 Possession of Ephedrine or any of its
26 Salts or Isomers or Salts of
27 Isomers, Pseudoephedrine or any
28 of its Salts or Isomers or Salts of
29 Isomers, Pressurized Ammonia
30 Gas, or Pressurized Ammonia Gas
31 Solution with intent to
32 manufacture methamphetamine
33 (RCW 69.50.440)

34 Promoting Prostitution 1 (RCW
35 9A.88.070)

1 Selling for profit (controlled or
2 counterfeit) any controlled
3 substance (RCW 69.50.410)
4 Theft of Ammonia (RCW 69.55.010)
5 Vehicular Homicide, by the operation
6 of any vehicle in a reckless
7 manner (RCW 46.61.520)
8 VII Burglary 1 (RCW 9A.52.020)
9 Child Molestation 2 (RCW 9A.44.086)
10 Civil Disorder Training (RCW
11 9A.48.120)
12 Dealing in depictions of minor
13 engaged in sexually explicit
14 conduct (RCW 9.68A.050)
15 Drive-by Shooting (RCW 9A.36.045)
16 Homicide by Watercraft, by disregard
17 for the safety of others (RCW
18 79A.60.050)
19 Indecent Liberties (without forcible
20 compulsion) (RCW 9A.44.100(1)
21 (b) and (c))
22 Introducing Contraband 1 (RCW
23 9A.76.140)
24 Involving a minor in drug dealing
25 (RCW 69.50.401(f))
26 Malicious placement of an explosive 3
27 (RCW 70.74.270(3))
28 Manufacture, deliver, or possess with
29 intent to deliver heroin or cocaine
30 (except when the offender has a
31 criminal history in this state or
32 any other state that includes a sex
33 offense or serious violent offense
34 or the Washington equivalent)
35 (RCW 69.50.401(a)(1)(i))

1 Sending, bringing into state depictions
2 of minor engaged in sexually
3 explicit conduct (RCW
4 9.68A.060)
5 Unlawful Possession of a Firearm in
6 the first degree (RCW
7 9.41.040(1)(a))
8 Use of a Machine Gun in Commission
9 of a Felony (RCW 9.41.225)
10 Vehicular Homicide, by disregard for
11 the safety of others (RCW
12 46.61.520)
13 VI Bail Jumping with Murder 1 (RCW
14 9A.76.170(3)(a))
15 Bribery (RCW 9A.68.010)
16 Incest 1 (RCW 9A.64.020(1))
17 Intimidating a Judge (RCW
18 9A.72.160)
19 Intimidating a Juror/Witness (RCW
20 9A.72.110, 9A.72.130)
21 Malicious placement of an imitation
22 device 2 (RCW 70.74.272(1)(b))
23 Manufacture, deliver, or possess with
24 intent to deliver narcotics from
25 Schedule I or II (except heroin or
26 cocaine) or flunitrazepam from
27 Schedule IV (RCW
28 69.50.401(a)(1)(i))
29 Rape of a Child 3 (RCW 9A.44.079)
30 Theft of a Firearm (RCW 9A.56.300)
31 Unlawful Storage of Ammonia (RCW
32 69.55.020)
33 V Abandonment of dependent person 1
34 (RCW 9A.42.060)
35 Advancing money or property for
36 extortionate extension of credit
37 (RCW 9A.82.030)

