
SUBSTITUTE SENATE BILL 5631

State of Washington

58th Legislature

2003 Regular Session

By Senate Committee on Judiciary (originally sponsored by Senators Thibaudeau, Kohl-Welles, Brandland, Kline, Hargrove, Fraser, McAuliffe, Keiser, B. Sheldon and Winsley)

READ FIRST TIME 02/21/03.

1 AN ACT Relating to trafficking in persons; amending RCW 9A.82.090,
2 9A.82.100, and 9A.82.120; reenacting and amending RCW 9.94A.515,
3 9.94A.515, and 9A.82.010; adding a new section to chapter 9A.40 RCW;
4 prescribing penalties; providing an effective date; and providing an
5 expiration date.

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

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

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

10 (i) Such person knows that force, fraud, or coercion will be used
11 to cause any person to engage in forced labor or involuntary servitude;

12 (ii) Such person (A) recruits, harbors, transports, provides, or
13 obtains by any means another person; or (B) benefits financially or by
14 receiving anything of value from participation in a venture which has
15 engaged in acts set forth in (a)(ii)(A) of this subsection; and

16 (iii) The acts or venture set forth in (a)(ii) of this subsection:
17 (A) Involve committing or attempting to commit kidnapping; (B) involve
18 a finding of sexual motivation under RCW 9.94A.835; or (C) result in a
19 death.

1 (b) Trafficking in the first degree is a class A felony.
 2 (2)(a) A person is guilty of trafficking in the second degree when:
 3 (i) Such person knows that force, fraud, or coercion will be used
 4 to cause any person to engage in forced labor or involuntary servitude;
 5 and
 6 (ii) Such person (A) recruits, harbors, transports, provides, or
 7 obtains by any means another person; or (B) benefits financially or by
 8 receiving anything of value from participation in a venture which has
 9 engaged in acts set forth in (a)(ii)(A) of this subsection.
 10 (b) Trafficking in the second degree is a class A felony.

11 **Sec. 2.** RCW 9.94A.515 and 2002 c 340 s 2, 2002 c 324 s 2, 2002 c
 12 290 s 2, 2002 c 253 s 4, 2002 c 229 s 2, 2002 c 134 s 2, and 2002 c 133
 13 s 4 are each reenacted and amended to read as follows:

14 TABLE 2
 15 CRIMES INCLUDED WITHIN
 16 EACH SERIOUSNESS LEVEL

17	XVI	Aggravated Murder 1 (RCW
18		10.95.020)
19	XV	Homicide by abuse (RCW 9A.32.055)
20		Malicious explosion 1 (RCW
21		70.74.280(1))
22		Murder 1 (RCW 9A.32.030)
23	XIV	Murder 2 (RCW 9A.32.050)
24		<u>Trafficking 1 (section 1(1) of this act)</u>
25	XIII	Malicious explosion 2 (RCW
26		70.74.280(2))
27		Malicious placement of an explosive 1
28		(RCW 70.74.270(1))
29	XII	Assault 1 (RCW 9A.36.011)
30		Assault of a Child 1 (RCW 9A.36.120)
31		Malicious placement of an imitation
32		device 1 (RCW 70.74.272(1)(a))
33		Rape 1 (RCW 9A.44.040)
34		Rape of a Child 1 (RCW 9A.44.073)
35	XI	Manslaughter 1 (RCW 9A.32.060)

1 Rape 2 (RCW 9A.44.050)
2 Rape of a Child 2 (RCW 9A.44.076)
3 X Child Molestation 1 (RCW 9A.44.083)
4 Indecent Liberties (with forcible
5 compulsion) (RCW
6 9A.44.100(1)(a))
7 Kidnapping 1 (RCW 9A.40.020)
8 Leading Organized Crime (RCW
9 9A.82.060(1)(a))
10 Malicious explosion 3 (RCW
11 70.74.280(3))
12 Manufacture of methamphetamine
13 (RCW 69.50.401(a)(1)(ii))
14 Over 18 and deliver heroin,
15 methamphetamine, a narcotic
16 from Schedule I or II, or
17 flunitrazepam from Schedule IV
18 to someone under 18 (RCW
19 69.50.406)
20 Sexually Violent Predator Escape
21 (RCW 9A.76.115)
22 Trafficking 2 (section 1(2) of this act)
23 IX Assault of a Child 2 (RCW 9A.36.130)
24 Controlled Substance Homicide (RCW
25 69.50.415)
26 Explosive devices prohibited (RCW
27 70.74.180)
28 Hit and Run--Death (RCW
29 46.52.020(4)(a))
30 Homicide by Watercraft, by being
31 under the influence of intoxicating
32 liquor or any drug (RCW
33 79A.60.050)
34 Inciting Criminal Profiteering (RCW
35 9A.82.060(1)(b))
36 Malicious placement of an explosive 2
37 (RCW 70.74.270(2))

1 Over 18 and deliver narcotic from
2 Schedule III, IV, or V or a
3 nonnarcotic, except flunitrazepam
4 or methamphetamine, from
5 Schedule I-V to someone under 18
6 and 3 years junior (RCW
7 69.50.406)
8 Robbery 1 (RCW 9A.56.200)
9 Sexual Exploitation (RCW 9.68A.040)
10 Vehicular Homicide, by being under
11 the influence of intoxicating
12 liquor or any drug (RCW
13 46.61.520)
14 VIII Arson 1 (RCW 9A.48.020)
15 Deliver or possess with intent to
16 deliver methamphetamine (RCW
17 69.50.401(a)(1)(ii))
18 Homicide by Watercraft, by the
19 operation of any vessel in a
20 reckless manner (RCW
21 79A.60.050)
22 Manslaughter 2 (RCW 9A.32.070)
23 Manufacture, deliver, or possess with
24 intent to deliver amphetamine
25 (RCW 69.50.401(a)(1)(ii))
26 Manufacture, deliver, or possess with
27 intent to deliver heroin or cocaine
28 (when the offender has a criminal
29 history in this state or any other
30 state that includes a sex offense or
31 serious violent offense or the
32 Washington equivalent) (RCW
33 69.50.401(a)(1)(i))

1 Possession of Ephedrine or any of its
2 Salts or Isomers or Salts of
3 Isomers, Pseudoephedrine or any
4 of its Salts or Isomers or Salts of
5 Isomers, Pressurized Ammonia
6 Gas, or Pressurized Ammonia Gas
7 Solution with intent to
8 manufacture methamphetamine
9 (RCW 69.50.440)

