

CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE SENATE BILL 5628

Chapter 231, Laws of 2022

67th Legislature
2022 Regular Session

CYBERSTALKING AND CYBER HARASSMENT

EFFECTIVE DATE: June 9, 2022—Except for sections 8, 9, 11, 13, and 15, which take effect July 1, 2022.

Passed by the Senate March 7, 2022
Yeas 49 Nays 0

DENNY HECK

President of the Senate

Passed by the House March 3, 2022
Yeas 97 Nays 1

Laurie Jinkins

**Speaker of the House of
Representatives**

Approved March 30, 2022 2:49 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5628** as passed by the Senate and the House of Representatives on the dates hereon set forth.

SARAH BANNISTER

Secretary

FILED

March 31, 2022

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 5628

AS AMENDED BY THE HOUSE

Passed Legislature - 2022 Regular Session

State of Washington **67th Legislature** **2022 Regular Session**

By Senate Law & Justice (originally sponsored by Senators Dhingra, Frockt, Kuderer, Stanford, Trudeau, Wellman, and C. Wilson)

READ FIRST TIME 01/21/22.

1 AN ACT Relating to cyber harassment, addressing concerns in the
2 case of Rynearson v. Ferguson, and adding a crime of cyberstalking;
3 amending RCW 9.61.260, 9A.90.030, 40.24.030, 7.77.170, 7.92.020,
4 7.105.010, 7.105.310, 9.94A.030, 9.94A.515, 9.94A.515, 9A.46.060,
5 9A.46.060, 26.50.060, and 26.50.070; reenacting and amending RCW
6 9.94A.030; adding new sections to chapter 9A.90 RCW; recodifying RCW
7 9.61.260; prescribing penalties; providing an effective date; and
8 providing an expiration date.

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

10 **Sec. 1.** RCW 9.61.260 and 2004 c 94 s 1 are each amended to read
11 as follows:

12 (1) A person is guilty of ~~((cyberstalking))~~ cyber harassment if
13 ~~((he or she))~~ the person, with intent to harass~~((r))~~ or intimidate~~((r~~
14 ~~torment, or embarrass))~~ any other person, and under circumstances not
15 constituting telephone harassment, makes an electronic communication
16 to ~~((such other))~~ that person or a third party and the communication:

17 (a) ~~((Using))~~ (i) Uses any lewd, lascivious, indecent, or obscene
18 words, images, or language, or ~~((suggesting))~~ suggests the commission
19 of any lewd or lascivious act;

20 ~~((b) Anonymously))~~ (ii) Is made anonymously or repeatedly
21 ~~((whether or not conversation occurs));~~ ~~((or~~

1 ~~(c) Threatening to inflict injury on the person or property of~~
2 ~~the person called or any member of his or her family or household))~~

3 (iii) Contains a threat to inflict bodily injury immediately or in
4 the future on the person threatened or to any other person; or

5 (iv) Contains a threat to damage, immediately or in the future,
6 the property of the person threatened or of any other person; and

7 (b) With respect to any offense committed under the circumstances
8 identified in (a) (iii) or (iv) of this subsection:

9 (i) Would cause a reasonable person, with knowledge of the
10 sender's history, to suffer emotional distress or to fear for the
11 safety of the person threatened; or

12 (ii) Reasonably caused the threatened person to suffer emotional
13 distress or fear for the threatened person's safety.

14 ~~(2) ((Cyberstalking is a gross misdemeanor, except as provided in~~
15 ~~subsection (3) of this section.~~

16 ~~(3) Cyberstalking is a class C felony if either of the following~~
17 ~~applies:~~

18 ~~(a) The perpetrator has previously been convicted of the crime of~~
19 ~~harassment, as defined in RCW 9A.46.060, with the same victim or a~~
20 ~~member of the victim's family or household or any person specifically~~
21 ~~named in a no-contact order or no-harassment order in this or any~~
22 ~~other state; or~~

23 ~~(b) The perpetrator engages in the behavior prohibited under~~
24 ~~subsection (1)(c) of this section by threatening to kill the person~~
25 ~~threatened or any other person.~~

26 ~~(4))~~ (a) Except as provided in (b) of this subsection, cyber
27 harassment is a gross misdemeanor.