1 Bail Jumping with class A Felony
2 (RCW 9A.76.170(3)(b))
3 Child Molestation 3 (RCW 9A.44.089)
4 Criminal Mistreatment 1 (RCW
5 9A.42.020)
6 Custodial Sexual Misconduct 1 (RCW
7 9A.44.160)
8 Delivery of imitation controlled
9 substance by person eighteen or
10 over to person under eighteen
11 (RCW 69.52.030(2))
12 Domestic Violence Court Order
13 Violation (RCW 10.99.040,
14 10.99.050, 26.09.300, 26.10.220,
15 26.26.138, 26.50.110, 26.52.070,
16 or 74.34.145)
17 Extortion 1 (RCW 9A.56.120)
18 Extortionate Extension of Credit
19 (RCW 9A.82.020)
20 Extortionate Means to Collect
21 Extensions of Credit (RCW
22 9A.82.040)
23 Incest 2 (RCW 9A.64.020(2))
24 Kidnapping 2 (RCW 9A.40.030)
25 Perjury 1 (RCW 9A.72.020)
26 Persistent prison misbehavior (RCW
27 9.94.070)
28 Possession of a Stolen Firearm (RCW
29 9A.56.310)
30 Rape 3 (RCW 9A.44.060)
31 Rendering Criminal Assistance 1
32 (RCW 9A.76.070)
33 Sexual Misconduct with a Minor 1
34 (RCW 9A.44.093)
35 Sexually Violating Human Remains
36 (RCW 9A.44.105)
37 Stalking (RCW 9A.46.110)

1 Taking Motor Vehicle Without
2 Permission 1 (RCW
3 9A.56.070(1))
4 IV Arson 2 (RCW 9A.48.030)
5 Assault 2 (RCW 9A.36.021)
6 Assault by Watercraft (RCW
7 79A.60.060)
8 Bribing a Witness/Bribe Received by
9 Witness (RCW 9A.72.090,
10 9A.72.100)
11 Cheating 1 (RCW 9.46.1961)
12 Commercial Bribery (RCW
13 9A.68.060)
14 Counterfeiting (RCW 9.16.035(4))
15 Endangerment with a Controlled
16 Substance (RCW 9A.42.100)
17 Escape 1 (RCW 9A.76.110)
18 Hit and Run--Injury (RCW
19 46.52.020(4)(b))
20 Hit and Run with Vessel--Injury
21 Accident (RCW 79A.60.200(3))
22 Identity Theft 1 (RCW 9.35.020(2)(a))
23 Indecent Exposure to Person Under
24 Age Fourteen (subsequent sex
25 offense) (RCW 9A.88.010)
26 Influencing Outcome of Sporting
27 Event (RCW 9A.82.070)
28 Knowingly Trafficking in Stolen
29 Property (RCW 9A.82.050(2))
30 Malicious Harassment (RCW
31 9A.36.080)

1 Manufacture, deliver, or possess with
2 intent to deliver narcotics from
3 Schedule III, IV, or V or
4 nonnarcotics from Schedule I-V
5 (except marijuana, amphetamine,
6 methamphetamines, or
7 flunitrazepam) (RCW
8 69.50.401(a)(1) (iii) through (v))
9 Residential Burglary (RCW
10 9A.52.025)
11 Robbery 2 (RCW 9A.56.210)
12 Theft of Livestock 1 (RCW 9A.56.080)
13 Threats to Bomb (RCW 9.61.160)
14 Use of Proceeds of Criminal
15 Profiteering (RCW 9A.82.080 (1)
16 and (2))
17 Vehicular Assault, by being under the
18 influence of intoxicating liquor or
19 any drug, or by the operation or
20 driving of a vehicle in a reckless
21 manner (RCW 46.61.522)
22 Willful Failure to Return from
23 Furlough (RCW 72.66.060)
24 III Abandonment of dependent person 2
25 (RCW 9A.42.070)
26 Assault 3 (RCW 9A.36.031)
27 Assault of a Child 3 (RCW 9A.36.140)
28 Bail Jumping with class B or C Felony
29 (RCW 9A.76.170(3)(c))
30 Burglary 2 (RCW 9A.52.030)
31 Communication with a Minor for
32 Immoral Purposes (RCW
33 9.68A.090)
34 Criminal Gang Intimidation (RCW
35 9A.46.120)
36 Criminal Mistreatment 2 (RCW
37 9A.42.030)