10 Promoting Prostitution 1 (RCW
11 9A.88.070)

12 Selling for profit (controlled or
13 counterfeit) any controlled
14 substance (RCW 69.50.410)

15 Theft of Ammonia (RCW 69.55.010)

16 Vehicular Homicide, by the operation
17 of any vehicle in a reckless
18 manner (RCW 46.61.520)

19 VII Burglary 1 (RCW 9A.52.020)

20 Child Molestation 2 (RCW 9A.44.086)

21 Civil Disorder Training (RCW
22 9A.48.120)

23 Dealing in depictions of minor
24 engaged in sexually explicit
25 conduct (RCW 9.68A.050)

26 Drive-by Shooting (RCW 9A.36.045)

27 Homicide by Watercraft, by disregard
28 for the safety of others (RCW
29 79A.60.050)

30 Indecent Liberties (without forcible
31 compulsion) (RCW 9A.44.100(1)
32 (b) and (c))

33 Introducing Contraband 1 (RCW
34 9A.76.140)

35 Involving a minor in drug dealing
36 (RCW 69.50.401(f))

1 Malicious placement of an explosive 3
2 (RCW 70.74.270(3))
3 Manufacture, deliver, or possess with
4 intent to deliver heroin or cocaine
5 (except when the offender has a
6 criminal history in this state or
7 any other state that includes a sex
8 offense or serious violent offense
9 or the Washington equivalent)
10 (RCW 69.50.401(a)(1)(i))
11 Sending, bringing into state depictions
12 of minor engaged in sexually
13 explicit conduct (RCW
14 9.68A.060)
15 Unlawful Possession of a Firearm in
16 the first degree (RCW
17 9.41.040(1)(a))
18 Use of a Machine Gun in Commission
19 of a Felony (RCW 9.41.225)
20 Vehicular Homicide, by disregard for
21 the safety of others (RCW
22 46.61.520)
23 VI Bail Jumping with Murder 1 (RCW
24 9A.76.170(3)(a))
25 Bribery (RCW 9A.68.010)
26 Incest 1 (RCW 9A.64.020(1))
27 Intimidating a Judge (RCW
28 9A.72.160)
29 Intimidating a Juror/Witness (RCW
30 9A.72.110, 9A.72.130)
31 Malicious placement of an imitation
32 device 2 (RCW 70.74.272(1)(b))

1 Manufacture, deliver, or possess with
2 intent to deliver narcotics from
3 Schedule I or II (except heroin or
4 cocaine) or flunitrazepam from
5 Schedule IV (RCW
6 69.50.401(a)(1)(i))
7 Rape of a Child 3 (RCW 9A.44.079)
8 Theft of a Firearm (RCW 9A.56.300)
9 Unlawful Storage of Ammonia (RCW
10 69.55.020)
11 V Abandonment of dependent person 1
12 (RCW 9A.42.060)
13 Advancing money or property for
14 extortionate extension of credit
15 (RCW 9A.82.030)
16 Bail Jumping with class A Felony
17 (RCW 9A.76.170(3)(b))
18 Child Molestation 3 (RCW 9A.44.089)
19 Criminal Mistreatment 1 (RCW
20 9A.42.020)
21 Custodial Sexual Misconduct 1 (RCW
22 9A.44.160)
23 Delivery of imitation controlled
24 substance by person eighteen or
25 over to person under eighteen
26 (RCW 69.52.030(2))
27 Domestic Violence Court Order
28 Violation (RCW 10.99.040,
29 10.99.050, 26.09.300, 26.10.220,
30 26.26.138, 26.50.110, 26.52.070,
31 or 74.34.145)
32 Extortion 1 (RCW 9A.56.120)
33 Extortionate Extension of Credit
34 (RCW 9A.82.020)
35 Extortionate Means to Collect
36 Extensions of Credit (RCW
37 9A.82.040)

1 Incest 2 (RCW 9A.64.020(2))
2 Kidnapping 2 (RCW 9A.40.030)
3 Perjury 1 (RCW 9A.72.020)
4 Persistent prison misbehavior (RCW
5 9.94.070)
6 Possession of a Stolen Firearm (RCW
7 9A.56.310)
8 Rape 3 (RCW 9A.44.060)
9 Rendering Criminal Assistance 1
10 (RCW 9A.76.070)
11 Sexual Misconduct with a Minor 1
12 (RCW 9A.44.093)
13 Sexually Violating Human Remains
14 (RCW 9A.44.105)
15 Stalking (RCW 9A.46.110)
16 Taking Motor Vehicle Without
17 Permission 1 (RCW
18 9A.56.070(1))
19 IV Arson 2 (RCW 9A.48.030)
20 Assault 2 (RCW 9A.36.021)
21 Assault by Watercraft (RCW
22 79A.60.060)
23 Bribing a Witness/Bribe Received by
24 Witness (RCW 9A.72.090,
25 9A.72.100)
26 Cheating 1 (RCW 9.46.1961)
27 Commercial Bribery (RCW
28 9A.68.060)
29 Counterfeiting (RCW 9.16.035(4))
30 Endangerment with a Controlled
31 Substance (RCW 9A.42.100)
32 Escape 1 (RCW 9A.76.110)
33 Hit and Run--Injury (RCW
34 46.52.020(4)(b))
35 Hit and Run with Vessel--Injury
36 Accident (RCW 79A.60.200(3))
37 Identity Theft 1 (RCW 9.35.020(2)(a))

1 Indecent Exposure to Person Under
2 Age Fourteen (subsequent sex
3 offense) (RCW 9A.88.010)
4 Influencing Outcome of Sporting
5 Event (RCW 9A.82.070)
6 Knowingly Trafficking in Stolen
7 Property (RCW 9A.82.050(2))
8 Malicious Harassment (RCW
9 9A.36.080)
10 Manufacture, deliver, or possess with
11 intent to deliver narcotics from
12 Schedule III, IV, or V or
13 nonnarcotics from Schedule I-V
14 (except marijuana, amphetamine,
15 methamphetamines, or
16 flunitrazepam) (RCW
17 69.50.401(a)(1) (iii) through (v))
18 Residential Burglary (RCW
19 9A.52.025)
20 Robbery 2 (RCW 9A.56.210)
21 Theft of Livestock 1 (RCW 9A.56.080)
22 Threats to Bomb (RCW 9.61.160)
23 Use of Proceeds of Criminal
24 Profiteering (RCW 9A.82.080 (1)
25 and (2))
26 Vehicular Assault, by being under the
27 influence of intoxicating liquor or
28 any drug, or by the operation or
29 driving of a vehicle in a reckless
30 manner (RCW 46.61.522)
31 Willful Failure to Return from
32 Furlough (RCW 72.66.060)
33 III Abandonment of dependent person 2
34 (RCW 9A.42.070)
35 Assault 3 (RCW 9A.36.031)
36 Assault of a Child 3 (RCW 9A.36.140)

1 Bail Jumping with class B or C Felony
2 (RCW 9A.76.170(3)(c))
3 Burglary 2 (RCW 9A.52.030)
4 Communication with a Minor for
5 Immoral Purposes (RCW
6 9.68A.090)
7 Criminal Gang Intimidation (RCW
8 9A.46.120)
9 Criminal Mistreatment 2 (RCW
10 9A.42.030)
11 Custodial Assault (RCW 9A.36.100)
12 Delivery of a material in lieu of a
13 controlled substance (RCW
14 69.50.401(c))
15 Escape 2 (RCW 9A.76.120)
16 Extortion 2 (RCW 9A.56.130)
17 Harassment (RCW 9A.46.020)
18 Intimidating a Public Servant (RCW
19 9A.76.180)
20 Introducing Contraband 2 (RCW
21 9A.76.150)
22 Maintaining a Dwelling or Place for
23 Controlled Substances (RCW
24 69.50.402(a)(6))
25 Malicious Injury to Railroad Property
26 (RCW 81.60.070)
27 Manufacture, deliver, or possess with
28 intent to deliver marijuana (RCW
29 69.50.401(a)(1)(iii))
30 Manufacture, distribute, or possess
31 with intent to distribute an
32 imitation controlled substance
33 (RCW 69.52.030(1))
34 Patronizing a Juvenile Prostitute
35 (RCW 9.68A.100)
36 Perjury 2 (RCW 9A.72.030)

