S-1280.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SUBSTITUTE SENATE BILL 5099**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 65th Legislature 2017 Regular Session**

**By** Senate Law & Justice (originally sponsored by Senators Bailey, Frockt, O'Ban, Pedersen, Darneille, Keiser, and Kuderer; by request of Attorney General)

AN ACT Relating to crimes against vulnerable persons; amending RCW 9A.42.020, 9A.42.030, 9A.42.035, 9A.56.010, 9A.04.080, 9A.56.030, 9A.56.040, and 74.34.020; reenacting and amending RCW 9.94A.411 and 9.94A.515; adding a new section to chapter 9A.56 RCW; and adding a new section to chapter 74.34 RCW.

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

NEW SECTION. **Sec.**  The legislature finds that seniors and people with disabilities face a growing threat of financial exploitation and physical neglect. The legislature intends with this act to hold accountable those perpetrators who commit theft and physical neglect of seniors and people with disabilities by increasing penalties, reducing barriers to prosecution, and expanding the scope of protection for vulnerable persons.

**Sec.**  RCW 9A.42.020 and 2006 c 228 s 2 are each amended to read as follows:

(1) A parent of a child, the person entrusted with the physical custody of a child or dependent person, a person who has assumed the responsibility to provide to a dependent person the basic necessities of life, or a person employed to provide to the child or dependent person the basic necessities of life is guilty of criminal mistreatment in the first degree if he or she ((~~recklessly~~)) with criminal negligence, as defined in RCW 9A.08.010, causes great bodily harm to a child or dependent person by withholding any of the basic necessities of life.

(2) Criminal mistreatment in the first degree is a class B felony.

**Sec.**  RCW 9A.42.030 and 2006 c 228 s 3 are each amended to read as follows:

(1) A parent of a child, the person entrusted with the physical custody of a child or dependent person, a person who has assumed the responsibility to provide to a dependent person the basic necessities of life, or a person employed to provide to the child or dependent person the basic necessities of life is guilty of criminal mistreatment in the second degree if he or she ((~~recklessly~~)) with criminal negligence, as defined in RCW 9A.08.010, either (a) creates an imminent and substantial risk of death or great bodily harm by withholding any of the basic necessities of life, or (b) causes substantial bodily harm by withholding any of the basic necessities of life.

(2) Criminal mistreatment in the second degree is a class C felony.

**Sec.**  RCW 9A.42.035 and 2006 c 228 s 4 are each amended to read as follows:

(1) A person is guilty of the crime of criminal mistreatment in the third degree if the person is the parent of a child, is a person entrusted with the physical custody of a child or other dependent person, is a person who has assumed the responsibility to provide to a dependent person the basic necessities of life, or is a person employed to provide to the child or dependent person the basic necessities of life((~~,~~)) and ((~~either:~~

~~(a)~~)), with criminal negligence, creates an imminent and substantial risk of substantial bodily harm to a child or dependent person by withholding any of the basic necessities of life((~~; or~~

~~(b) With criminal negligence, causes substantial bodily harm to a child or dependent person by withholding any of the basic necessities of life~~)).

(2) For purposes of this section, "a person who has assumed the responsibility to provide to a dependent person the basic necessities of life" means a person other than: (a) A government agency that regularly provides assistance or services to dependent persons, including but not limited to the department of social and health services; or (b) a good samaritan as defined in RCW 9A.42.010.

(3) Criminal mistreatment in the third degree is a gross misdemeanor.

**Sec.**  RCW 9.94A.411 and 2006 c 271 s 1 and 2006 c 73 s 13 are each reenacted and amended to read as follows:

(1) Decision not to prosecute.

STANDARD: A prosecuting attorney may decline to prosecute, even though technically sufficient evidence to prosecute exists, in situations where prosecution would serve no public purpose, would defeat the underlying purpose of the law in question or would result in decreased respect for the law.

GUIDELINE/COMMENTARY:

Examples

The following are examples of reasons not to prosecute which could satisfy the standard.

(a) Contrary to Legislative Intent - It may be proper to decline to charge where the application of criminal sanctions would be clearly contrary to the intent of the legislature in enacting the particular statute.

(b) Antiquated Statute - It may be proper to decline to charge where the statute in question is antiquated in that:

(i) It has not been enforced for many years; and

(ii) Most members of society act as if it were no longer in existence; and

(iii) It serves no deterrent or protective purpose in today's society; and

(iv) The statute has not been recently reconsidered by the legislature.

This reason is not to be construed as the basis for declining cases because the law in question is unpopular or because it is difficult to enforce.

(c) De Minimis Violation - It may be proper to decline to charge where the violation of law is only technical or insubstantial and where no public interest or deterrent purpose would be served by prosecution.

(d) Confinement on Other Charges - It may be proper to decline to charge because the accused has been sentenced on another charge to a lengthy period of confinement; and

(i) Conviction of the new offense would not merit any additional direct or collateral punishment;

(ii) The new offense is either a misdemeanor or a felony which is not particularly aggravated; and

(iii) Conviction of the new offense would not serve any significant deterrent purpose.

(e) Pending Conviction on Another Charge - It may be proper to decline to charge because the accused is facing a pending prosecution in the same or another county; and

(i) Conviction of the new offense would not merit any additional direct or collateral punishment;

(ii) Conviction in the pending prosecution is imminent;

(iii) The new offense is either a misdemeanor or a felony which is not particularly aggravated; and

(iv) Conviction of the new offense would not serve any significant deterrent purpose.

(f) High Disproportionate Cost of Prosecution - It may be proper to decline to charge where the cost of locating or transporting, or the burden on, prosecution witnesses is highly disproportionate to the importance of prosecuting the offense in question. This reason should be limited to minor cases and should not be relied upon in serious cases.

(g) Improper Motives of Complainant - It may be proper to decline charges because the motives of the complainant are improper and prosecution would serve no public purpose, would defeat the underlying purpose of the law in question or would result in decreased respect for the law.

(h) Immunity - It may be proper to decline to charge where immunity is to be given to an accused in order to prosecute another where the accused's information or testimony will reasonably lead to the conviction of others who are responsible for more serious criminal conduct or who represent a greater danger to the public interest.

(i) Victim Request - It may be proper to decline to charge because the victim requests that no criminal charges be filed and the case involves the following crimes or situations:

(i) Assault cases where the victim has suffered little or no injury;

(ii) Crimes against property, not involving violence, where no major loss was suffered;

(iii) Where doing so would not jeopardize the safety of society.

Care should be taken to insure that the victim's request is freely made and is not the product of threats or pressure by the accused.

The presence of these factors may also justify the decision to dismiss a prosecution which has been commenced.

Notification

The prosecutor is encouraged to notify the victim, when practical, and the law enforcement personnel, of the decision not to prosecute.

(2) Decision to prosecute.

(a) STANDARD:

Crimes against persons will be filed if sufficient admissible evidence exists, which, when considered with the most plausible, reasonably foreseeable defense that could be raised under the evidence, would justify conviction by a reasonable and objective fact finder. With regard to offenses prohibited by RCW 9A.44.040, 9A.44.050, 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, 9A.44.089, and 9A.64.020 the prosecutor should avoid prefiling agreements or diversions intended to place the accused in a program of treatment or counseling, so that treatment, if determined to be beneficial, can be provided pursuant to RCW 9.94A.670.

Crimes against property/other crimes will be filed if the admissible evidence is of such convincing force as to make it probable that a reasonable and objective fact finder would convict after hearing all the admissible evidence and the most plausible defense that could be raised.