1 Custodial Assault (RCW 9A.36.100)
2 Delivery of a material in lieu of a
3 controlled substance (RCW
4 69.50.401(c))
5 Escape 2 (RCW 9A.76.120)
6 Extortion 2 (RCW 9A.56.130)
7 Harassment (RCW 9A.46.020)
8 Intimidating a Public Servant (RCW
9 9A.76.180)
10 Introducing Contraband 2 (RCW
11 9A.76.150)
12 Maintaining a Dwelling or Place for
13 Controlled Substances (RCW
14 69.50.402(a)(6))
15 Malicious Injury to Railroad Property
16 (RCW 81.60.070)
17 Manufacture, deliver, or possess with
18 intent to deliver marijuana (RCW
19 69.50.401(a)(1)(iii))
20 Manufacture, distribute, or possess
21 with intent to distribute an
22 imitation controlled substance
23 (RCW 69.52.030(1))
24 Patronizing a Juvenile Prostitute
25 (RCW 9.68A.100)
26 Perjury 2 (RCW 9A.72.030)
27 Possession of Incendiary Device (RCW
28 9.40.120)
29 Possession of Machine Gun or Short-
30 Barreled Shotgun or Rifle (RCW
31 9.41.190)
32 Promoting Prostitution 2 (RCW
33 9A.88.080)
34 Recklessly Trafficking in Stolen
35 Property (RCW 9A.82.050(1))
36 Securities Act violation (RCW
37 21.20.400)

1 Tampering with a Witness (RCW
2 9A.72.120)
3 Telephone Harassment (subsequent
4 conviction or threat of death)
5 (RCW 9.61.230)
6 Theft of Livestock 2 (RCW 9A.56.080)
7 Unlawful Imprisonment (RCW
8 9A.40.040)
9 Unlawful possession of firearm in the
10 second degree (RCW
11 9.41.040(1)(b))
12 Unlawful Use of Building for Drug
13 Purposes (RCW 69.53.010)
14 Vehicular Assault, by the operation or
15 driving of a vehicle with disregard
16 for the safety of others (RCW
17 46.61.522)
18 Willful Failure to Return from Work
19 Release (RCW 72.65.070)
20 II Computer Trespass 1 (RCW
21 9A.52.110)
22 Counterfeiting (RCW 9.16.035(3))
23 Create, deliver, or possess a counterfeit
24 controlled substance (RCW
25 69.50.401(b))
26 Escape from Community Custody
27 (RCW 72.09.310)
28 Health Care False Claims (RCW
29 48.80.030)
30 Identity Theft 2 (RCW 9.35.020(2)(b))
31 Improperly Obtaining Financial
32 Information (RCW 9.35.010)
33 Malicious Mischief 1 (RCW
34 9A.48.070)

1 Possession of controlled substance that
2 is either heroin or narcotics from
3 Schedule I or II or flunitrazepam
4 from Schedule IV (RCW
5 69.50.401(d))
6 Possession of phencyclidine (PCP)
7 (RCW 69.50.401(d))
8 Possession of Stolen Property 1 (RCW
9 9A.56.150)
10 Theft 1 (RCW 9A.56.030)
11 Theft of Rental, Leased, or Lease-
12 purchased Property (valued at one
13 thousand five hundred dollars or
14 more) (RCW 9A.56.096(4))
15 Trafficking in Insurance Claims (RCW
16 48.30A.015)
17 Unlawful Practice of Law (RCW
18 2.48.180)
19 Unlicensed Practice of a Profession or
20 Business (RCW 18.130.190(7))
21 I Attempting to Elude a Pursuing Police
22 Vehicle (RCW 46.61.024)
23 False Verification for Welfare (RCW
24 74.08.055)
25 Forged Prescription (RCW 69.41.020)
26 Forged Prescription for a Controlled
27 Substance (RCW 69.50.403)
28 Forgery (RCW 9A.60.020)
29 Malicious Mischief 2 (RCW
30 9A.48.080)
31 Possess Controlled Substance that is a
32 Narcotic from Schedule III, IV, or
33 V or Non-narcotic from Schedule
34 I-V (except phencyclidine or
35 flunitrazepam) (RCW
36 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
 5 Permission 2 (RCW
 6 9A.56.070(2))
 7 Theft 2 (RCW 9A.56.040)
 8 Theft of Rental, Leased, or Lease-
 9 purchased Property (valued at two
 10 hundred fifty dollars or more but
 11 less than one thousand five
 12 hundred dollars) (RCW
 13 9A.56.096(4))
 14 Unlawful Issuance of Checks or Drafts
 15 (RCW 9A.56.060)
 16 Unlawful Use of Food Stamps (RCW
 17 9.91.140 (2) and (3))
 18 Vehicle Prowl 1 (RCW 9A.52.095)