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

1 Escape from Community Custody
2 (RCW 72.09.310)
3 Health Care False Claims (RCW
4 48.80.030)
5 Identity Theft 2 (RCW 9.35.020(2)(b))
6 Improperly Obtaining Financial
7 Information (RCW 9.35.010)
8 Malicious Mischief 1 (RCW
9 9A.48.070)
10 Possession of controlled substance that
11 is either heroin or narcotics from
12 Schedule I or II or flunitrazepam
13 from Schedule IV (RCW
14 69.50.401(d))
15 Possession of phencyclidine (PCP)
16 (RCW 69.50.401(d))
17 Possession of Stolen Property 1 (RCW
18 9A.56.150)
19 Theft 1 (RCW 9A.56.030)
20 Theft of Rental, Leased, or Lease-
21 purchased Property (valued at one
22 thousand five hundred dollars or
23 more) (RCW 9A.56.096(4))
24 Trafficking in Insurance Claims (RCW
25 48.30A.015)
26 Unlawful Practice of Law (RCW
27 2.48.180)
28 Unlicensed Practice of a Profession or
29 Business (RCW 18.130.190(7))
30 I Attempting to Elude a Pursuing Police
31 Vehicle (RCW 46.61.024)
32 False Verification for Welfare (RCW
33 74.08.055)
34 Forged Prescription (RCW 69.41.020)
35 Forged Prescription for a Controlled
36 Substance (RCW 69.50.403)
37 Forgery (RCW 9A.60.020)

1 Malicious Mischief 2 (RCW
2 9A.48.080)
3 Possess Controlled Substance that is a
4 Narcotic from Schedule III, IV, or
5 V or Non-narcotic from Schedule
6 I-V (except phencyclidine or
7 flunitrazepam) (RCW
8 69.50.401(d))
9 Possession of Stolen Property 2 (RCW
10 9A.56.160)
11 Reckless Burning 1 (RCW 9A.48.040)
12 Taking Motor Vehicle Without
13 Permission 2 (RCW
14 9A.56.070(2))
15 Theft 2 (RCW 9A.56.040)
16 Theft of Rental, Leased, or Lease-
17 purchased Property (valued at two
18 hundred fifty dollars or more but
19 less than one thousand five
20 hundred dollars) (RCW
21 9A.56.096(4))
22 Unlawful Issuance of Checks or Drafts
23 (RCW 9A.56.060)
24 Unlawful Use of Food Stamps (RCW
25 9.91.140 (2) and (3))
26 Vehicle Prowl 1 (RCW 9A.52.095)

27 **Sec. 3.** RCW 9.94A.515 and 2002 c 340 s 2, 2002 c 324 s 2, 2002 c
28 290 s 7, 2002 c 253 s 4, 2002 c 229 s 2, 2002 c 134 s 2, and 2002 c 133
29 s 4 are each reenacted and amended to read as follows:

30 TABLE 2
31 CRIMES INCLUDED WITHIN
32 EACH SERIOUSNESS LEVEL
33 XVI Aggravated Murder 1 (RCW
34 10.95.020)
35 XV Homicide by abuse (RCW 9A.32.055)

1 Malicious explosion 1 (RCW
2 70.74.280(1))
3 Murder 1 (RCW 9A.32.030)
4 XIV Murder 2 (RCW 9A.32.050)
5 Trafficking 1 (section 1(1) of this act)
6 XIII Malicious explosion 2 (RCW
7 70.74.280(2))
8 Malicious placement of an explosive 1
9 (RCW 70.74.270(1))
10 XII Assault 1 (RCW 9A.36.011)
11 Assault of a Child 1 (RCW 9A.36.120)
12 Malicious placement of an imitation
13 device 1 (RCW 70.74.272(1)(a))
14 Rape 1 (RCW 9A.44.040)
15 Rape of a Child 1 (RCW 9A.44.073)
16 XI Manslaughter 1 (RCW 9A.32.060)
17 Rape 2 (RCW 9A.44.050)
18 Rape of a Child 2 (RCW 9A.44.076)
19 X Child Molestation 1 (RCW 9A.44.083)
20 Indecent Liberties (with forcible
21 compulsion) (RCW
22 9A.44.100(1)(a))
23 Kidnapping 1 (RCW 9A.40.020)
24 Leading Organized Crime (RCW
25 9A.82.060(1)(a))
26 Malicious explosion 3 (RCW
27 70.74.280(3))
28 Sexually Violent Predator Escape
29 (RCW 9A.76.115)
30 Trafficking 2 (section 1(2) of this act)
31 IX Assault of a Child 2 (RCW 9A.36.130)
32 Explosive devices prohibited (RCW
33 70.74.180)
34 Hit and Run--Death (RCW
35 46.52.020(4)(a))

1 Homicide by Watercraft, by being
2 under the influence of intoxicating
3 liquor or any drug (RCW
4 79A.60.050)
5 Inciting Criminal Profiteering (RCW
6 9A.82.060(1)(b))
7 Malicious placement of an explosive 2
8 (RCW 70.74.270(2))
9 Robbery 1 (RCW 9A.56.200)
10 Sexual Exploitation (RCW 9.68A.040)
11 Vehicular Homicide, by being under
12 the influence of intoxicating
13 liquor or any drug (RCW
14 46.61.520)
15 VIII Arson 1 (RCW 9A.48.020)
16 Homicide by Watercraft, by the
17 operation of any vessel in a
18 reckless manner (RCW
19 79A.60.050)
20 Manslaughter 2 (RCW 9A.32.070)
21 Promoting Prostitution 1 (RCW
22 9A.88.070)
23 Theft of Ammonia (RCW 69.55.010)
24 Vehicular Homicide, by the operation
25 of any vehicle in a reckless
26 manner (RCW 46.61.520)
27 VII Burglary 1 (RCW 9A.52.020)
28 Child Molestation 2 (RCW 9A.44.086)
29 Civil Disorder Training (RCW
30 9A.48.120)
31 Dealing in depictions of minor
32 engaged in sexually explicit
33 conduct (RCW 9.68A.050)
34 Drive-by Shooting (RCW 9A.36.045)
35 Homicide by Watercraft, by disregard
36 for the safety of others (RCW
37 79A.60.050)