28 (b) A person who commits cyber harassment is guilty of a class C
29 felony if any of the following apply:

30 (i) The person has previously been convicted in this or any other
31 state of any crime of harassment, as defined in RCW 9A.46.060, of the
32 same victim or members of the victim's family or household or any
33 person specifically named in a no-contact or no-harassment order;

34 (ii) The person cyber harasses another person under subsection
35 (1)(a)(iii) of this section by threatening to kill the person
36 threatened or any other person;

37 (iii) The person cyber harasses a criminal justice participant or
38 election official who is performing the participant's official duties
39 or election official's official duties at the time the communication
40 is made;

1 (iv) The person cyber harasses a criminal justice participant or
2 election official because of an action taken or decision made by the
3 criminal justice participant or election official during the
4 performance of the participant's official duties or election
5 official's official duties; or

6 (v) The person commits cyber harassment in violation of any
7 protective order protecting the victim.

8 (3) Any criminal justice participant or election official who is
9 a target for threats or harassment prohibited under subsection
10 (2)(b)(iii) or (iv) of this section, and any family members residing
11 with the participant or election official, shall be eligible for the
12 address confidentiality program created under RCW 40.24.030.

13 (4) For purposes of this section, a criminal justice participant
14 includes any:

15 (a) Federal, state, or municipal court judge;

16 (b) Federal, state, or municipal court staff;

17 (c) Federal, state, or local law enforcement agency employee;

18 (d) Federal, state, or local prosecuting attorney or deputy
19 prosecuting attorney;

20 (e) Staff member of any adult corrections institution or local
21 adult detention facility;

22 (f) Staff member of any juvenile corrections institution or local
23 juvenile detention facility;

24 (g) Community corrections officer, probation officer, or parole
25 officer;

26 (h) Member of the indeterminate sentence review board;

27 (i) Advocate from a crime victim/witness program; or

28 (j) Defense attorney.

29 (5) For the purposes of this section, an election official
30 includes any staff member of the office of the secretary of state or
31 staff member of a county auditor's office, regardless of whether the
32 member is employed on a temporary or part-time basis, whose duties
33 relate to voter registration or the processing of votes as provided
34 in Title 29A RCW.

35 (6) The penalties provided in this section for cyber harassment
36 do not preclude the victim from seeking any other remedy otherwise
37 available under law.

38 (7) Any offense committed under this section may be deemed to
39 have been committed either at the place from which the communication
40 was made or at the place where the communication was received.

1 (~~(5)~~) (8) For purposes of this section, "electronic
2 communication" means the transmission of information by wire, radio,
3 optical cable, electromagnetic, or other similar means. "Electronic
4 communication" includes, but is not limited to, (~~electronic mail~~)
5 email, internet-based communications, pager service, and electronic
6 text messaging.

7 **Sec. 2.** RCW 9A.90.030 and 2016 c 164 s 3 are each amended to
8 read as follows:

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

11 (1) "Access" means to gain entry to, instruct, communicate with,
12 store data in, retrieve data from, or otherwise make use of any
13 resources of electronic data, data network, or data system, including
14 via electronic means.

15 (2) "Cybercrime" includes crimes of this chapter.

16 (3) "Data" means a digital representation of information,
17 knowledge, facts, concepts, data software, data programs, or
18 instructions that are being prepared or have been prepared in a
19 formalized manner and are intended for use in a data network, data
20 program, data services, or data system.

21 (4) "Data network" means any system that provides digital
22 communications between one or more data systems or other digital
23 input/output devices including, but not limited to, display
24 terminals, remote systems, mobile devices, and printers.

25 (5) "Data program" means an ordered set of electronic data
26 representing coded instructions or statements that when executed by a
27 computer causes the device to process electronic data.

28 (6) "Data services" includes data processing, storage functions,
29 internet services, email services, electronic message services,
30 website access, internet-based electronic gaming services, and other
31 similar system, network, or internet-based services.

32 (7) "Data system" means an electronic device or collection of
33 electronic devices, including support devices one or more of which
34 contain data programs, input data, and output data, and that performs
35 functions including, but not limited to, logic, arithmetic, data
36 storage and retrieval, communication, and control. This term does not
37 include calculators that are not programmable and incapable of being
38 used in conjunction with external files.