19 **Sec. 3.** RCW 9.94A.515 and 2002 c 340 s 2, 2002 c 324 s 2, 2002 c
 20 290 s 7, 2002 c 253 s 4, 2002 c 229 s 2, 2002 c 134 s 2, and 2002 c 133
 21 s 4 are each reenacted and amended to read as follows:

22 TABLE 2
 23 CRIMES INCLUDED WITHIN
 24 EACH SERIOUSNESS LEVEL

25	XVI	Aggravated Murder 1 (RCW
26		10.95.020)
27	XV	Homicide by abuse (RCW 9A.32.055)
28		Malicious explosion 1 (RCW
29		70.74.280(1))
30		Murder 1 (RCW 9A.32.030)
31	XIV	Murder 2 (RCW 9A.32.050)
32		<u>Trafficking 1 (section 1(1) of this act)</u>
33	XIII	Malicious explosion 2 (RCW
34		70.74.280(2))

1 Malicious placement of an explosive 1
2 (RCW 70.74.270(1))
3 XII Assault 1 (RCW 9A.36.011)
4 Assault of a Child 1 (RCW 9A.36.120)
5 Malicious placement of an imitation
6 device 1 (RCW 70.74.272(1)(a))
7 Rape 1 (RCW 9A.44.040)
8 Rape of a Child 1 (RCW 9A.44.073)
9 Trafficking 2 (section 1(2) of this act)
10 XI Manslaughter 1 (RCW 9A.32.060)
11 Rape 2 (RCW 9A.44.050)
12 Rape of a Child 2 (RCW 9A.44.076)
13 X Child Molestation 1 (RCW 9A.44.083)
14 Indecent Liberties (with forcible
15 compulsion) (RCW
16 9A.44.100(1)(a))
17 Kidnapping 1 (RCW 9A.40.020)
18 Leading Organized Crime (RCW
19 9A.82.060(1)(a))
20 Malicious explosion 3 (RCW
21 70.74.280(3))
22 Sexually Violent Predator Escape
23 (RCW 9A.76.115)
24 IX Assault of a Child 2 (RCW 9A.36.130)
25 Explosive devices prohibited (RCW
26 70.74.180)
27 Hit and Run--Death (RCW
28 46.52.020(4)(a))
29 Homicide by Watercraft, by being
30 under the influence of intoxicating
31 liquor or any drug (RCW
32 79A.60.050)
33 Inciting Criminal Profiteering (RCW
34 9A.82.060(1)(b))
35 Malicious placement of an explosive 2
36 (RCW 70.74.270(2))
37 Robbery 1 (RCW 9A.56.200)

1 Sexual Exploitation (RCW 9.68A.040)
2 Vehicular Homicide, by being under
3 the influence of intoxicating
4 liquor or any drug (RCW
5 46.61.520)
6 VIII Arson 1 (RCW 9A.48.020)
7 Homicide by Watercraft, by the
8 operation of any vessel in a
9 reckless manner (RCW
10 79A.60.050)
11 Manslaughter 2 (RCW 9A.32.070)
12 Promoting Prostitution 1 (RCW
13 9A.88.070)
14 Theft of Ammonia (RCW 69.55.010)
15 Vehicular Homicide, by the operation
16 of any vehicle in a reckless
17 manner (RCW 46.61.520)
18 VII Burglary 1 (RCW 9A.52.020)
19 Child Molestation 2 (RCW 9A.44.086)
20 Civil Disorder Training (RCW
21 9A.48.120)
22 Dealing in depictions of minor
23 engaged in sexually explicit
24 conduct (RCW 9.68A.050)
25 Drive-by Shooting (RCW 9A.36.045)
26 Homicide by Watercraft, by disregard
27 for the safety of others (RCW
28 79A.60.050)
29 Indecent Liberties (without forcible
30 compulsion) (RCW 9A.44.100(1)
31 (b) and (c))
32 Introducing Contraband 1 (RCW
33 9A.76.140)
34 Malicious placement of an explosive 3
35 (RCW 70.74.270(3))