1 Indecent Liberties (without forcible
2 compulsion) (RCW 9A.44.100(1)
3 (b) and (c))
4 Introducing Contraband 1 (RCW
5 9A.76.140)
6 Malicious placement of an explosive 3
7 (RCW 70.74.270(3))
8 Sending, bringing into state depictions
9 of minor engaged in sexually
10 explicit conduct (RCW
11 9.68A.060)
12 Unlawful Possession of a Firearm in
13 the first degree (RCW
14 9.41.040(1)(a))
15 Use of a Machine Gun in Commission
16 of a Felony (RCW 9.41.225)
17 Vehicular Homicide, by disregard for
18 the safety of others (RCW
19 46.61.520)
20 VI Bail Jumping with Murder 1 (RCW
21 9A.76.170(3)(a))
22 Bribery (RCW 9A.68.010)
23 Incest 1 (RCW 9A.64.020(1))
24 Intimidating a Judge (RCW
25 9A.72.160)
26 Intimidating a Juror/Witness (RCW
27 9A.72.110, 9A.72.130)
28 Malicious placement of an imitation
29 device 2 (RCW 70.74.272(1)(b))
30 Rape of a Child 3 (RCW 9A.44.079)
31 Theft of a Firearm (RCW 9A.56.300)
32 Unlawful Storage of Ammonia (RCW
33 69.55.020)
34 V Abandonment of dependent person 1
35 (RCW 9A.42.060)

1 Advancing money or property for
2 extortionate extension of credit
3 (RCW 9A.82.030)
4 Bail Jumping with class A Felony
5 (RCW 9A.76.170(3)(b))
6 Child Molestation 3 (RCW 9A.44.089)
7 Criminal Mistreatment 1 (RCW
8 9A.42.020)
9 Custodial Sexual Misconduct 1 (RCW
10 9A.44.160)
11 Domestic Violence Court Order
12 Violation (RCW 10.99.040,
13 10.99.050, 26.09.300, 26.10.220,
14 26.26.138, 26.50.110, 26.52.070,
15 or 74.34.145)
16 Extortion 1 (RCW 9A.56.120)
17 Extortionate Extension of Credit
18 (RCW 9A.82.020)
19 Extortionate Means to Collect
20 Extensions of Credit (RCW
21 9A.82.040)
22 Incest 2 (RCW 9A.64.020(2))
23 Kidnapping 2 (RCW 9A.40.030)
24 Perjury 1 (RCW 9A.72.020)
25 Persistent prison misbehavior (RCW
26 9.94.070)
27 Possession of a Stolen Firearm (RCW
28 9A.56.310)
29 Rape 3 (RCW 9A.44.060)
30 Rendering Criminal Assistance 1
31 (RCW 9A.76.070)
32 Sexual Misconduct with a Minor 1
33 (RCW 9A.44.093)
34 Sexually Violating Human Remains
35 (RCW 9A.44.105)
36 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)
32 Residential Burglary (RCW
33 9A.52.025)
34 Robbery 2 (RCW 9A.56.210)
35 Theft of Livestock 1 (RCW 9A.56.080)
36 Threats to Bomb (RCW 9.61.160)

1 Use of Proceeds of Criminal
2 Profiteering (RCW 9A.82.080 (1)
3 and (2))
4 Vehicular Assault, by being under the
5 influence of intoxicating liquor or
6 any drug, or by the operation or
7 driving of a vehicle in a reckless
8 manner (RCW 46.61.522)
9 Willful Failure to Return from
10 Furlough (RCW 72.66.060)
11 III Abandonment of dependent person 2
12 (RCW 9A.42.070)
13 Assault 3 (RCW 9A.36.031)
14 Assault of a Child 3 (RCW 9A.36.140)
15 Bail Jumping with class B or C Felony
16 (RCW 9A.76.170(3)(c))
17 Burglary 2 (RCW 9A.52.030)
18 Communication with a Minor for
19 Immoral Purposes (RCW
20 9.68A.090)
21 Criminal Gang Intimidation (RCW
22 9A.46.120)
23 Criminal Mistreatment 2 (RCW
24 9A.42.030)
25 Custodial Assault (RCW 9A.36.100)
26 Escape 2 (RCW 9A.76.120)
27 Extortion 2 (RCW 9A.56.130)
28 Harassment (RCW 9A.46.020)
29 Intimidating a Public Servant (RCW
30 9A.76.180)
31 Introducing Contraband 2 (RCW
32 9A.76.150)
33 Malicious Injury to Railroad Property
34 (RCW 81.60.070)
35 Patronizing a Juvenile Prostitute
36 (RCW 9.68A.100)
37 Perjury 2 (RCW 9A.72.030)

1 Possession of Incendiary Device (RCW
2 9.40.120)
3 Possession of Machine Gun or Short-
4 Barreled Shotgun or Rifle (RCW
5 9.41.190)
6 Promoting Prostitution 2 (RCW
7 9A.88.080)
8 Recklessly Trafficking in Stolen
9 Property (RCW 9A.82.050(1))
10 Securities Act violation (RCW
11 21.20.400)
12 Tampering with a Witness (RCW
13 9A.72.120)
14 Telephone Harassment (subsequent
15 conviction or threat of death)
16 (RCW 9.61.230)
17 Theft of Livestock 2 (RCW 9A.56.080)
18 Unlawful Imprisonment (RCW
19 9A.40.040)
20 Unlawful possession of firearm in the
21 second degree (RCW
22 9.41.040(1)(b))
23 Vehicular Assault, by the operation or
24 driving of a vehicle with disregard
25 for the safety of others (RCW
26 46.61.522)
27 Willful Failure to Return from Work
28 Release (RCW 72.65.070)
29 II Computer Trespass 1 (RCW
30 9A.52.110)
31 Counterfeiting (RCW 9.16.035(3))
32 Escape from Community Custody
33 (RCW 72.09.310)
34 Health Care False Claims (RCW
35 48.80.030)
36 Identity Theft 2 (RCW 9.35.020(2)(b))

1 Improperly Obtaining Financial
2 Information (RCW 9.35.010)
3 Malicious Mischief 1 (RCW
4 9A.48.070)
5 Possession of Stolen Property 1 (RCW
6 9A.56.150)
7 Theft 1 (RCW 9A.56.030)
8 Theft of Rental, Leased, or Lease-
9 purchased Property (valued at one
10 thousand five hundred dollars or
11 more) (RCW 9A.56.096(4))
12 Trafficking in Insurance Claims (RCW
13 48.30A.015)
14 Unlawful Practice of Law (RCW
15 2.48.180)
16 Unlicensed Practice of a Profession or
17 Business (RCW 18.130.190(7))
18 I Attempting to Elude a Pursuing Police
19 Vehicle (RCW 46.61.024)
20 False Verification for Welfare (RCW
21 74.08.055)
22 Forgery (RCW 9A.60.020)
23 Malicious Mischief 2 (RCW
24 9A.48.080)
25 Possession of Stolen Property 2 (RCW
26 9A.56.160)
27 Reckless Burning 1 (RCW 9A.48.040)
28 Taking Motor Vehicle Without
29 Permission 2 (RCW
30 9A.56.070(2))
31 Theft 2 (RCW 9A.56.040)
32 Theft of Rental, Leased, or Lease-
33 purchased Property (valued at two
34 hundred fifty dollars or more but
35 less than one thousand five
36 hundred dollars) (RCW
37 9A.56.096(4))

1 Unlawful Issuance of Checks or Drafts

2 (RCW 9A.56.060)

3 Unlawful Use of Food Stamps (RCW

4 9.91.140 (2) and (3))

5 Vehicle Prowl 1 (RCW 9A.52.095)

6 **Sec. 4.** RCW 9A.82.010 and 2001 c 222 s 3 and 2001 c 217 s 11 are
7 each reenacted and amended to read as follows:

8 Unless the context requires the contrary, the definitions in this
9 section apply throughout this chapter.

10 (1)(a) "Beneficial interest" means:

11 (i) The interest of a person as a beneficiary under a trust
12 established under Title 11 RCW in which the trustee for the trust holds
13 legal or record title to real property;

14 (ii) The interest of a person as a beneficiary under any other
15 trust arrangement under which a trustee holds legal or record title to
16 real property for the benefit of the beneficiary; or

17 (iii) The interest of a person under any other form of express
18 fiduciary arrangement under which one person holds legal or record
19 title to real property for the benefit of the other person.