See table below for the crimes within these categories.

CATEGORIZATION OF CRIMES FOR PROSECUTING STANDARDS

CRIMES AGAINST PERSONS

Aggravated Murder (RCW 10.95.020)

1st Degree Murder (RCW 9A.32.030)

2nd Degree Murder (RCW 9A.32.050)

1st Degree Manslaughter (RCW 9A.32.060)

2nd Degree Manslaughter (RCW 9A.32.070)

1st Degree Kidnapping (RCW 9A.40.020)

2nd Degree Kidnapping (RCW 9A.40.030)

1st Degree Assault (RCW 9A.36.011)

2nd Degree Assault (RCW 9A.36.021)

3rd Degree Assault (RCW 9A.36.031)

1st Degree Assault of a Child (RCW 9A.36.120)

2nd Degree Assault of a Child (RCW 9A.36.130)

3rd Degree Assault of a Child (RCW 9A.36.140)

1st Degree Rape (RCW 9A.44.040)

2nd Degree Rape (RCW 9A.44.050)

3rd Degree Rape (RCW 9A.44.060)

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

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

3rd Degree Rape of a Child (RCW 9A.44.079)

1st Degree Robbery (RCW 9A.56.200)

2nd Degree Robbery (RCW 9A.56.210)

1st Degree Arson (RCW 9A.48.020)

1st Degree Burglary (RCW 9A.52.020)

1st Degree Identity Theft (RCW 9.35.020(2))

2nd Degree Identity Theft (RCW 9.35.020(3))

1st Degree Extortion (RCW 9A.56.120)

2nd Degree Extortion (RCW 9A.56.130)

1st Degree Criminal Mistreatment (RCW 9A.42.020)

2nd Degree Criminal Mistreatment (RCW 9A.42.030)

1st Degree Theft from a Vulnerable Adult (section 6(1) of this act)

2nd Degree Theft from a Vulnerable Adult (section 6(2) of this act)

Indecent Liberties (RCW 9A.44.100)

Incest (RCW 9A.64.020)

Vehicular Homicide (RCW 46.61.520)

Vehicular Assault (RCW 46.61.522)

1st Degree Child Molestation (RCW 9A.44.083)

2nd Degree Child Molestation (RCW 9A.44.086)

3rd Degree Child Molestation (RCW 9A.44.089)

1st Degree Promoting Prostitution (RCW 9A.88.070)

Intimidating a Juror (RCW 9A.72.130)

Communication with a Minor (RCW 9.68A.090)

Intimidating a Witness (RCW 9A.72.110)

Intimidating a Public Servant (RCW 9A.76.180)

Bomb Threat (if against person) (RCW 9.61.160)

Unlawful Imprisonment (RCW 9A.40.040)

Promoting a Suicide Attempt (RCW 9A.36.060)

((~~Riot~~)) Criminal Mischief (if against person) (RCW 9A.84.010)

Stalking (RCW 9A.46.110)

Custodial Assault (RCW 9A.36.100)

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

Counterfeiting (if a violation of RCW 9.16.035(4))

Felony Driving a Motor Vehicle While Under the Influence of Intoxicating Liquor or Any Drug (RCW 46.61.502(6))

Felony Physical Control of a Motor Vehicle While Under the Influence of Intoxicating Liquor or Any Drug (RCW 46.61.504(6))

CRIMES AGAINST PROPERTY/OTHER CRIMES

2nd Degree Arson (RCW 9A.48.030)

1st Degree Escape (RCW 9A.76.110)

2nd Degree Escape (RCW 9A.76.120)

2nd Degree Burglary (RCW 9A.52.030)

1st Degree Theft (RCW 9A.56.030)

2nd Degree Theft (RCW 9A.56.040)

1st Degree Perjury (RCW 9A.72.020)

2nd Degree Perjury (RCW 9A.72.030)

1st Degree Introducing Contraband (RCW 9A.76.140)

2nd Degree Introducing Contraband (RCW 9A.76.150)

1st Degree Possession of Stolen Property (RCW 9A.56.150)

2nd Degree Possession of Stolen Property (RCW 9A.56.160)

Bribery (RCW 9A.68.010)

Bribing a Witness (RCW 9A.72.090)

Bribe received by a Witness (RCW 9A.72.100)

Bomb Threat (if against property) (RCW 9.61.160)

1st Degree Malicious Mischief (RCW 9A.48.070)

2nd Degree Malicious Mischief (RCW 9A.48.080)

1st Degree Reckless Burning (RCW 9A.48.040)

Taking a Motor Vehicle without Authorization (RCW 9A.56.070 and 9A.56.075)

Forgery (RCW 9A.60.020)

2nd Degree Promoting Prostitution (RCW 9A.88.080)

Tampering with a Witness (RCW 9A.72.120)

Trading in Public Office (RCW 9A.68.040)

Trading in Special Influence (RCW 9A.68.050)

Receiving/Granting Unlawful Compensation (RCW 9A.68.030)

Bigamy (RCW 9A.64.010)

Eluding a Pursuing Police Vehicle (RCW 46.61.024)

Willful Failure to Return from Furlough

Escape from Community Custody

((~~Riot~~)) Criminal Mischief (if against property) (RCW 9A.84.010)

1st Degree Theft of Livestock (RCW 9A.56.080)

2nd Degree Theft of Livestock (RCW 9A.56.083)

ALL OTHER UNCLASSIFIED FELONIES

Selection of Charges/Degree of Charge

(i) The prosecutor should file charges which adequately describe the nature of defendant's conduct. Other offenses may be charged only if they are necessary to ensure that the charges:

(A) Will significantly enhance the strength of the state's case at trial; or

(B) Will result in restitution to all victims.

(ii) The prosecutor should not overcharge to obtain a guilty plea. Overcharging includes:

(A) Charging a higher degree;

(B) Charging additional counts.

This standard is intended to direct prosecutors to charge those crimes which demonstrate the nature and seriousness of a defendant's criminal conduct, but to decline to charge crimes which are not necessary to such an indication. Crimes which do not merge as a matter of law, but which arise from the same course of conduct, do not all have to be charged.

(b) GUIDELINES/COMMENTARY:

(i) Police Investigation

A prosecuting attorney is dependent upon law enforcement agencies to conduct the necessary factual investigation which must precede the decision to prosecute. The prosecuting attorney shall ensure that a thorough factual investigation has been conducted before a decision to prosecute is made. In ordinary circumstances the investigation should include the following:

(A) The interviewing of all material witnesses, together with the obtaining of written statements whenever possible;

(B) The completion of necessary laboratory tests; and

(C) The obtaining, in accordance with constitutional requirements, of the suspect's version of the events.

If the initial investigation is incomplete, a prosecuting attorney should insist upon further investigation before a decision to prosecute is made, and specify what the investigation needs to include.

(ii) Exceptions

In certain situations, a prosecuting attorney may authorize filing of a criminal complaint before the investigation is complete if:

(A) Probable cause exists to believe the suspect is guilty; and

(B) The suspect presents a danger to the community or is likely to flee if not apprehended; or

(C) The arrest of the suspect is necessary to complete the investigation of the crime.

In the event that the exception to the standard is applied, the prosecuting attorney shall obtain a commitment from the law enforcement agency involved to complete the investigation in a timely manner. If the subsequent investigation does not produce sufficient evidence to meet the normal charging standard, the complaint should be dismissed.