1 (8) "Electronic tracking device" means an electronic device that
2 permits a person to remotely determine or monitor the position and
3 movement of another person, vehicle, device, or other personal
4 possession. As used in this definition, "electronic device" includes
5 computer code or other digital instructions that once installed on a
6 digital device, allows a person to remotely track the position of
7 that device.

8 (9) "Identifying information" means information that, alone or in
9 combination, is linked or linkable to a trusted entity that would be
10 reasonably expected to request or provide credentials to access a
11 targeted data system or network. It includes, but is not limited to,
12 recognizable names, addresses, telephone numbers, logos, HTML links,
13 email addresses, registered domain names, reserved IP addresses, user
14 names, social media profiles, cryptographic keys, and biometric
15 identifiers.

16 (~~(9)~~) (10) "Malware" means any set of data instructions that
17 are designed, without authorization and with malicious intent, to
18 disrupt computer operations, gather sensitive information, or gain
19 access to private computer systems. "Malware" does not include
20 software that installs security updates, removes malware, or causes
21 unintentional harm due to some deficiency. It includes, but is not
22 limited to, a group of data instructions commonly called viruses or
23 worms, that are self-replicating or self-propagating and are designed
24 to infect other data programs or data, consume data resources,
25 modify, destroy, record, or transmit data, or in some other fashion
26 usurp the normal operation of the data, data system, or data network.

27 (~~(10)~~) (11) "White hat security research" means accessing a
28 data program, service, or system solely for purposes of good faith
29 testing, investigation, identification, and/or correction of a
30 security flaw or vulnerability, where such activity is carried out,
31 and where the information derived from the activity is used,
32 primarily to promote security or safety.

33 (~~(11)~~) (12) "Without authorization" means to knowingly
34 circumvent technological access barriers to a data system in order to
35 obtain information without the express or implied permission of the
36 owner, where such technological access measures are specifically
37 designed to exclude or prevent unauthorized individuals from
38 obtaining such information, but does not include white hat security
39 research or circumventing a technological measure that does not
40 effectively control access to a computer. The term "without the

1 express or implied permission" does not include access in violation
2 of a duty, agreement, or contractual obligation, such as an
3 acceptable use policy or terms of service agreement, with an internet
4 service provider, internet website, or employer. The term "circumvent
5 technological access barriers" may include unauthorized elevation of
6 privileges, such as allowing a normal user to execute code as
7 administrator, or allowing a remote person without any privileges to
8 run code.

9 NEW SECTION. **Sec. 3.** A new section is added to chapter 9A.90
10 RCW to read as follows:

11 (1) A person commits the crime of cyberstalking if, without
12 lawful authority and under circumstances not amounting to a felony
13 attempt of another crime:

14 (a) The person knowingly and without consent:

15 (i) Installs or monitors an electronic tracking device with the
16 intent to track the location of another person; or

17 (ii) Causes an electronic tracking device to be installed,
18 placed, or used with the intent to track the location of another
19 person; and

20 (b) (i) The person knows or reasonably should know that knowledge
21 of the installation or monitoring of the tracking device would cause
22 the other person reasonable fear;

23 (ii) The person has notice that the other person does not want to
24 be contacted or monitored by him or her; or

25 (iii) The other person has a protective order in effect
26 protecting him or her from the person.

27 (2) (a) It is not a defense to the crime of cyberstalking that the
28 person was not given actual notice that the other person did not want
29 the person to contact or monitor him or her; and

30 (b) It is not a defense to the crime of cyberstalking that the
31 person did not intend to frighten, intimidate, or harass the other
32 person.

33 (3) (a) Except as provided in (b) of this subsection, a person who
34 cyberstalks another person is guilty of a gross misdemeanor.