20 (b) "Beneficial interest" does not include the interest of a
21 stockholder in a corporation or the interest of a partner in a general
22 partnership or limited partnership.

23 (c) A beneficial interest is considered to be located where the
24 real property owned by the trustee is located.

25 (2) "Control" means the possession of a sufficient interest to
26 permit substantial direction over the affairs of an enterprise.

27 (3) "Creditor" means a person making an extension of credit or a
28 person claiming by, under, or through a person making an extension of
29 credit.

30 (4) "Criminal profiteering" means any act, including any
31 anticipatory or completed offense, committed for financial gain, or an
32 offense, including an anticipatory or completed offense, that is
33 defined in section 1 of this act, whether or not committed for
34 financial gain, that is chargeable or indictable under the laws of the
35 state in which the act occurred and, if the act occurred in a state
36 other than this state, would be chargeable or indictable under the laws

1 of this state had the act occurred in this state and punishable as a
2 felony and by imprisonment for more than one year, regardless of
3 whether the act is charged or indicted, as any of the following:

4 (a) Murder, as defined in RCW 9A.32.030 and 9A.32.050;

5 (b) Robbery, as defined in RCW 9A.56.200 and 9A.56.210;

6 (c) Kidnapping, as defined in RCW 9A.40.020 and 9A.40.030;

7 (d) Forgery, as defined in RCW 9A.60.020 and 9A.60.030;

8 (e) Theft, as defined in RCW 9A.56.030, 9A.56.040, 9A.56.060, and
9 9A.56.080;

10 (f) Unlawful sale of subscription television services, as defined
11 in RCW 9A.56.230;

12 (g) Theft of telecommunication services or unlawful manufacture of
13 a telecommunication device, as defined in RCW 9A.56.262 and 9A.56.264;

14 (h) Child selling or child buying, as defined in RCW 9A.64.030;

15 (i) Bribery, as defined in RCW 9A.68.010, 9A.68.020, 9A.68.040, and
16 9A.68.050;

17 (j) Gambling, as defined in RCW 9.46.220 and 9.46.215 and 9.46.217;

18 (k) Extortion, as defined in RCW 9A.56.120 and 9A.56.130;

19 (l) Extortionate extension of credit, as defined in RCW 9A.82.020;

20 (m) Advancing money for use in an extortionate extension of credit,
21 as defined in RCW 9A.82.030;

22 (n) Collection of an extortionate extension of credit, as defined
23 in RCW 9A.82.040;

24 (o) Collection of an unlawful debt, as defined in RCW 9A.82.045;

25 (p) Delivery or manufacture of controlled substances or possession
26 with intent to deliver or manufacture controlled substances under
27 chapter 69.50 RCW;

28 (q) Trafficking in stolen property, as defined in RCW 9A.82.050;

29 (r) Leading organized crime, as defined in RCW 9A.82.060;

30 (s) Money laundering, as defined in RCW 9A.83.020;

31 (t) Obstructing criminal investigations or prosecutions in
32 violation of RCW 9A.72.090, 9A.72.100, 9A.72.110, 9A.72.120, 9A.72.130,
33 9A.76.070, or 9A.76.180;

34 (u) Fraud in the purchase or sale of securities, as defined in RCW
35 21.20.010;

36 (v) Promoting pornography, as defined in RCW 9.68.140;

37 (w) Sexual exploitation of children, as defined in RCW 9.68A.040,
38 9.68A.050, and 9.68A.060;

- 1 (x) Promoting prostitution, as defined in RCW 9A.88.070 and
2 9A.88.080;
- 3 (y) Arson, as defined in RCW 9A.48.020 and 9A.48.030;
- 4 (z) Assault, as defined in RCW 9A.36.011 and 9A.36.021;
- 5 (aa) Assault of a child, as defined in RCW 9A.36.120 and 9A.36.130;
- 6 (bb) A pattern of equity skimming, as defined in RCW 61.34.020;
- 7 (cc) Commercial telephone solicitation in violation of RCW
8 19.158.040(1);
- 9 (dd) Trafficking in insurance claims, as defined in RCW 48.30A.015;
- 10 (ee) Unlawful practice of law, as defined in RCW 2.48.180;
- 11 (ff) Commercial bribery, as defined in RCW 9A.68.060;
- 12 (gg) Health care false claims, as defined in RCW 48.80.030;
- 13 (hh) Unlicensed practice of a profession or business, as defined in
14 RCW 18.130.190(7);
- 15 (ii) Improperly obtaining financial information, as defined in RCW
16 9.35.010; (~~oe~~)
- 17 (jj) Identity theft, as defined in RCW 9.35.020;
- 18 (kk) Trafficking, as defined in section 1 of this act.
- 19 (5) "Dealer in property" means a person who buys and sells property
20 as a business.
- 21 (6) "Debtor" means a person to whom an extension of credit is made
22 or a person who guarantees the repayment of an extension of credit or
23 in any manner undertakes to indemnify the creditor against loss
24 resulting from the failure of a person to whom an extension is made to
25 repay the same.
- 26 (7) "Documentary material" means any book, paper, document,
27 writing, drawing, graph, chart, photograph, phonograph record, magnetic
28 tape, computer printout, other data compilation from which information
29 can be obtained or from which information can be translated into usable
30 form, or other tangible item.
- 31 (8) "Enterprise" includes any individual, sole proprietorship,
32 partnership, corporation, business trust, or other profit or nonprofit
33 legal entity, and includes any union, association, or group of
34 individuals associated in fact although not a legal entity, and both
35 illicit and licit enterprises and governmental and nongovernmental
36 entities.
- 37 (9) "Extortionate extension of credit" means an extension of credit
38 with respect to which it is the understanding of the creditor and the

1 debtor at the time the extension is made that delay in making repayment
2 or failure to make repayment could result in the use of violence or
3 other criminal means to cause harm to the person, reputation, or
4 property of any person.

5 (10) "Extortionate means" means the use, or an express or implicit
6 threat of use, of violence or other criminal means to cause harm to the
7 person, reputation, or property of any person.

8 (11) "Financial institution" means any bank, trust company, savings
9 and loan association, savings bank, mutual savings bank, credit union,
10 or loan company under the jurisdiction of the state or an agency of the
11 United States.