(iii) Investigation Techniques

The prosecutor should be fully advised of the investigatory techniques that were used in the case investigation including:

(A) Polygraph testing;

(B) Hypnosis;

(C) Electronic surveillance;

(D) Use of informants.

(iv) Prefiling Discussions with Defendant

Discussions with the defendant or his/her representative regarding the selection or disposition of charges may occur prior to the filing of charges, and potential agreements can be reached.

(v) Prefiling Discussions with Victim(s)

Discussions with the victim(s) or victims' representatives regarding the selection or disposition of charges may occur before the filing of charges. The discussions may be considered by the prosecutor in charging and disposition decisions, and should be considered before reaching any agreement with the defendant regarding these decisions.

NEW SECTION. **Sec.**  A new section is added to chapter 9A.56 RCW to read as follows:

(1)(a) A person is guilty of theft from a vulnerable adult in the first degree if he or she commits theft of property or services that exceed(s) five thousand dollars in value, other than a firearm as defined in RCW 9.41.010, of a vulnerable adult. The defendant must have known or should have known that the victim was a vulnerable adult.

(b) Theft from a vulnerable adult in the first degree is a class B felony.

(2)(a) A person is guilty of theft from a vulnerable adult in the second degree if he or she commits theft of property or services that exceed(s) seven hundred fifty dollars in value but does not exceed five thousand dollars in value, other than a firearm as defined in RCW 9.41.010 or a motor vehicle, of a vulnerable adult. The defendant must have known or should have known that the victim was a vulnerable adult.

(b) Theft from a vulnerable adult in the second degree is a class C felony.

**Sec.**  RCW 9A.56.010 and 2011 c 164 s 2 are each amended to read as follows:

The following definitions are applicable in this chapter unless the context otherwise requires:

(1) "Access device" means any card, plate, code, account number, or other means of account access that can be used alone or in conjunction with another access device to obtain money, goods, services, or anything else of value, or that can be used to initiate a transfer of funds, other than a transfer originated solely by paper instrument;

(2) "Appropriate lost or misdelivered property or services" means obtaining or exerting control over the property or services of another which the actor knows to have been lost or mislaid, or to have been delivered under a mistake as to identity of the recipient or as to the nature or amount of the property;

(3) "Beverage crate" means a plastic or metal box-like container used by a manufacturer or distributor in the transportation or distribution of individually packaged beverages to retail outlets, and affixed with language stating "property of . . . . .," "owned by . . . . .," or other markings or words identifying ownership;

(4) "By color or aid of deception" means that the deception operated to bring about the obtaining of the property or services; it is not necessary that deception be the sole means of obtaining the property or services;

(5) "Deception" occurs when an actor knowingly:

(a) Creates or confirms another's false impression which the actor knows to be false; or

(b) Fails to correct another's impression which the actor previously has created or confirmed; or

(c) Prevents another from acquiring information material to the disposition of the property involved; or

(d) Transfers or encumbers property without disclosing a lien, adverse claim, or other legal impediment to the enjoyment of the property, whether that impediment is or is not valid, or is or is not a matter of official record; or

(e) Promises performance which the actor does not intend to perform or knows will not be performed;

(6) "Deprive" in addition to its common meaning means to make unauthorized use or an unauthorized copy of records, information, data, trade secrets, or computer programs;

(7) "Mail," in addition to its common meaning, means any letter, postal card, package, bag, or other item that is addressed to a specific address for delivery by the United States postal service or any commercial carrier performing the function of delivering similar items to residences or businesses, provided the mail:

(a)(i) Is addressed with a specific person's name, family name, or company, business, or corporation name on the outside of the item of mail or on the contents inside; and

(ii) Is not addressed to a generic unnamed occupant or resident of the address without an identifiable person, family, or company, business, or corporation name on the outside of the item of mail or on the contents inside; and

(b) Has been left for collection or delivery in any letter box, mailbox, mail receptacle, or other authorized depository for mail, or given to a mail carrier, or left with any private business that provides mailboxes or mail addresses for customers or when left in a similar location for collection or delivery by any commercial carrier; or

(c) Is in transit with a postal service, mail carrier, letter carrier, commercial carrier, or that is at or in a postal vehicle, postal station, mailbox, postal airplane, transit station, or similar location of a commercial carrier; or

(d) Has been delivered to the intended address, but has not been received by the intended addressee.

Mail, for purposes of chapter 164, Laws of 2011, does not include magazines, catalogs, direct mail inserts, newsletters, advertising circulars, or any mail that is considered third-class mail by the United States postal service;

(8) "Mailbox," in addition to its common meaning, means any authorized depository or receptacle of mail for the United States postal service or authorized depository for a commercial carrier that provides services to the general public, including any address to which mail is or can be addressed, or a place where the United States postal service or equivalent commercial carrier delivers mail to its addressee;

(9) "Merchandise pallet" means a wood or plastic carrier designed and manufactured as an item on which products can be placed before or during transport to retail outlets, manufacturers, or contractors, and affixed with language stating "property of . . .," "owned by . . .," or other markings or words identifying ownership;

(10) "Obtain control over" in addition to its common meaning, means:

(a) In relation to property, to bring about a transfer or purported transfer to the obtainer or another of a legally recognized interest in the property; or

(b) In relation to labor or service, to secure performance thereof for the benefits of the obtainer or another;

(11) "Owner" means a person, other than the actor, who has possession of or any other interest in the property or services involved, and without whose consent the actor has no authority to exert control over the property or services;

(12) "Parking area" means a parking lot or other property provided by retailers for use by a customer for parking an automobile or other vehicle;

(13) "Receive" includes, but is not limited to, acquiring title, possession, control, or a security interest, or any other interest in the property;

(14) "Received by the intended addressee" means that the addressee, owner of the delivery mailbox, or authorized agent has removed the delivered mail from its delivery mailbox;

(15) "Services" includes, but is not limited to, labor, professional services, transportation services, electronic computer services, the supplying of hotel accommodations, restaurant services, entertainment, the supplying of equipment for use, and the supplying of commodities of a public utility nature such as gas, electricity, steam, and water;

(16) "Shopping cart" means a basket mounted on wheels or similar container generally used in a retail establishment by a customer for the purpose of transporting goods of any kind;

(17) "Stolen" means obtained by theft, robbery, or extortion;

(18) "Subscription television service" means cable or encrypted video and related audio and data services intended for viewing on a home television by authorized members of the public only, who have agreed to pay a fee for the service. Subscription services include but are not limited to those video services presently delivered by coaxial cable, fiber optic cable, terrestrial microwave, television broadcast, and satellite transmission;

(19) "Telecommunication device" means (a) any type of instrument, device, machine, or equipment that is capable of transmitting or receiving telephonic or electronic communications; or (b) any part of such an instrument, device, machine, or equipment, or any computer circuit, computer chip, electronic mechanism, or other component, that is capable of facilitating the transmission or reception of telephonic or electronic communications;

(20) "Telecommunication service" includes any service other than subscription television service provided for a charge or compensation to facilitate the transmission, transfer, or reception of a telephonic communication or an electronic communication;

(21) Value. (a) "Value" means the market value of the property or services at the time and in the approximate area of the criminal act.