1 Sending, bringing into state depictions
2 of minor engaged in sexually
3 explicit conduct (RCW
4 9.68A.060)
5 Unlawful Possession of a Firearm in
6 the first degree (RCW
7 9.41.040(1)(a))
8 Use of a Machine Gun in Commission
9 of a Felony (RCW 9.41.225)
10 Vehicular Homicide, by disregard for
11 the safety of others (RCW
12 46.61.520)
13 VI Bail Jumping with Murder 1 (RCW
14 9A.76.170(3)(a))
15 Bribery (RCW 9A.68.010)
16 Incest 1 (RCW 9A.64.020(1))
17 Intimidating a Judge (RCW
18 9A.72.160)
19 Intimidating a Juror/Witness (RCW
20 9A.72.110, 9A.72.130)
21 Malicious placement of an imitation
22 device 2 (RCW 70.74.272(1)(b))
23 Rape of a Child 3 (RCW 9A.44.079)
24 Theft of a Firearm (RCW 9A.56.300)
25 Unlawful Storage of Ammonia (RCW
26 69.55.020)
27 V Abandonment of dependent person 1
28 (RCW 9A.42.060)
29 Advancing money or property for
30 extortionate extension of credit
31 (RCW 9A.82.030)
32 Bail Jumping with class A Felony
33 (RCW 9A.76.170(3)(b))
34 Child Molestation 3 (RCW 9A.44.089)
35 Criminal Mistreatment 1 (RCW
36 9A.42.020)

1 Custodial Sexual Misconduct 1 (RCW
2 9A.44.160)
3 Domestic Violence Court Order
4 Violation (RCW 10.99.040,
5 10.99.050, 26.09.300, 26.10.220,
6 26.26.138, 26.50.110, 26.52.070,
7 or 74.34.145)
8 Extortion 1 (RCW 9A.56.120)
9 Extortionate Extension of Credit
10 (RCW 9A.82.020)
11 Extortionate Means to Collect
12 Extensions of Credit (RCW
13 9A.82.040)
14 Incest 2 (RCW 9A.64.020(2))
15 Kidnapping 2 (RCW 9A.40.030)
16 Perjury 1 (RCW 9A.72.020)
17 Persistent prison misbehavior (RCW
18 9.94.070)
19 Possession of a Stolen Firearm (RCW
20 9A.56.310)
21 Rape 3 (RCW 9A.44.060)
22 Rendering Criminal Assistance 1
23 (RCW 9A.76.070)
24 Sexual Misconduct with a Minor 1
25 (RCW 9A.44.093)
26 Sexually Violating Human Remains
27 (RCW 9A.44.105)
28 Stalking (RCW 9A.46.110)
29 Taking Motor Vehicle Without
30 Permission 1 (RCW
31 9A.56.070(1))
32 IV Arson 2 (RCW 9A.48.030)
33 Assault 2 (RCW 9A.36.021)
34 Assault by Watercraft (RCW
35 79A.60.060)

1 Bribing a Witness/Bribe Received by
2 Witness (RCW 9A.72.090,
3 9A.72.100)
4 Cheating 1 (RCW 9.46.1961)
5 Commercial Bribery (RCW
6 9A.68.060)
7 Counterfeiting (RCW 9.16.035(4))
8 Endangerment with a Controlled
9 Substance (RCW 9A.42.100)
10 Escape 1 (RCW 9A.76.110)
11 Hit and Run--Injury (RCW
12 46.52.020(4)(b))
13 Hit and Run with Vessel--Injury
14 Accident (RCW 79A.60.200(3))
15 Identity Theft 1 (RCW 9.35.020(2)(a))
16 Indecent Exposure to Person Under
17 Age Fourteen (subsequent sex
18 offense) (RCW 9A.88.010)
19 Influencing Outcome of Sporting
20 Event (RCW 9A.82.070)
21 Knowingly Trafficking in Stolen
22 Property (RCW 9A.82.050(2))
23 Malicious Harassment (RCW
24 9A.36.080)
25 Residential Burglary (RCW
26 9A.52.025)
27 Robbery 2 (RCW 9A.56.210)
28 Theft of Livestock 1 (RCW 9A.56.080)
29 Threats to Bomb (RCW 9.61.160)
30 Use of Proceeds of Criminal
31 Profiteering (RCW 9A.82.080 (1)
32 and (2))
33 Vehicular Assault, by being under the
34 influence of intoxicating liquor or
35 any drug, or by the operation or
36 driving of a vehicle in a reckless
37 manner (RCW 46.61.522)