35 (b) A person who cyberstalks another person is guilty of a class
36 C felony if any of the following applies:

37 (i) The person has previously been convicted in this state or any
38 other state of any crime of harassment, as defined in RCW 9A.46.060,

1 of the same victim or members of the victim's family or household or
2 any person specifically named in a protective order;

3 (ii) There is a protective order in effect protecting the victim
4 from contact with the person;

5 (iii) The person has previously been convicted of a gross
6 misdemeanor or felony stalking offense for stalking another person;

7 (iv) The person has previously been convicted of a gross
8 misdemeanor or felony cyberstalking offense for cyberstalking another
9 person;

10 (v) (A) The victim is or was a law enforcement officer; judge;
11 juror; attorney; victim advocate; legislator; community corrections
12 officer; employee, contract staff person, or volunteer of a
13 correctional agency; court employee, court clerk, or courthouse
14 facilitator; or employee of the child protective, child welfare, or
15 adult protective services division within the department of social
16 and health services; and

17 (B) The person cyberstalked the victim to retaliate against the
18 victim for an act the victim performed during the course of official
19 duties or to influence the victim's performance of official duties;
20 or

21 (vi) The victim is a current, former, or prospective witness in
22 an adjudicative proceeding, and the person cyberstalked the victim to
23 retaliate against the victim as a result of the victim's testimony or
24 potential testimony.

25 (4) The provisions of this section do not apply to the
26 installation, placement, or use of an electronic tracking device by
27 any of the following:

28 (a) A law enforcement officer, judicial officer, probation or
29 parole officer, or other public employee when any such person is
30 engaged in the lawful performance of official duties and in
31 accordance with state or federal law;

32 (b) The installation, placement, or use of an electronic tracking
33 device authorized by an order of a state or federal court;

34 (c) A legal guardian for a disabled adult or a legally authorized
35 individual or organization designated to provide protective services
36 to a disabled adult when the electronic tracking device is installed,
37 placed, or used to track the location of the disabled adult for which
38 the person is a legal guardian or the individual or organization is
39 designated to provide protective services;

1 (d) A parent or legal guardian of a minor when the electronic
2 tracking device is installed, placed, or used to track the location
3 of that minor unless the parent or legal guardian is subject to a
4 court order that orders the parent or legal guardian not to assault,
5 threaten, harass, follow, or contact that minor;

6 (e) An employer, school, or other organization, who owns the
7 device on which the tracking device is installed and provides the
8 device to a person for use in connection with the person's
9 involvement with the employer, school, or other organization and the
10 use of the device is limited to recovering lost or stolen items; or

11 (f) The owner of fleet vehicles, when tracking such vehicles. For
12 the purposes of this section, "fleet vehicle" means any of the
13 following:

14 (i) One or more motor vehicles owned by a single entity and
15 operated by employees or agents of the entity for business or
16 government purposes;

17 (ii) Motor vehicles held for lease or rental to the general
18 public; or

19 (iii) Motor vehicles held for sale, or used as demonstrators,
20 test vehicles, or loaner vehicles, by motor vehicle dealers.

21 NEW SECTION. **Sec. 4.** RCW 9.61.260 is recodified as a new
22 section in chapter 9A.90 RCW.

23 **Sec. 5.** RCW 40.24.030 and 2019 c 278 s 3 are each amended to
24 read as follows:

25 (1)(a) An adult person, a parent or guardian acting on behalf of
26 a minor, or a guardian acting on behalf of an incapacitated person,
27 as defined in RCW 11.88.010, ~~((and))~~ (b) any election official as
28 described in RCW 9.61.260 (as recodified by this act) who is a target
29 for threats or harassment prohibited under RCW 9.61.260(2)(b) (iii)
30 or (iv) (as recodified by this act), and any family members residing
31 with him or her, and (c) any criminal justice participant as defined
32 in RCW 9A.46.020 who is a target for threats or harassment prohibited
33 under RCW 9A.46.020(2)(b) (iii) or (iv) and any criminal justice
34 participant as defined in RCW 9.61.260 (as recodified by this act)
35 who is a target for threats or harassment prohibited under RCW
36 9.61.260(2)(b) (iii) or (iv) (as recodified by this act), and any
37 family members residing with him or her, may apply to the secretary
38 of state to have an address designated by the secretary of state

1 serve as the person's address or the address of the minor or
2 incapacitated person. The secretary of state shall approve an
3 application if it is filed in the manner and on the form prescribed
4 by the secretary of state and if it contains:

5 (i) A sworn statement, under penalty of perjury, by the applicant
6 that the applicant has good reason to believe (A) that the applicant,
7 or the minor or incapacitated person on whose behalf the application
8 is made, is a victim of domestic violence, sexual assault,
9 trafficking, or stalking and that the applicant fears for his or her
10 safety or his or her children's safety, or the safety of the minor or
11 incapacitated person on whose behalf the application is made; (~~(B)~~)
12 (B) that the applicant, as an election official as described in RCW
13 9.61.260 (as recodified by this act), is a target for threats or
14 harassment prohibited under RCW 9.61.260(2)(b) (iii) or (iv) (as
15 recodified by this act); or (C) that the applicant, as a criminal
16 justice participant as defined in RCW 9A.46.020, is a target for
17 threats or harassment prohibited under RCW 9A.46.020(2)(b) (iii) or
18 (iv), or that the applicant, as a criminal justice participant as
19 defined in RCW 9.61.260 (as recodified by this act) is a target for
20 threats or harassment prohibited under RCW 9.61.260(2)(b) (iii) or
21 (iv) (as recodified by this act);

22 (ii) If applicable, a sworn statement, under penalty of perjury,
23 by the applicant, that the applicant has reason to believe they are a
24 victim of (A) domestic violence, sexual assault, or stalking
25 perpetrated by an employee of a law enforcement agency, or; (B)
26 threats or harassment prohibited under RCW 9.61.260(2)(b) (iii) or
27 (iv) (as recodified by this act) or 9A.46.020(2)(b) (iii) or (iv);

28 (iii) A designation of the secretary of state as agent for
29 purposes of service of process and for the purpose of receipt of
30 mail;

31 (iv) The residential address and any telephone number where the
32 applicant can be contacted by the secretary of state, which shall not
33 be disclosed because disclosure will increase the risk of (A)
34 domestic violence, sexual assault, trafficking, or stalking, or (B)
35 threats or harassment prohibited under RCW 9.61.260(2)(b) (iii) or
36 (iv) (as recodified by this act) or 9A.46.020(2)(b) (iii) or (iv);

37 (v) The signature of the applicant and of any individual or
38 representative of any office designated in writing under RCW
39 40.24.080 who assisted in the preparation of the application, and the
40 date on which the applicant signed the application.

1 (2) Applications shall be filed with the office of the secretary
2 of state.

3 (3) Upon filing a properly completed application, the secretary
4 of state shall certify the applicant as a program participant.
5 Applicants shall be certified for four years following the date of
6 filing unless the certification is withdrawn or invalidated before
7 that date. The secretary of state shall by rule establish a renewal
8 procedure.

9 (4)(a) During the application process, the secretary of state
10 shall provide each applicant a form to direct the department of
11 licensing to change the address of registration for vehicles or
12 vessels solely or jointly registered to the applicant and the address
13 associated with the applicant's driver's license or identicard to the
14 applicant's address as designated by the secretary of state upon
15 certification in the program. The directive to the department of
16 licensing is only valid if signed by the applicant. The directive may
17 only include information required by the department of licensing to
18 verify the applicant's identity and ownership information for
19 vehicles and vessels. This information is limited to the:

20 (i) Applicant's full legal name;

21 (ii) Applicant's Washington driver's license or identicard
22 number;

23 (iii) Applicant's date of birth;

24 (iv) Vehicle identification number and license plate number for
25 each vehicle solely or jointly registered to the applicant; and

26 (v) Hull identification number or vessel document number and
27 vessel decal number for each vessel solely or jointly registered to
28 the applicant.

29 (b) Upon certification of the applicants, the secretary of state
30 shall transmit completed and signed directives to the department of
31 licensing.

32 (c) Within (~~thirty~~) 30 days of receiving a completed and signed
33 directive, the department of licensing shall update the applicant's
34 address on registration and licensing records.

35 (d) Applicants are not required to sign the directive to the
36 department of licensing to be certified as a program participant.