(b) Whether or not they have been issued or delivered, written instruments, except those having a readily ascertained market value, shall be evaluated as follows:

(i) The value of an instrument constituting an evidence of debt, such as a check, draft, or promissory note, shall be deemed the amount due or collectible thereon or thereby, that figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied;

(ii) The value of a ticket or equivalent instrument which evidences a right to receive transportation, entertainment, or other service shall be deemed the price stated thereon, if any; and if no price is stated thereon, the value shall be deemed the price of such ticket or equivalent instrument which the issuer charged the general public;

(iii) The value of any other instrument that creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation shall be deemed the greatest amount of economic loss which the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.

(c) Except as provided in RCW 9A.56.340(4) and 9A.56.350(4), whenever any series of transactions which constitute theft, would, when considered separately, constitute theft in the third degree because of value, and said series of transactions are a part of a criminal episode or a common scheme or plan, then the transactions may be aggregated in one count and the sum of the value of all said transactions shall be the value considered in determining the degree of theft involved.

For purposes of this subsection, "criminal episode" means a series of thefts committed by the same person from one or more mercantile establishments on three or more occasions within a five-day period.

(d) Whenever any person is charged with possessing stolen property and such person has unlawfully in his possession at the same time the stolen property of more than one person, then the stolen property possessed may be aggregated in one count and the sum of the value of all said stolen property shall be the value considered in determining the degree of theft involved. Thefts committed by the same person in different counties that have been aggregated in one county may be prosecuted in any county in which one of the thefts occurred.

(e) Property or services having value that cannot be ascertained pursuant to the standards set forth above shall be deemed to be of a value not exceeding two hundred and fifty dollars;

(22) "Vulnerable adult" includes a person eighteen years of age or older who:

(a) Has the functional, mental, or physical inability to care for himself or herself; or

(b) Is suffering from a cognitive impairment other than voluntary intoxication;

(23) "Wrongfully obtains" or "exerts unauthorized control" means:

(a) To take the property or services of another;

(b) Having any property or services in one's possession, custody or control as bailee, factor, lessee, pledgee, renter, servant, attorney, agent, employee, trustee, executor, administrator, guardian, or officer of any person, estate, association, or corporation, or as a public officer, or person authorized by agreement or competent authority to take or hold such possession, custody, or control, to secrete, withhold, or appropriate the same to his or her own use or to the use of any person other than the true owner or person entitled thereto; or

(c) Having any property or services in one's possession, custody, or control as partner, to secrete, withhold, or appropriate the same to his or her use or to the use of any person other than the true owner or person entitled thereto, where the use is unauthorized by the partnership agreement.

**Sec.**  RCW 9.94A.515 and 2016 c 213 s 5, 2016 c 164 s 13, and 2016 c 6 s 1 are each reenacted and amended to read as follows:

|  |  |  |
| --- | --- | --- |
|  | TABLE 2 |  |
|  | CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL |  |
| XVI | Aggravated Murder 1 (RCW 10.95.020) |  |
| XV | Homicide by abuse (RCW 9A.32.055) |  |
|  | Malicious explosion 1 (RCW 70.74.280(1)) |  |
|  | Murder 1 (RCW 9A.32.030) |  |
| XIV | Murder 2 (RCW 9A.32.050) |  |
|  | Trafficking 1 (RCW 9A.40.100(1)) |  |
| XIII | Malicious explosion 2 (RCW 70.74.280(2)) |  |
|  | Malicious placement of an explosive 1 (RCW 70.74.270(1)) |  |
| XII | Assault 1 (RCW 9A.36.011) |  |
|  | Assault of a Child 1 (RCW 9A.36.120) |  |
|  | Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a)) |  |
|  | Promoting Commercial Sexual Abuse of a Minor (RCW 9.68A.101) |  |
|  | Rape 1 (RCW 9A.44.040) |  |
|  | Rape of a Child 1 (RCW 9A.44.073) |  |
|  | Trafficking 2 (RCW 9A.40.100(3)) |  |
| XI | Manslaughter 1 (RCW 9A.32.060) |  |
|  | Rape 2 (RCW 9A.44.050) |  |
|  | Rape of a Child 2 (RCW 9A.44.076) |  |
|  | Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520) |  |
|  | Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520) |  |
| X | Child Molestation 1 (RCW 9A.44.083) |  |
|  | Criminal Mistreatment 1 (RCW 9A.42.020) |  |
|  | Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a)) |  |
|  | Kidnapping 1 (RCW 9A.40.020) |  |
|  | Leading Organized Crime (RCW 9A.82.060(1)(a)) |  |
|  | Malicious explosion 3 (RCW 70.74.280(3)) |  |
|  | Sexually Violent Predator Escape (RCW 9A.76.115) |  |
| IX | Abandonment of Dependent Person 1 (RCW 9A.42.060) |  |
|  | Assault of a Child 2 (RCW 9A.36.130) |  |
|  | Explosive devices prohibited (RCW 70.74.180) |  |
|  | Hit and Run—Death (RCW 46.52.020(4)(a)) |  |
|  | Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050) |  |
|  | Inciting Criminal Profiteering (RCW 9A.82.060(1)(b)) |  |
|  | Malicious placement of an explosive 2 (RCW 70.74.270(2)) |  |
|  | Robbery 1 (RCW 9A.56.200) |  |
|  | Sexual Exploitation (RCW 9.68A.040) |  |
| VIII | Arson 1 (RCW 9A.48.020) |  |
|  | Commercial Sexual Abuse of a Minor (RCW 9.68A.100) |  |
|  | Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050) |  |
|  | Manslaughter 2 (RCW 9A.32.070) |  |
|  | Promoting Prostitution 1 (RCW 9A.88.070) |  |
|  | Theft of Ammonia (RCW 69.55.010) |  |
| VII | Air bag diagnostic systems (causing bodily injury or death) (RCW 46.37.660(2)(b)) |  |
|  | Air bag replacement requirements (causing bodily injury or death) (RCW 46.37.660(1)(b)) |  |
|  | Burglary 1 (RCW 9A.52.020) |  |
|  | Child Molestation 2 (RCW 9A.44.086) |  |
|  | Civil Disorder Training (RCW 9A.48.120) |  |
|  | Manufacture or import counterfeit, nonfunctional, damaged, or previously deployed air bag (causing bodily injury or death) (RCW 46.37.650(1)(b)) |  |
|  | Sale, install, ((~~[or]~~)) or reinstall counterfeit, nonfunctional, damaged, or previously deployed airbag (RCW 46.37.650(2)(b)) |  |
|  | Dealing in depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.050(1)) |  |
|  | Drive-by Shooting (RCW 9A.36.045) |  |
|  | Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050) |  |
|  | Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c)) |  |
|  | Introducing Contraband 1 (RCW 9A.76.140) |  |
|  | Malicious placement of an explosive 3 (RCW 70.74.270(3)) |  |
|  | Negligently Causing Death By Use of a Signal Preemption Device (RCW 46.37.675) |  |
|  | Sending, bringing into state depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.060(1)) |  |
|  | Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1)) |  |
|  | Use of a Machine Gun in Commission of a Felony (RCW 9.41.225) |  |
|  | Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520) |  |
| VI | Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a)) |  |
|  | Bribery (RCW 9A.68.010) |  |
|  | Incest 1 (RCW 9A.64.020(1)) |  |
|  | Intimidating a Judge (RCW 9A.72.160) |  |
|  | Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130) |  |
|  | Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b)) |  |
|  | Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.070(1)) |  |
|  | Rape of a Child 3 (RCW 9A.44.079) |  |
|  | Theft of a Firearm (RCW 9A.56.300) |  |
|  | Theft from a Vulnerable Adult 1 (section 6(1) of this act) |  |
|  | Unlawful Storage of Ammonia (RCW 69.55.020) |  |
| V | Abandonment of Dependent Person 2 (RCW 9A.42.070) |  |
|  | Advancing money or property for extortionate extension of credit (RCW 9A.82.030) |  |
|  | Air bag diagnostic systems (RCW 46.37.660(2)(c)) |  |
|  | Air bag replacement requirements (RCW 46.37.660(1)(c)) |  |
|  | Bail Jumping with class A Felony (RCW 9A.76.170(3)(b)) |  |
|  | Child Molestation 3 (RCW 9A.44.089) |  |
|  | Manufacture or import counterfeit, nonfunctional, damaged, or previously deployed air bag (RCW 46.37.650(1)(c)) |  |
|  | Sale, install, ((~~[or]~~)) or reinstall counterfeit, nonfunctional, damaged, or previously deployed airbag (RCW 46.37.650(2)(c)) |  |
|  | Criminal Mistreatment 2 (RCW 9A.42.030) |  |
|  | Custodial Sexual Misconduct 1 (RCW 9A.44.160) |  |
|  | Dealing in Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.050(2)) |  |
|  | Domestic Violence Court Order Violation (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145) |  |
|  | Driving While Under the Influence (RCW 46.61.502(6)) |  |
|  | Extortion 1 (RCW 9A.56.120) |  |
|  | Extortionate Extension of Credit (RCW 9A.82.020) |  |
|  | Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040) |  |
|  | Incest 2 (RCW 9A.64.020(2)) |  |
|  | Kidnapping 2 (RCW 9A.40.030) |  |
|  | Perjury 1 (RCW 9A.72.020) |  |
|  | Persistent prison misbehavior (RCW 9.94.070) |  |
|  | Physical Control of a Vehicle While Under the Influence (RCW 46.61.504(6)) |  |
|  | Possession of a Stolen Firearm (RCW 9A.56.310) |  |
|  | Rape 3 (RCW 9A.44.060) |  |
|  | Rendering Criminal Assistance 1 (RCW 9A.76.070) |  |
|  | Sending, Bringing into State Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.060(2)) |  |
|  | Sexual Misconduct with a Minor 1 (RCW 9A.44.093) |  |
|  | Sexually Violating Human Remains (RCW 9A.44.105) |  |
|  | Stalking (RCW 9A.46.110) |  |
|  | Taking Motor Vehicle Without Permission 1 (RCW 9A.56.070) |  |
| IV | Arson 2 (RCW 9A.48.030) |  |
|  | Assault 2 (RCW 9A.36.021) |  |
|  | Assault 3 (of a Peace Officer with a Projectile Stun Gun) (RCW 9A.36.031(1)(h)) |  |
|  | Assault by Watercraft (RCW 79A.60.060) |  |
|  | Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100) |  |
|  | Cheating 1 (RCW 9.46.1961) |  |
|  | Commercial Bribery (RCW 9A.68.060) |  |
|  | Counterfeiting (RCW 9.16.035(4)) |  |
|  | Endangerment with a Controlled Substance (RCW 9A.42.100) |  |
|  | Escape 1 (RCW 9A.76.110) |  |
|  | Hit and Run—Injury (RCW 46.52.020(4)(b)) |  |
|  | Hit and Run with Vessel—Injury Accident (RCW 79A.60.200(3)) |  |
|  | Identity Theft 1 (RCW 9.35.020(2)) |  |
|  | Indecent Exposure to Person Under Age Fourteen (subsequent sex offense) (RCW 9A.88.010) |  |
|  | Influencing Outcome of Sporting Event (RCW 9A.82.070) |  |
|  | Malicious Harassment (RCW 9A.36.080) |  |
|  | Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.070(2)) |  |
|  | Residential Burglary (RCW 9A.52.025) |  |
|  | Robbery 2 (RCW 9A.56.210) |  |
|  | Theft of Livestock 1 (RCW 9A.56.080) |  |
|  | Threats to Bomb (RCW 9.61.160) |  |
|  | Trafficking in Stolen Property 1 (RCW 9A.82.050) |  |
|  | Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(b)) |  |
|  | Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3)) |  |
|  | Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3)) |  |
|  | Unlawful transaction of insurance business (RCW 48.15.023(3)) |  |
|  | Unlicensed practice as an insurance professional (RCW 48.17.063(2)) |  |
|  | Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2)) |  |
|  | Vehicle Prowling 2 (third or subsequent offense) (RCW 9A.52.100(3)) |  |
|  | Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522) |  |
|  | Viewing of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.075(1)) |  |
|  | Willful Failure to Return from Furlough (RCW 72.66.060) |  |
| III | Animal Cruelty 1 (Sexual Conduct or Contact) (RCW 16.52.205(3)) |  |
|  | Assault 3 (Except Assault 3 of a Peace Officer With a Projectile Stun Gun) (RCW 9A.36.031 except subsection (1)(h)) |  |
|  | Assault of a Child 3 (RCW 9A.36.140) |  |
|  | Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c)) |  |
|  | Burglary 2 (RCW 9A.52.030) |  |
|  | Communication with a Minor for Immoral Purposes (RCW 9.68A.090) |  |
|  | Criminal Gang Intimidation (RCW 9A.46.120) |  |
|  | Custodial Assault (RCW 9A.36.100) |  |
|  | Cyberstalking (subsequent conviction or threat of death) (RCW 9.61.260(3)) |  |
|  | Escape 2 (RCW 9A.76.120) |  |
|  | Extortion 2 (RCW 9A.56.130) |  |
|  | Harassment (RCW 9A.46.020) |  |
|  | Intimidating a Public Servant (RCW 9A.76.180) |  |
|  | Introducing Contraband 2 (RCW 9A.76.150) |  |
|  | Malicious Injury to Railroad Property (RCW 81.60.070) |  |
|  | Mortgage Fraud (RCW 19.144.080) |  |
|  | Negligently Causing Substantial Bodily Harm By Use of a Signal Preemption Device (RCW 46.37.674) |  |
|  | Organized Retail Theft 1 (RCW 9A.56.350(2)) |  |
|  | Perjury 2 (RCW 9A.72.030) |  |
|  | Possession of Incendiary Device (RCW 9.40.120) |  |
|  | Possession of Machine Gun or Short-Barreled Shotgun or Rifle (RCW 9.41.190) |  |
|  | Promoting Prostitution 2 (RCW 9A.88.080) |  |
|  | Retail Theft with Special Circumstances 1 (RCW 9A.56.360(2)) |  |
|  | Securities Act violation (RCW 21.20.400) |  |
|  | Tampering with a Witness (RCW 9A.72.120) |  |
|  | Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(2)) |  |
|  | Theft of Livestock 2 (RCW 9A.56.083) |  |
|  | Theft with the Intent to Resell 1 (RCW 9A.56.340(2)) |  |
|  | Trafficking in Stolen Property 2 (RCW 9A.82.055) |  |
|  | Unlawful Hunting of Big Game 1 (RCW 77.15.410(3)(b)) |  |
|  | Unlawful Imprisonment (RCW 9A.40.040) |  |
|  | Unlawful Misbranding of Food Fish or Shellfish 1 (RCW 69.04.938(3)) |  |
|  | Unlawful possession of firearm in the second degree (RCW 9.41.040(2)) |  |
|  | Unlawful Taking of Endangered Fish or Wildlife 1 (RCW 77.15.120(3)(b)) |  |
|  | Unlawful Trafficking in Fish, Shellfish, or Wildlife 1 (RCW 77.15.260(3)(b)) |  |
|  | Unlawful Use of a Nondesignated Vessel (RCW 77.15.530(4)) |  |
|  | Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522) |  |
|  | Willful Failure to Return from Work Release (RCW 72.65.070) |  |
| II | Commercial Fishing Without a License 1 (RCW 77.15.500(3)(b)) |  |
|  | Computer Trespass 1 (RCW 9A.90.040) |  |
|  | Counterfeiting (RCW 9.16.035(3)) |  |
|  | Electronic Data Service Interference (RCW 9A.90.060) |  |
|  | Electronic Data Tampering 1 (RCW 9A.90.080) |  |
|  | Electronic Data Theft (RCW 9A.90.100) |  |
|  | Engaging in Fish Dealing Activity Unlicensed 1 (RCW 77.15.620(3)) |  |
|  | Escape from Community Custody (RCW 72.09.310) |  |
|  | Failure to Register as a Sex Offender (second or subsequent offense) (RCW 9A.44.130 prior to June 10, 2010, and RCW 9A.44.132) |  |
|  | Health Care False Claims (RCW 48.80.030) |  |
|  | Identity Theft 2 (RCW 9.35.020(3)) |  |
|  | Improperly Obtaining Financial Information (RCW 9.35.010) |  |
|  | Malicious Mischief 1 (RCW 9A.48.070) |  |
|  | Organized Retail Theft 2 (RCW 9A.56.350(3)) |  |
|  | Possession of Stolen Property 1 (RCW 9A.56.150) |  |
|  | Possession of a Stolen Vehicle (RCW 9A.56.068) |  |
|  | Retail Theft with Special Circumstances 2 (RCW 9A.56.360(3)) |  |
|  | Scrap Processing, Recycling, or Supplying Without a License (second or subsequent offense) (RCW 19.290.100) |  |
|  | Theft 1 (RCW 9A.56.030) |  |
|  | Theft of a Motor Vehicle (RCW 9A.56.065) |  |
|  | Theft of Rental, Leased, Lease-purchased, or Loaned Property (valued at five thousand dollars or more) (RCW 9A.56.096(5)(a)) |  |
|  | Theft with the Intent to Resell 2 (RCW 9A.56.340(3)) |  |
|  | Trafficking in Insurance Claims (RCW 48.30A.015) |  |
|  | Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(a)) |  |
|  | Unlawful Participation of Non-Indians in Indian Fishery (RCW 77.15.570(2)) |  |
|  | Unlawful Practice of Law (RCW 2.48.180) |  |
|  | Unlawful Purchase or Use of a License (RCW 77.15.650(3)(b)) |  |
|  | Unlawful Trafficking in Fish, Shellfish, or Wildlife 2 (RCW 77.15.260(3)(a)) |  |
|  | Unlicensed Practice of a Profession or Business (RCW 18.130.190(7)) |  |
|  | Voyeurism (RCW 9A.44.115) |  |
| I | Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024) |  |
|  | False Verification for Welfare (RCW 74.08.055) |  |
|  | Forgery (RCW 9A.60.020) |  |
|  | Fraudulent Creation or Revocation of a Mental Health Advance Directive (RCW 9A.60.060) |  |
|  | Malicious Mischief 2 (RCW 9A.48.080) |  |
|  | Mineral Trespass (RCW 78.44.330) |  |
|  | Possession of Stolen Property 2 (RCW 9A.56.160) |  |
|  | Reckless Burning 1 (RCW 9A.48.040) |  |
|  | Spotlighting Big Game 1 (RCW 77.15.450(3)(b)) |  |
|  | Suspension of Department Privileges 1 (RCW 77.15.670(3)(b)) |  |
|  | Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075) |  |
|  | Theft 2 (RCW 9A.56.040) |  |
|  | Theft from a Vulnerable Adult 2 (section 6(2) of this act) |  |
|  | Theft of Rental, Leased, Lease-purchased, or Loaned Property (valued at seven hundred fifty dollars or more but less than five thousand dollars) (RCW 9A.56.096(5)(b)) |  |
|  | Transaction of insurance business beyond the scope of licensure (RCW 48.17.063) |  |
|  | Unlawful Fish and Shellfish Catch Accounting (RCW 77.15.630(3)(b)) |  |
|  | Unlawful Issuance of Checks or Drafts (RCW 9A.56.060) |  |
|  | Unlawful Possession of Fictitious Identification (RCW 9A.56.320) |  |
|  | Unlawful Possession of Instruments of Financial Fraud (RCW 9A.56.320) |  |
|  | Unlawful Possession of Payment Instruments (RCW 9A.56.320) |  |
|  | Unlawful Possession of a Personal Identification Device (RCW 9A.56.320) |  |
|  | Unlawful Production of Payment Instruments (RCW 9A.56.320) |  |
|  | Unlawful Releasing, Planting, Possessing, or Placing Deleterious Exotic Wildlife (RCW 77.15.250(2)(b)) |  |
|  | Unlawful Trafficking in Food Stamps (RCW 9.91.142) |  |
|  | Unlawful Use of Food Stamps (RCW 9.91.144) |  |
|  | Unlawful Use of Net to Take Fish 1 (RCW 77.15.580(3)(b)) |  |
|  | Unlawful Use of Prohibited Aquatic Animal Species (RCW 77.15.253(3)) |  |
|  | Vehicle Prowl 1 (RCW 9A.52.095) |  |
|  | Violating Commercial Fishing Area or Time 1 (RCW 77.15.550(3)(b)) |  |