1 Willful Failure to Return from
2 Furlough (RCW 72.66.060)
3 III Abandonment of dependent person 2
4 (RCW 9A.42.070)
5 Assault 3 (RCW 9A.36.031)
6 Assault of a Child 3 (RCW 9A.36.140)
7 Bail Jumping with class B or C Felony
8 (RCW 9A.76.170(3)(c))
9 Burglary 2 (RCW 9A.52.030)
10 Communication with a Minor for
11 Immoral Purposes (RCW
12 9.68A.090)
13 Criminal Gang Intimidation (RCW
14 9A.46.120)
15 Criminal Mistreatment 2 (RCW
16 9A.42.030)
17 Custodial Assault (RCW 9A.36.100)
18 Escape 2 (RCW 9A.76.120)
19 Extortion 2 (RCW 9A.56.130)
20 Harassment (RCW 9A.46.020)
21 Intimidating a Public Servant (RCW
22 9A.76.180)
23 Introducing Contraband 2 (RCW
24 9A.76.150)
25 Malicious Injury to Railroad Property
26 (RCW 81.60.070)
27 Patronizing a Juvenile Prostitute
28 (RCW 9.68A.100)
29 Perjury 2 (RCW 9A.72.030)
30 Possession of Incendiary Device (RCW
31 9.40.120)
32 Possession of Machine Gun or Short-
33 Barreled Shotgun or Rifle (RCW
34 9.41.190)
35 Promoting Prostitution 2 (RCW
36 9A.88.080)

1 Recklessly Trafficking in Stolen
2 Property (RCW 9A.82.050(1))
3 Securities Act violation (RCW
4 21.20.400)
5 Tampering with a Witness (RCW
6 9A.72.120)
7 Telephone Harassment (subsequent
8 conviction or threat of death)
9 (RCW 9.61.230)
10 Theft of Livestock 2 (RCW 9A.56.080)
11 Unlawful Imprisonment (RCW
12 9A.40.040)
13 Unlawful possession of firearm in the
14 second degree (RCW
15 9.41.040(1)(b))
16 Vehicular Assault, by the operation or
17 driving of a vehicle with disregard
18 for the safety of others (RCW
19 46.61.522)
20 Willful Failure to Return from Work
21 Release (RCW 72.65.070)
22 II Computer Trespass 1 (RCW
23 9A.52.110)
24 Counterfeiting (RCW 9.16.035(3))
25 Escape from Community Custody
26 (RCW 72.09.310)
27 Health Care False Claims (RCW
28 48.80.030)
29 Identity Theft 2 (RCW 9.35.020(2)(b))
30 Improperly Obtaining Financial
31 Information (RCW 9.35.010)
32 Malicious Mischief 1 (RCW
33 9A.48.070)
34 Possession of Stolen Property 1 (RCW
35 9A.56.150)
36 Theft 1 (RCW 9A.56.030)