37 (5) A person who knowingly provides false or incorrect
38 information upon making an application or falsely attests in an
39 application that disclosure of the applicant's address would endanger
40 (a) the applicant's safety or the safety of the applicant's children

1 or the minor or incapacitated person on whose behalf the application
2 is made, (~~(e)~~) (b) the safety of any election official as described
3 in RCW 9.61.260 (as recodified by this act) who is a target for
4 threats or harassment prohibited under RCW 9.61.260(2)(b) (iii) or
5 (iv) (as recodified by this act), or (c) the safety of any criminal
6 justice participant as defined in RCW 9A.46.020 who is a target for
7 threats or harassment prohibited under RCW 9A.46.020(2)(b) (iii) or
8 (iv) or of any criminal justice participant as defined in RCW
9 9.61.260 (as recodified by this act) who is a target for threats or
10 harassment prohibited under RCW 9.61.260(2)(b) (iii) or (iv) (as
11 recodified by this act), or any family members residing with him or
12 her, shall be punished under RCW 40.16.030 or other applicable
13 statutes.

14 **Sec. 6.** RCW 7.77.170 and 2013 c 119 s 18 are each amended to
15 read as follows:

16 (1) There is no privilege under RCW 7.77.150 for a collaborative
17 law communication that is:

18 (a) Available to the public under chapter 42.56 RCW or made
19 during a session of a collaborative law process that is open, or is
20 required by law to be open, to the public;

21 (b) A threat or statement of a plan to inflict bodily injury or
22 commit a crime of violence;

23 (c) Intentionally used to plan a crime, commit or attempt to
24 commit a crime, or conceal an ongoing crime or ongoing criminal
25 activity; or

26 (d) In an agreement resulting from the collaborative law process,
27 evidenced by a record signed by all parties to the agreement.

28 (2) The privileges under RCW 7.77.150 for a collaborative law
29 communication do not apply to the extent that a communication is:

30 (a) Sought or offered to prove or disprove a claim or complaint
31 of professional misconduct or malpractice arising from or related to
32 a collaborative law process;

33 (b) Sought or offered to prove or disprove abuse, neglect,
34 abandonment, or exploitation of a child or adult, unless the child
35 protective services agency or adult protective services agency is a
36 party to or otherwise participates in the process; or

37 (c) Sought or offered to prove or disprove stalking or
38 (~~cyberstalking~~) cyber harassment of a party or child.

1 (3) There is no privilege under RCW 7.77.150 if a tribunal finds,
2 after a hearing in camera, that the party seeking discovery or the
3 proponent of the evidence has shown the evidence is not otherwise
4 available, the need for the evidence substantially outweighs the
5 interest in protecting confidentiality, and the collaborative law
6 communication is sought or offered in:

7 (a) A court proceeding involving a felony or misdemeanor; or

8 (b) A proceeding seeking rescission or reformation of a contract
9 arising out of the collaborative law process or in which a defense to
10 avoid liability on the contract is asserted.

11 (4) If a collaborative law communication is subject to an
12 exception under subsection (2) or (3) of this section, only the part
13 of the communication necessary for the application of the exception
14 may be disclosed or admitted.

15 (5) Disclosure or admission of evidence excepted from the
16 privilege under subsection (2) or (3) of this section does not make
17 the evidence or any other collaborative law communication
18 discoverable or admissible for any other purpose.

19 (6) The privileges under RCW 7.77.150 do not apply if the parties
20 agree in advance in a signed record, or if a record of a proceeding
21 reflects agreement by the parties, that all or part of a
22 collaborative law process is not privileged. This subsection does not
23 apply to a collaborative law communication made by a person that did
24 not receive actual notice of the agreement before the communication
25 was made.

26 **Sec. 7.** RCW 7.92.020 and 2020 c 296 s 4 are each amended to read
27 as follows:

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

30 (1) "Electronic monitoring" means the same as in RCW 9.94A.030.

31 (2) "Minor" means a person who is under (~~eighteen~~) 18 years of
32 age.

33 (3) "Petitioner" means any named petitioner for the stalking
34 protection order or any named victim of stalking conduct on whose
35 behalf the petition is brought.

36 (4) "Stalking conduct" means any of the following:

37 (a) Any act of stalking as defined under RCW 9A.46.110;

38 (b) Any act of (~~cyberstalking~~) cyber harassment as defined
39 under RCW 9.61.260 (as recodified by this act);

1 (c) Any course of conduct involving repeated or continuing
2 contacts, attempts to contact, monitoring, tracking, keeping under
3 observation, or following of another that:

4 (i) Would cause a reasonable person to feel intimidated,
5 frightened, or threatened and that actually causes such a feeling;

6 (ii) Serves no lawful purpose; and

7 (iii) The stalker knows or reasonably should know threatens,
8 frightens, or intimidates the person, even if the stalker did not
9 intend to intimidate, frighten, or threaten the person.