**Sec.**  RCW 9A.04.080 and 2013 c 17 s 1 are each amended to read as follows:

(1) Prosecutions for criminal offenses shall not be commenced after the periods prescribed in this section.

(a) The following offenses may be prosecuted at any time after their commission:

(i) Murder;

(ii) Homicide by abuse;

(iii) Arson if a death results;

(iv) Vehicular homicide;

(v) Vehicular assault if a death results;

(vi) Hit-and-run injury-accident if a death results (RCW 46.52.020(4)).

(b) Except as provided in (c) of this subsection, the following offenses shall not be prosecuted more than ten years after their commission:

(i) Any felony committed by a public officer if the commission is in connection with the duties of his or her office or constitutes a breach of his or her public duty or a violation of the oath of office;

(ii) Arson if no death results;

(iii)(A) Violations of RCW 9A.44.040 or 9A.44.050 if the rape is reported to a law enforcement agency within one year of its commission.

(B) If a violation of RCW 9A.44.040 or 9A.44.050 is not reported within one year, the rape may not be prosecuted more than three years after its commission; or

(iv) Indecent liberties under RCW 9A.44.100(1)(b).

(c) Violations of the following statutes, when committed against a victim under the age of eighteen, may be prosecuted up to the victim's thirtieth birthday: RCW 9A.44.040 (rape in the first degree), 9A.44.050 (rape in the second degree), 9A.44.073 (rape of a child in the first degree), 9A.44.076 (rape of a child in the second degree), 9A.44.079 (rape of a child in the third degree), 9A.44.083 (child molestation in the first degree), 9A.44.086 (child molestation in the second degree), 9A.44.089 (child molestation in the third degree), 9A.44.100(1)(b) (indecent liberties), 9A.64.020 (incest), or 9.68A.040 (sexual exploitation of a minor).