1 Theft of Rental, Leased, or Lease-
2 purchased Property (valued at one
3 thousand five hundred dollars or
4 more) (RCW 9A.56.096(4))
5 Trafficking in Insurance Claims (RCW
6 48.30A.015)
7 Unlawful Practice of Law (RCW
8 2.48.180)
9 Unlicensed Practice of a Profession or
10 Business (RCW 18.130.190(7))
11 I Attempting to Elude a Pursuing Police
12 Vehicle (RCW 46.61.024)
13 False Verification for Welfare (RCW
14 74.08.055)
15 Forgery (RCW 9A.60.020)
16 Malicious Mischief 2 (RCW
17 9A.48.080)
18 Possession of Stolen Property 2 (RCW
19 9A.56.160)
20 Reckless Burning 1 (RCW 9A.48.040)
21 Taking Motor Vehicle Without
22 Permission 2 (RCW
23 9A.56.070(2))
24 Theft 2 (RCW 9A.56.040)
25 Theft of Rental, Leased, or Lease-
26 purchased Property (valued at two
27 hundred fifty dollars or more but
28 less than one thousand five
29 hundred dollars) (RCW
30 9A.56.096(4))
31 Unlawful Issuance of Checks or Drafts
32 (RCW 9A.56.060)
33 Unlawful Use of Food Stamps (RCW
34 9.91.140 (2) and (3))
35 Vehicle Prowl 1 (RCW 9A.52.095)

1 **Sec. 4.** RCW 9.94A.535 and 2002 c 169 s 1 are each amended to read
2 as follows:

3 The court may impose a sentence outside the standard sentence range
4 for an offense if it finds, considering the purpose of this chapter,
5 that there are substantial and compelling reasons justifying an
6 exceptional sentence. Whenever a sentence outside the standard
7 sentence range is imposed, the court shall set forth the reasons for
8 its decision in written findings of fact and conclusions of law. A
9 sentence outside the standard sentence range shall be a determinate
10 sentence unless it is imposed on an offender sentenced under RCW
11 9.94A.712. An exceptional sentence imposed on an offender sentenced
12 under RCW 9.94A.712 shall be to a minimum term set by the court and a
13 maximum term equal to the statutory maximum sentence for the offense of
14 conviction under chapter 9A.20 RCW.

15 If the sentencing court finds that an exceptional sentence outside
16 the standard sentence range should be imposed, the sentence is subject
17 to review only as provided for in RCW 9.94A.585(4).

18 A departure from the standards in RCW 9.94A.589 (1) and (2)
19 governing whether sentences are to be served consecutively or
20 concurrently is an exceptional sentence subject to the limitations in
21 this section, and may be appealed by the offender or the state as set
22 forth in RCW 9.94A.585 (2) through (6).

23 The following are illustrative factors which the court may consider
24 in the exercise of its discretion to impose an exceptional sentence.
25 The following are illustrative only and are not intended to be
26 exclusive reasons for exceptional sentences.

27 (1) Mitigating Circumstances

28 (a) To a significant degree, the victim was an initiator, willing
29 participant, aggressor, or provoker of the incident.

30 (b) Before detection, the defendant compensated, or made a good
31 faith effort to compensate, the victim of the criminal conduct for any
32 damage or injury sustained.

33 (c) The defendant committed the crime under duress, coercion,
34 threat, or compulsion insufficient to constitute a complete defense but
35 which significantly affected his or her conduct.

36 (d) The defendant, with no apparent predisposition to do so, was
37 induced by others to participate in the crime.

1 (e) The defendant's capacity to appreciate the wrongfulness of his
2 or her conduct, or to conform his or her conduct to the requirements of
3 the law, was significantly impaired. Voluntary use of drugs or alcohol
4 is excluded.

5 (f) The offense was principally accomplished by another person and
6 the defendant manifested extreme caution or sincere concern for the
7 safety or well-being of the victim.

8 (g) The operation of the multiple offense policy of RCW 9.94A.589
9 results in a presumptive sentence that is clearly excessive in light of
10 the purpose of this chapter, as expressed in RCW 9.94A.010.

11 (h) The defendant or the defendant's children suffered a continuing
12 pattern of physical or sexual abuse by the victim of the offense and
13 the offense is a response to that abuse.

14 (2) Aggravating Circumstances

15 (a) The defendant's conduct during the commission of the current
16 offense manifested deliberate cruelty to the victim.

17 (b) The defendant knew or should have known that the victim of the
18 current offense was particularly vulnerable or incapable of resistance
19 due to extreme youth, advanced age, disability, or ill health.