12 (12) "Pattern of criminal profiteering activity" means engaging in
13 at least three acts of criminal profiteering, one of which occurred
14 after July 1, 1985, and the last of which occurred within five years,
15 excluding any period of imprisonment, after the commission of the
16 earliest act of criminal profiteering. In order to constitute a
17 pattern, the three acts must have the same or similar intent, results,
18 accomplices, principals, victims, or methods of commission, or be
19 otherwise interrelated by distinguishing characteristics including a
20 nexus to the same enterprise, and must not be isolated events.
21 However, in any civil proceedings brought pursuant to RCW 9A.82.100 by
22 any person other than the attorney general or county prosecuting
23 attorney in which one or more acts of fraud in the purchase or sale of
24 securities are asserted as acts of criminal profiteering activity, it
25 is a condition to civil liability under RCW 9A.82.100 that the
26 defendant has been convicted in a criminal proceeding of fraud in the
27 purchase or sale of securities under RCW 21.20.400 or under the laws of
28 another state or of the United States requiring the same elements of
29 proof, but such conviction need not relate to any act or acts asserted
30 as acts of criminal profiteering activity in such civil action under
31 RCW 9A.82.100.

32 (13) "Real property" means any real property or interest in real
33 property, including but not limited to a land sale contract, lease, or
34 mortgage of real property.

35 (14) "Records" means any book, paper, writing, record, computer
36 program, or other material.

37 (15) "Repayment of an extension of credit" means the repayment,

1 satisfaction, or discharge in whole or in part of a debt or claim,
2 acknowledged or disputed, valid or invalid, resulting from or in
3 connection with that extension of credit.

4 (16) "Stolen property" means property that has been obtained by
5 theft, robbery, or extortion.

6 (17) "To collect an extension of credit" means to induce in any way
7 a person to make repayment thereof.

8 (18) "To extend credit" means to make or renew a loan or to enter
9 into an agreement, tacit or express, whereby the repayment or
10 satisfaction of a debt or claim, whether acknowledged or disputed,
11 valid or invalid, and however arising, may or shall be deferred.

12 (19) "Traffic" means to sell, transfer, distribute, dispense, or
13 otherwise dispose of stolen property to another person, or to buy,
14 receive, possess, or obtain control of stolen property, with intent to
15 sell, transfer, distribute, dispense, or otherwise dispose of the
16 property to another person.

17 (20)(a) "Trustee" means:

18 (i) A person acting as a trustee under a trust established under
19 Title 11 RCW in which the trustee holds legal or record title to real
20 property;

21 (ii) A person who holds legal or record title to real property in
22 which another person has a beneficial interest; or

23 (iii) A successor trustee to a person who is a trustee under (a)(i)
24 or (ii) of this subsection.

25 (b) "Trustee" does not mean a person appointed or acting as:

26 (i) A personal representative under Title 11 RCW;

27 (ii) A trustee of any testamentary trust;

28 (iii) A trustee of any indenture of trust under which a bond is
29 issued; or

30 (iv) A trustee under a deed of trust.

31 (21) "Unlawful debt" means any money or other thing of value
32 constituting principal or interest of a debt that is legally
33 unenforceable in the state in full or in part because the debt was
34 incurred or contracted:

35 (a) In violation of any one of the following:

36 (i) Chapter 67.16 RCW relating to horse racing;

37 (ii) Chapter 9.46 RCW relating to gambling;

38 (b) In a gambling activity in violation of federal law; or

1 (c) In connection with the business of lending money or a thing of
2 value at a rate that is at least twice the permitted rate under the
3 applicable state or federal law relating to usury.

4 **Sec. 5.** RCW 9A.82.090 and 2001 c 222 s 13 are each amended to read
5 as follows:

6 During the pendency of any criminal case charging a violation of
7 RCW 9A.82.060 or (~~(a violation of RCW)~~) 9A.82.080, or an offense
8 defined in section 1 of this act whether or not committed for financial
9 gain, the superior court may, in addition to its other powers, issue an
10 order pursuant to RCW 9A.82.100 (2) or (3). Upon conviction of a
11 person for a violation of RCW 9A.82.060 or (~~(a violation of RCW)~~)
12 9A.82.080, or an offense defined in section 1 of this act whether or
13 not committed for financial gain, the superior court may, in addition
14 to its other powers of disposition, issue an order pursuant to RCW
15 9A.82.100.

16 **Sec. 6.** RCW 9A.82.100 and 2001 c 222 s 14 are each amended to read
17 as follows:

18 (1)(a) A person who sustains injury to his or her person, business,
19 or property by an act of criminal profiteering that is part of a
20 pattern of criminal profiteering activity, or by an offense defined in
21 section 1 of this act whether or not committed for financial gain, or
22 by a violation of RCW 9A.82.060 or 9A.82.080 may file an action in
23 superior court for the recovery of damages and the costs of the suit,
24 including reasonable investigative and attorney's fees.

25 (b) The attorney general or county prosecuting attorney may file an
26 action: (i) On behalf of those persons injured or, respectively, on
27 behalf of the state or county if the entity has sustained damages, or
28 (ii) to prevent, restrain, or remedy a pattern of criminal profiteering
29 activity, or an offense defined in section 1 of this act whether or not
30 committed for financial gain, or a violation of RCW 9A.82.060 or
31 9A.82.080.

32 (c) An action for damages filed by or on behalf of an injured
33 person, the state, or the county shall be for the recovery of damages
34 and the costs of the suit, including reasonable investigative and
35 attorney's fees.

1 (d) In an action filed to prevent, restrain, or remedy a pattern of
2 criminal profiteering activity, or an offense defined in section 1 of
3 this act whether or not committed for financial gain, or a violation of
4 RCW 9A.82.060 or 9A.82.080, the court, upon proof of the violation, may
5 impose a civil penalty not exceeding two hundred fifty thousand
6 dollars, in addition to awarding the cost of the suit, including
7 reasonable investigative and attorney's fees.

8 (2) The superior court has jurisdiction to prevent, restrain, and
9 remedy a pattern of criminal profiteering, or an offense defined in
10 section 1 of this act whether or not committed for financial gain, or
11 a violation of RCW 9A.82.060 or 9A.82.080 after making provision for
12 the rights of all innocent persons affected by the violation and after
13 hearing or trial, as appropriate, by issuing appropriate orders.

14 (3) Prior to a determination of liability, orders issued under
15 subsection (2) of this section may include, but are not limited to,
16 entering restraining orders or prohibitions or taking such other
17 actions, including the acceptance of satisfactory performance bonds, in
18 connection with any property or other interest subject to damages,
19 forfeiture, or other restraints pursuant to this section as the court
20 deems proper. The orders may also include attachment, receivership, or
21 injunctive relief in regard to personal or real property pursuant to
22 Title 7 RCW. In shaping the reach or scope of receivership,
23 attachment, or injunctive relief, the superior court shall provide for
24 the protection of bona fide interests in property, including community
25 property, of persons who were not involved in the violation of this
26 chapter, except to the extent that such interests or property were
27 acquired or used in such a way as to be subject to forfeiture under RCW
28 9A.82.100(4)(f).