(d) The following offenses shall not be prosecuted more than six years after their commission or their discovery, whichever occurs later:

(i) Violations of RCW 9A.82.060 or 9A.82.080;

(ii) Any felony violation of chapter 9A.83 RCW;

(iii) Any felony violation of chapter 9.35 RCW;

(iv) Theft in the first or second degree under chapter 9A.56 RCW when accomplished by color or aid of deception; ((~~or~~))

(v) Theft from a vulnerable adult under section 6 of this act; or

(vi) Trafficking in stolen property in the first or second degree under chapter 9A.82 RCW in which the stolen property is a motor vehicle or major component part of a motor vehicle as defined in RCW 46.80.010.

(e) The following offenses shall not be prosecuted more than five years after their commission: Any class C felony under chapter 74.09, 82.36, or 82.38 RCW.

(f) Bigamy shall not be prosecuted more than three years after the time specified in RCW 9A.64.010.

(g) A violation of RCW 9A.56.030 must not be prosecuted more than three years after the discovery of the offense when the victim is a tax exempt corporation under 26 U.S.C. Sec. 501(c)(3).

(h) No other felony may be prosecuted more than three years after its commission; except that in a prosecution under RCW 9A.44.115, if the person who was viewed, photographed, or filmed did not realize at the time that he or she was being viewed, photographed, or filmed, the prosecution must be commenced within two years of the time the person who was viewed or in the photograph or film first learns that he or she was viewed, photographed, or filmed.

(i) No gross misdemeanor may be prosecuted more than two years after its commission.

(j) No misdemeanor may be prosecuted more than one year after its commission.

(2) The periods of limitation prescribed in subsection (1) of this section do not run during any time when the person charged is not usually and publicly resident within this state.

(3) In any prosecution for a sex offense as defined in RCW 9.94A.030, the periods of limitation prescribed in subsection (1) of this section run from the date of commission or one year from the date on which the identity of the suspect is conclusively established by deoxyribonucleic acid testing or by photograph as defined in RCW 9.68A.011, whichever is later.

(4) If, before the end of a period of limitation prescribed in subsection (1) of this section, an indictment has been found or a complaint or an information has been filed, and the indictment, complaint, or information is set aside, then the period of limitation is extended by a period equal to the length of time from the finding or filing to the setting aside.

**Sec.**  RCW 9A.56.030 and 2013 c 322 s 2 are each amended to read as follows:

(1) Except as provided in section 6 of this act, a person is guilty of theft in the first degree if he or she commits theft of:

(a) Property or services which exceed(s) five thousand dollars in value other than a firearm as defined in RCW 9.41.010;

(b) Property of any value, other than a firearm as defined in RCW 9.41.010 or a motor vehicle, taken from the person of another;

(c) A search and rescue dog, as defined in RCW 9.91.175, while the search and rescue dog is on duty; or

(d) Commercial metal property, nonferrous metal property, or private metal property, as those terms are defined in RCW 19.290.010, and the costs of the damage to the owner's property exceed five thousand dollars in value.

(2) Theft in the first degree is a class B felony.

**Sec.**  RCW 9A.56.040 and 2013 c 322 s 3 are each amended to read as follows:

(1) Except as provided in section 6 of this act, a person is guilty of theft in the second degree if he or she commits theft of:

(a) Property or services which exceed(s) seven hundred fifty dollars in value but does not exceed five thousand dollars in value, other than a firearm as defined in RCW 9.41.010 or a motor vehicle;

(b) A public record, writing, or instrument kept, filed, or deposited according to law with or in the keeping of any public office or public servant;

(c) Commercial metal property, nonferrous metal property, or private metal property, as those terms are defined in RCW 19.290.010, and the costs of the damage to the owner's property exceed seven hundred fifty dollars but does not exceed five thousand dollars in value; or

(d) An access device.

(2) Theft in the second degree is a class C felony.

**Sec.**  RCW 74.34.020 and 2015 c 268 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Abandonment" means action or inaction by a person or entity with a duty of care for a vulnerable adult that leaves the vulnerable person without the means or ability to obtain necessary food, clothing, shelter, or health care.

(2) "Abuse" means the willful action or inaction that inflicts injury, unreasonable confinement, intimidation, or punishment on a vulnerable adult. In instances of abuse of a vulnerable adult who is unable to express or demonstrate physical harm, pain, or mental anguish, the abuse is presumed to cause physical harm, pain, or mental anguish. Abuse includes sexual abuse, mental abuse, physical abuse, and personal exploitation of a vulnerable adult, and improper use of restraint against a vulnerable adult which have the following meanings:

(a) "Sexual abuse" means any form of nonconsensual sexual conduct, including but not limited to unwanted or inappropriate touching, rape, sodomy, sexual coercion, sexually explicit photographing, and sexual harassment. Sexual abuse also includes any sexual conduct between a staff person, who is not also a resident or client, of a facility or a staff person of a program authorized under chapter 71A.12 RCW, and a vulnerable adult living in that facility or receiving service from a program authorized under chapter 71A.12 RCW, whether or not it is consensual.

(b) "Physical abuse" means the willful action of inflicting bodily injury or physical mistreatment. Physical abuse includes, but is not limited to, striking with or without an object, slapping, pinching, choking, kicking, shoving, or prodding.

(c) "Mental abuse" means a willful verbal or nonverbal action that threatens, humiliates, harasses, coerces, intimidates, isolates, unreasonably confines, or punishes a vulnerable adult. Mental abuse may include ridiculing, yelling, or swearing.

(d) "Personal exploitation" means an act of forcing, compelling, or exerting undue influence over a vulnerable adult causing the vulnerable adult to act in a way that is inconsistent with relevant past behavior, or causing the vulnerable adult to perform services for the benefit of another.

(e) "Improper use of restraint" means the inappropriate use of chemical, physical, or mechanical restraints for convenience or discipline or in a manner that: (i) Is inconsistent with federal or state licensing or certification requirements for facilities, hospitals, or programs authorized under chapter 71A.12 RCW; (ii) is not medically authorized; or (iii) otherwise constitutes abuse under this section.

(3) "Chemical restraint" means the administration of any drug to manage a vulnerable adult's behavior in a way that reduces the safety risk to the vulnerable adult or others, has the temporary effect of restricting the vulnerable adult's freedom of movement, and is not standard treatment for the vulnerable adult's medical or psychiatric condition.

(4) "Consent" means express written consent granted after the vulnerable adult or his or her legal representative has been fully informed of the nature of the services to be offered and that the receipt of services is voluntary.

(5) "Department" means the department of social and health services.

(6) "Facility" means a residence licensed or required to be licensed under chapter 18.20 RCW, assisted living facilities; chapter 18.51 RCW, nursing homes; chapter 70.128 RCW, adult family homes; chapter 72.36 RCW, soldiers' homes; or chapter 71A.20 RCW, residential habilitation centers; or any other facility licensed or certified by the department.

(7) "Financial exploitation" means the illegal or improper use, control over, or withholding of the property, income, resources, or trust funds of the vulnerable adult by any person or entity for any person's or entity's profit or advantage other than for the vulnerable adult's profit or advantage. "Financial exploitation" includes, but is not limited to:

(a) The use of deception, intimidation, or undue influence by a person or entity in a position of trust and confidence with a vulnerable adult to obtain or use the property, income, resources, or trust funds of the vulnerable adult for the benefit of a person or entity other than the vulnerable adult;

(b) The breach of a fiduciary duty, including, but not limited to, the misuse of a power of attorney, trust, or a guardianship appointment, that results in the unauthorized appropriation, sale, or transfer of the property, income, resources, or trust funds of the vulnerable adult for the benefit of a person or entity other than the vulnerable adult; or

(c) Obtaining or using a vulnerable adult's property, income, resources, or trust funds without lawful authority, by a person or entity who knows or clearly should know that the vulnerable adult lacks the capacity to consent to the release or use of his or her property, income, resources, or trust funds.