20 (c) The current offense was a violent offense, and the defendant
21 knew that the victim of the current offense was pregnant.

22 (d) The current offense was a major economic offense or series of
23 offenses, so identified by a consideration of any of the following
24 factors:

25 (i) The current offense involved multiple victims or multiple
26 incidents per victim;

27 (ii) The current offense involved attempted or actual monetary loss
28 substantially greater than typical for the offense;

29 (iii) The current offense involved a high degree of sophistication
30 or planning or occurred over a lengthy period of time; or

31 (iv) The defendant used his or her position of trust, confidence,
32 or fiduciary responsibility to facilitate the commission of the current
33 offense.

34 (e) The current offense was a major violation of the Uniform
35 Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to
36 trafficking in controlled substances, which was more onerous than the

1 typical offense of its statutory definition: The presence of ANY of
2 the following may identify a current offense as a major VUCSA:

3 (i) The current offense involved at least three separate
4 transactions in which controlled substances were sold, transferred, or
5 possessed with intent to do so;

6 (ii) The current offense involved an attempted or actual sale or
7 transfer of controlled substances in quantities substantially larger
8 than for personal use;

9 (iii) The current offense involved the manufacture of controlled
10 substances for use by other parties;

11 (iv) The circumstances of the current offense reveal the offender
12 to have occupied a high position in the drug distribution hierarchy;

13 (v) The current offense involved a high degree of sophistication or
14 planning, occurred over a lengthy period of time, or involved a broad
15 geographic area of disbursement; or

16 (vi) The offender used his or her position or status to facilitate
17 the commission of the current offense, including positions of trust,
18 confidence or fiduciary responsibility (e.g., pharmacist, physician, or
19 other medical professional).

20 (f) The current offense included a finding of sexual motivation
21 pursuant to RCW 9.94A.835.

22 (g) The offense was part of an ongoing pattern of sexual abuse of
23 the same victim under the age of eighteen years manifested by multiple
24 incidents over a prolonged period of time.

25 (h) The current offense involved domestic violence, as defined in
26 RCW 10.99.020, and one or more of the following was present:

27 (i) The offense was part of an ongoing pattern of psychological,
28 physical, or sexual abuse of the victim manifested by multiple
29 incidents over a prolonged period of time;

30 (ii) The offense occurred within sight or sound of the victim's or
31 the offender's minor children under the age of eighteen years; or

32 (iii) The offender's conduct during the commission of the current
33 offense manifested deliberate cruelty or intimidation of the victim.

34 (i) The operation of the multiple offense policy of RCW 9.94A.589
35 results in a presumptive sentence that is clearly too lenient in light
36 of the purpose of this chapter, as expressed in RCW 9.94A.010.

1 (j) The defendant's prior unscored misdemeanor or prior unscored
2 foreign criminal history results in a presumptive sentence that is
3 clearly too lenient in light of the purpose of this chapter, as
4 expressed in RCW 9.94A.010.

5 (k) The offense resulted in the pregnancy of a child victim of
6 rape.

7 (l) The defendant knew that the victim of the current offense was
8 a youth who was not residing with a legal custodian and the defendant
9 established or promoted the relationship for the primary purpose of
10 victimization.

11 (m) The offense was committed with the intent to obstruct or impair
12 human or animal health care or agricultural or forestry research or
13 commercial production.

14 (n) The current offense is trafficking in the first degree or
15 trafficking in the second degree and any victim was a minor at the time
16 of the offense.

17 NEW SECTION. Sec. 5. Section 2 of this act expires July 1, 2004.

18 NEW SECTION. Sec. 6. Section 3 of this act takes effect July 1,
19 2004."

SHB 1175 - S COMM AMD

By Committee on Children & Family Services & Corrections

ADOPTED AS AMENDED 04/17/2003

20 On page 1, line 1 of the title, after "persons;" strike the
21 remainder of the title and insert "amending RCW 9.94A.535; reenacting
22 and amending RCW 9.94A.515 and 9.94A.515; adding a new section to
23 chapter 9A.40 RCW; prescribing penalties; providing an effective date;
24 and providing an expiration date."

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