29 (4) Following a determination of liability, orders may include, but
30 are not limited to:

31 (a) Ordering any person to divest himself or herself of any
32 interest, direct or indirect, in any enterprise.

33 (b) Imposing reasonable restrictions on the future activities or
34 investments of any person, including prohibiting any person from
35 engaging in the same type of endeavor as the enterprise engaged in, the
36 activities of which affect the laws of this state, to the extent the
37 Constitutions of the United States and this state permit.

38 (c) Ordering dissolution or reorganization of any enterprise.

1 (d) Ordering the payment of actual damages sustained to those
2 persons injured by a violation of RCW 9A.82.060 or 9A.82.080, or an
3 offense defined in section 1 of this act whether or not committed for
4 financial gain, or an act of criminal profiteering that is part of a
5 pattern of criminal profiteering, and in the court's discretion,
6 increasing the payment to an amount not exceeding three times the
7 actual damages sustained.

8 (e) Ordering the payment of all costs and expenses of the
9 prosecution and investigation of a pattern of criminal profiteering, or
10 an offense defined in section 1 of this act whether or not committed
11 for financial gain, activity or a violation of RCW 9A.82.060 or
12 9A.82.080, civil and criminal, incurred by the state or county,
13 including any costs of defense provided at public expense, as
14 appropriate to the state general fund or the antiprofitteering revolving
15 fund of the county.

16 (f) Ordering forfeiture first as restitution to any person damaged
17 by an act of criminal profiteering that is part of a pattern of
18 criminal profiteering, or by an offense defined in section 1 of this
19 act whether or not committed for financial gain, then to the state
20 general fund or antiprofitteering revolving fund of the county, as
21 appropriate, to the extent not already ordered to be paid in other
22 damages, of the following:

23 (i) Any property or other interest acquired or maintained in
24 violation of RCW 9A.82.060 or 9A.82.080 to the extent of the investment
25 of funds, and any appreciation or income attributable to the
26 investment, from a violation of RCW 9A.82.060 or 9A.82.080.

27 (ii) Any property, contractual right, or claim against property
28 used to influence any enterprise that a person has established,
29 operated, controlled, conducted, or participated in the conduct of, in
30 violation of RCW 9A.82.060 or 9A.82.080.

31 (iii) All proceeds traceable to or derived from an offense included
32 in the pattern of criminal profiteering activity, or an offense defined
33 in section 1 of this act whether or not committed for financial gain,
34 and all moneys, negotiable instruments, securities, and other things of
35 value significantly used or intended to be used significantly to
36 facilitate commission of the offense.

37 (g) Ordering payment to the state general fund or antiprofitteering

1 revolving fund of the county, as appropriate, of an amount equal to the
2 gain a person has acquired or maintained through an offense included in
3 the definition of criminal profiteering.

4 (5) In addition to or in lieu of an action under this section, the
5 attorney general or county prosecuting attorney may file an action for
6 forfeiture to the state general fund or antiprofitteering revolving fund
7 of the county, as appropriate, to the extent not already ordered paid
8 pursuant to this section, of the following:

9 (a) Any interest acquired or maintained by a person in violation of
10 RCW 9A.82.060 or 9A.82.080 to the extent of the investment of funds
11 obtained from a violation of RCW 9A.82.060 or 9A.82.080 and any
12 appreciation or income attributable to the investment.

13 (b) Any property, contractual right, or claim against property used
14 to influence any enterprise that a person has established, operated,
15 controlled, conducted, or participated in the conduct of, in violation
16 of RCW 9A.82.060 or 9A.82.080.

17 (c) All proceeds traceable to or derived from an offense included
18 in the pattern of criminal profiteering activity, or an offense defined
19 in section 1 of this act whether or not committed for financial gain,
20 and all moneys, negotiable instruments, securities, and other things of
21 value significantly used or intended to be used significantly to
22 facilitate the commission of the offense.

23 (6) A defendant convicted in any criminal proceeding is precluded
24 in any civil proceeding from denying the essential allegations of the
25 criminal offense proven in the criminal trial in which the defendant
26 was convicted. For the purposes of this subsection, a conviction shall
27 be deemed to have occurred upon a verdict, finding, or plea of guilty,
28 notwithstanding the fact that appellate review of the conviction and
29 sentence has been or may be sought. If a subsequent reversal of the
30 conviction occurs, any judgment that was based upon that conviction may
31 be reopened upon motion of the defendant.

32 (7) The initiation of civil proceedings under this section shall be
33 commenced within three years after discovery of the pattern of criminal
34 profiteering activity or after the pattern should reasonably have been
35 discovered or, in the case of an offense that is defined in section 1
36 of this act, within three years after the final disposition of any
37 criminal charges relating to the offense, whichever is later.

1 (8) The attorney general or county prosecuting attorney may, in a
2 civil action brought pursuant to this section, file with the clerk of
3 the superior court a certificate stating that the case is of special
4 public importance. A copy of that certificate shall be furnished
5 immediately by the clerk to the presiding chief judge of the superior
6 court in which the action is pending and, upon receipt of the copy, the
7 judge shall immediately designate a judge to hear and determine the
8 action. The judge so designated shall promptly assign the action for
9 hearing, participate in the hearings and determination, and cause the
10 action to be expedited.

11 (9) The standard of proof in actions brought pursuant to this
12 section is the preponderance of the evidence test.

13 (10) A person other than the attorney general or county prosecuting
14 attorney who files an action under this section shall serve notice and
15 one copy of the pleading on the attorney general within thirty days
16 after the action is filed with the superior court. The notice shall
17 identify the action, the person, and the person's attorney. Service of
18 the notice does not limit or otherwise affect the right of the state to
19 maintain an action under this section or intervene in a pending action
20 nor does it authorize the person to name the state or the attorney
21 general as a party to the action.

22 (11) Except in cases filed by a county prosecuting attorney, the
23 attorney general may, upon timely application, intervene in any civil
24 action or proceeding brought under this section if the attorney general
25 certifies that in the attorney general's opinion the action is of
26 special public importance. Upon intervention, the attorney general may
27 assert any available claim and is entitled to the same relief as if the
28 attorney general had instituted a separate action.

29 (12) In addition to the attorney general's right to intervene as a
30 party in any action under this section, the attorney general may appear
31 as amicus curiae in any proceeding in which a claim under this section
32 has been asserted or in which a court is interpreting RCW 9A.82.010,
33 9A.82.080, 9A.82.090, 9A.82.110, or 9A.82.120, or this section.

34 (13) A private civil action under this section does not limit any
35 other civil or criminal action under this chapter or any other
36 provision. Private civil remedies provided under this section are
37 supplemental and not mutually exclusive.