(8) "Financial institution" has the same meaning as in RCW 30A.22.040 and 30A.22.041. For purposes of this chapter only, "financial institution" also means a "broker-dealer" or "investment adviser" as defined in RCW 21.20.005.

(9) "Hospital" means a facility licensed under chapter 70.41, 71.12, or 72.23 RCW and any employee, agent, officer, director, or independent contractor thereof.

(10) "Incapacitated person" means a person who is at a significant risk of personal or financial harm under RCW 11.88.010(1) (a), (b), (c), or (d).

(11) "Individual provider" means a person under contract with the department to provide services in the home under chapter 74.09 or 74.39A RCW.

(12) "Interested person" means a person who demonstrates to the court's satisfaction that the person is interested in the welfare of the vulnerable adult, that the person has a good faith belief that the court's intervention is necessary, and that the vulnerable adult is unable, due to incapacity, undue influence, or duress at the time the petition is filed, to protect his or her own interests.

(13) "Mandated reporter" is an employee of the department; law enforcement officer; social worker; professional school personnel; individual provider; an employee of a facility; an operator of a facility; an employee of a social service, welfare, mental health, adult day health, adult day care, home health, home care, or hospice agency; county coroner or medical examiner; Christian Science practitioner; or health care provider subject to chapter 18.130 RCW.

(14) "Mechanical restraint" means any device attached or adjacent to the vulnerable adult's body that he or she cannot easily remove that restricts freedom of movement or normal access to his or her body. "Mechanical restraint" does not include the use of devices, materials, or equipment that are (a) medically authorized, as required, and (b) used in a manner that is consistent with federal or state licensing or certification requirements for facilities, hospitals, or programs authorized under chapter 71A.12 RCW.

(15) "Neglect" means (a) a pattern of conduct or inaction by a person or entity with a duty of care that fails to provide the goods and services that maintain physical or mental health of a vulnerable adult, or that fails to avoid or prevent physical or mental harm or pain to a vulnerable adult; or (b) an act or omission by a person or entity with a duty of care that demonstrates a serious disregard of consequences of such a magnitude as to constitute a clear and present danger to the vulnerable adult's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42.100.

(16) "Permissive reporter" means any person, including, but not limited to, an employee of a financial institution, attorney, or volunteer in a facility or program providing services for vulnerable adults.

(17) "Physical restraint" means the application of physical force without the use of any device, for the purpose of restraining the free movement of a vulnerable adult's body. "Physical restraint" does not include (a) briefly holding without undue force a vulnerable adult in order to calm or comfort him or her, or (b) holding a vulnerable adult's hand to safely escort him or her from one area to another.

(18) "Protective services" means any services provided by the department to a vulnerable adult with the consent of the vulnerable adult, or the legal representative of the vulnerable adult, who has been abandoned, abused, financially exploited, neglected, or in a state of self-neglect. These services may include, but are not limited to case management, social casework, home care, placement, arranging for medical evaluations, psychological evaluations, day care, or referral for legal assistance.

(19) "Self-neglect" means the failure of a vulnerable adult, not living in a facility, to provide for himself or herself the goods and services necessary for the vulnerable adult's physical or mental health, and the absence of which impairs or threatens the vulnerable adult's well-being. This definition may include a vulnerable adult who is receiving services through home health, hospice, or a home care agency, or an individual provider when the neglect is not a result of inaction by that agency or individual provider.

(20) "Social worker" means:

(a) A social worker as defined in RCW 18.320.010(2); or

(b) Anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support, or education of vulnerable adults, or providing social services to vulnerable adults, whether in an individual capacity or as an employee or agent of any public or private organization or institution.

(21) "Vulnerable adult" includes a person:

(a) Sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself; or

(b) Found incapacitated under chapter 11.88 RCW; or

(c) Who has a developmental disability as defined under RCW 71A.10.020; or

(d) Admitted to any facility; or

(e) Receiving services from home health, hospice, or home care agencies licensed or required to be licensed under chapter 70.127 RCW; or

(f) Receiving services from an individual provider; or

(g) Who self-directs his or her own care and receives services from a personal aide under chapter 74.39 RCW.

(22) "Vulnerable adult advocacy team" means a team of three or more persons who coordinate a multidisciplinary process, in compliance with this act and the protocol governed by section 13 of this act, for preventing, identifying, investigating, prosecuting, and providing services related to abuse, neglect, or financial exploitation of vulnerable adults.

NEW SECTION. **Sec.**  A new section is added to chapter 74.34 RCW to read as follows:

(1) Each county is encouraged to develop a written protocol for handling criminal cases involving vulnerable adults. The protocol shall:

(a) Address the coordination of vulnerable adult mistreatment investigations among the following groups as appropriate and when available: The prosecutor's office; law enforcement; adult protective services; vulnerable adult advocacy centers; local advocacy groups; community victim advocacy programs; professional guardians; medical examiners or coroners; financial analysts or forensic accountants; social workers with experience or training related to the mistreatment of vulnerable adults; medical personnel; the state long-term care ombuds or a regional long-term care ombuds specifically designated by the state long-term care ombuds; developmental disabilities ombuds; the attorney general's office; and any other local agency involved in the criminal investigation of vulnerable adult mistreatment;

(b) Be developed by the prosecuting attorney with the assistance of the agencies referenced in this subsection;

(c) Provide that participation as a member of the vulnerable adult advocacy team is voluntary;

(d) Include a brief statement provided by the state long-term care ombuds, without alteration, that describes the confidentiality laws and policies governing the state long-term care ombuds program, and includes citations to relevant federal and state laws;

(e) Require the development and use of a confidentiality agreement, in compliance with this section, that includes, but is not limited to, terms governing the type of information that must be shared, and the means by which it is shared; the existing confidentiality obligations of team members; and the circumstances under which team members may disclose information outside of the team;

(f) Require the vulnerable adult advocacy team to make a good faith effort to obtain the participation of the state long-term care ombuds prior to addressing any issue related to abuse, neglect, or financial exploitation of a vulnerable adult residing in a long-term care facility during the relevant time period.

(2) Members of a vulnerable adult advocacy team must disclose to each other confidential or sensitive information and records, if the team member disclosing the information or records reasonably believes the disclosure is relevant to the duties of the vulnerable adult advocacy team. The disclosure and receipt of confidential information between vulnerable adult advocacy team members shall be governed by the requirements of this section, and by the county protocol developed pursuant to this section.

(3) Prior to participation, each member of the vulnerable adult advocacy team must sign a confidentiality agreement that requires compliance with all governing federal and state confidentiality laws.

(4) The information or records obtained shall be maintained in a manner that ensures the maximum protection of privacy and confidentiality rights.

(5) Information and records communicated or provided to vulnerable adult advocacy team members, as well as information and records created in the course of an investigation, shall be deemed private and confidential and shall be protected from discovery and disclosure by all applicable statutory and common law protections. The disclosed information may not be further disclosed except by law or by court order.

**--- END ---**