1 (14) Upon motion by the defendant, the court may authorize the sale
2 or transfer of assets subject to an order or lien authorized by this
3 chapter for the purpose of paying actual attorney's fees and costs of
4 defense. The motion shall specify the assets for which sale or
5 transfer is sought and shall be accompanied by the defendant's sworn
6 statement that the defendant has no other assets available for such
7 purposes. No order authorizing such sale or transfer may be entered
8 unless the court finds that the assets involved are not subject to
9 possible forfeiture under RCW 9A.82.100(4)(f). Prior to disposition of
10 the motion, the court shall notify the state of the assets sought to be
11 sold or transferred and shall hear argument on the issue of whether the
12 assets are subject to forfeiture under RCW 9A.82.100(4)(f). Such a
13 motion may be made from time to time and shall be heard by the court on
14 an expedited basis.

15 (15) In an action brought under subsection (1)(a) and (b)(i) of
16 this section, either party has the right to a jury trial.

17 **Sec. 7.** RCW 9A.82.120 and 2001 c 222 s 16 are each amended to read
18 as follows:

19 (1) The state, upon filing a criminal action under RCW 9A.82.060 or
20 9A.82.080 or for an offense defined in section 1 of this act whether or
21 not committed for financial gain, or a civil action under RCW
22 9A.82.100, may file in accordance with this section a criminal
23 profiteering lien. A filing fee or other charge is not required for
24 filing a criminal profiteering lien.

25 (2) A criminal profiteering lien shall be signed by the attorney
26 general or the county prosecuting attorney representing the state in
27 the action and shall set forth the following information:

28 (a) The name of the defendant whose property or other interests are
29 to be subject to the lien;

30 (b) In the discretion of the attorney general or county prosecuting
31 attorney filing the lien, any aliases or fictitious names of the
32 defendant named in the lien;

33 (c) If known to the attorney general or county prosecuting attorney
34 filing the lien, the present residence or principal place of business
35 of the person named in the lien;

36 (d) A reference to the proceeding pursuant to which the lien is

1 filed, including the name of the court, the title of the action, and
2 the court's file number for the proceeding;

3 (e) The name and address of the attorney representing the state in
4 the proceeding pursuant to which the lien is filed;

5 (f) A statement that the notice is being filed pursuant to this
6 section;

7 (g) The amount that the state claims in the action or, with respect
8 to property or other interests that the state has requested forfeiture
9 to the state or county, a description of the property or interests
10 sought to be paid or forfeited;

11 (h) If known to the attorney general or county prosecuting attorney
12 filing the lien, a description of property that is subject to
13 forfeiture to the state or property in which the defendant has an
14 interest that is available to satisfy a judgment entered in favor of
15 the state; and

16 (i) Such other information as the attorney general or county
17 prosecuting attorney filing the lien deems appropriate.

18 (3) The attorney general or the county prosecuting attorney filing
19 the lien may amend a lien filed under this section at any time by
20 filing an amended criminal profiteering lien in accordance with this
21 section that identifies the prior lien amended.

22 (4) The attorney general or the county prosecuting attorney filing
23 the lien shall, as soon as practical after filing a criminal
24 profiteering lien, furnish to any person named in the lien a notice of
25 the filing of the lien. Failure to furnish notice under this
26 subsection does not invalidate or otherwise affect a criminal
27 profiteering lien filed in accordance with this section.

28 (5)(a) A criminal profiteering lien is perfected against interests
29 in personal property in the same manner as a security interest in like
30 property pursuant to RCW ((~~62A.9-302, 62A.9-303, 62A.9-304, 62A.9-305,~~
31 ~~and 62A.9-306~~)) 62A.9A-301 through 62A.9A-316 or as otherwise required
32 to perfect a security interest in like property under applicable law.
33 In the case of perfection by filing, the state shall file, in lieu of
34 a financing statement in the form prescribed by RCW ((~~62A.9-402~~))
35 62A.9A-502, a notice of lien in substantially the following form:

36 NOTICE OF LIEN

Pursuant to RCW 9A.82.120, the state of Washington
claims a criminal profiteering lien on all real and personal
property of:

Name:

Address:

.....

State of Washington

.....

By (authorized signature)

On receipt of such a notice from the state, a filing officer shall, without payment of filing fee, file and index the notice as if it were a financing statement naming the state as secured party and the defendant as debtor.

(b) A criminal profiteering lien is perfected against interests in real property by filing the lien in the office where a mortgage on the real estate would be filed or recorded. The filing officer shall file and index the criminal profiteering lien, without payment of a filing fee, in the same manner as a mortgage.

(6) The filing of a criminal profiteering lien in accordance with this section creates a lien in favor of the state in:

(a) Any interest of the defendant, in real property situated in the county in which the lien is filed, then maintained, or thereafter acquired in the name of the defendant identified in the lien;

(b) Any interest of the defendant, in personal property situated in this state, then maintained or thereafter acquired in the name of the defendant identified in the lien; and

(c) Any property identified in the lien to the extent of the defendant's interest therein.

(7) The lien created in favor of the state in accordance with this section, when filed or otherwise perfected as provided in subsection (5) of this section, has, with respect to any of the property described in subsection (6) of this section, the same priority determined pursuant to the laws of this state as a mortgage or security interest given for value (but not a purchase money security interest) and perfected in the same manner with respect to such property; except that any lien perfected pursuant to Title 60 RCW by any person who, in the ordinary course of his or her business, furnishes labor, services, or

1 materials, or rents, leases, or otherwise supplies equipment, without
2 knowledge of the criminal profiteering lien, is superior to the
3 criminal profiteering lien.

4 (8) Upon entry of judgment in favor of the state, the state may
5 proceed to execute thereon as in the case of any other judgment, except
6 that in order to preserve the state's lien priority as provided in this
7 section the state shall, in addition to such other notice as is
8 required by law, give at least thirty days' notice of the execution to
9 any person possessing at the time the notice is given, an interest
10 recorded subsequent to the date the state's lien was perfected.

11 (9) Upon the entry of a final judgment in favor of the state
12 providing for forfeiture of property to the state, the title of the
13 state to the property:

14 (a) In the case of real property or a beneficial interest in real
15 property, relates back to the date of filing the criminal profiteering
16 lien or, if no criminal profiteering lien is filed, then to the date of
17 recording of the final judgment or the abstract thereof; or

18 (b) In the case of personal property or a beneficial interest in
19 personal property, relates back to the date the personal property was
20 seized by the state, or the date of filing of a criminal profiteering
21 lien in accordance with this section, whichever is earlier, but if the
22 property was not seized and no criminal profiteering lien was filed
23 then to the date the final judgment was filed with the department of
24 licensing and, if the personal property is an aircraft, with the
25 federal aviation administration.

26 (10) This section does not limit the right of the state to obtain
27 any order or injunction, receivership, writ, attachment, garnishment,
28 or other remedy authorized under RCW 9A.82.100 or appropriate to
29 protect the interests of the state or available under other applicable
30 law.

31 (11) In a civil or criminal action under this chapter, the superior
32 court shall provide for the protection of bona fide interests in
33 property, including community property, subject to liens of persons who
34 were not involved in the violation of this chapter, except to the
35 extent that such interests or property were acquired or used in such a
36 way as to be subject to forfeiture pursuant to RCW 9A.82.100(4)(f).

37 NEW SECTION. **Sec. 8.** Section 2 of this act expires July 1, 2004.

1 NEW SECTION. **Sec. 9.** Section 3 of this act takes effect July 1,
2 2004.

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