10 (5) "Stalking no-contact order" means a temporary order or a
11 final order granted under this chapter against a person charged with
12 or arrested for stalking, which includes a remedy authorized under
13 RCW 7.92.160.

14 (6) "Stalking protection order" means an ex parte temporary order
15 or a final order granted under this chapter, which includes a remedy
16 authorized in RCW 7.92.100.

17 **Sec. 8.** RCW 7.105.010 and 2021 c 215 s 2 are each amended to
18 read as follows:

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

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

25 (2) "Abuse," for the purposes of a vulnerable adult protection
26 order, means intentional, willful, or reckless action or inaction
27 that inflicts injury, unreasonable confinement, intimidation, or
28 punishment on a vulnerable adult. In instances of abuse of a
29 vulnerable adult who is unable to express or demonstrate physical
30 harm, pain, or mental anguish, the abuse is presumed to cause
31 physical harm, pain, or mental anguish. "Abuse" includes sexual
32 abuse, mental abuse, physical abuse, personal exploitation, and
33 improper use of restraint against a vulnerable adult, which have the
34 following meanings:

35 (a) "Improper use of restraint" means the inappropriate use of
36 chemical, physical, or mechanical restraints for convenience or
37 discipline, or in a manner that: (i) Is inconsistent with federal or
38 state licensing or certification requirements for facilities,
39 hospitals, or programs authorized under chapter 71A.12 RCW; (ii) is

1 not medically authorized; or (iii) otherwise constitutes abuse under
2 this section.

3 (b) "Mental abuse" means an intentional, willful, or reckless
4 verbal or nonverbal action that threatens, humiliates, harasses,
5 coerces, intimidates, isolates, unreasonably confines, or punishes a
6 vulnerable adult. "Mental abuse" may include ridiculing, yelling,
7 swearing, or withholding or tampering with prescribed medications or
8 their dosage.

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

14 (d) "Physical abuse" means the intentional, willful, or reckless
15 action of inflicting bodily injury or physical mistreatment.
16 "Physical abuse" includes, but is not limited to, striking with or
17 without an object, slapping, pinching, strangulation, suffocation,
18 kicking, shoving, or prodding.

19 (e) "Sexual abuse" means any form of nonconsensual sexual conduct
20 including, but not limited to, unwanted or inappropriate touching,
21 rape, molestation, indecent liberties, sexual coercion, sexually
22 explicit photographing or recording, voyeurism, indecent exposure,
23 and sexual harassment. "Sexual abuse" also includes any sexual
24 conduct between a staff person, who is not also a resident or client,
25 of a facility or a staff person of a program authorized under chapter
26 71A.12 RCW, and a vulnerable adult living in that facility or
27 receiving service from a program authorized under chapter 71A.12 RCW,
28 whether or not the sexual conduct is consensual.

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

35 (4) "Consent" in the context of sexual acts means that at the
36 time of sexual contact, there are actual words or conduct indicating
37 freely given agreement to that sexual contact. Consent must be
38 ongoing and may be revoked at any time. Conduct short of voluntary
39 agreement does not constitute consent as a matter of law. Consent
40 cannot be freely given when a person does not have capacity due to

1 disability, intoxication, or age. Consent cannot be freely given when
2 the other party has authority or control over the care or custody of
3 a person incarcerated or detained.

4 (5) (a) "Course of conduct" means a pattern of conduct composed of
5 a series of acts over a period of time, however short, evidencing a
6 continuity of purpose. "Course of conduct" includes any form of
7 communication, contact, or conduct, including the sending of an
8 electronic communication, but does not include constitutionally
9 protected free speech. Constitutionally protected activity is not
10 included within the meaning of "course of conduct."

11 (b) In determining whether the course of conduct serves any
12 legitimate or lawful purpose, a court should consider whether:

13 (i) Any current contact between the parties was initiated by the
14 respondent only or was initiated by both parties;

15 (ii) The respondent has been given clear notice that all further
16 contact with the petitioner is unwanted;

17 (iii) The respondent's course of conduct appears designed to
18 alarm, annoy, or harass the petitioner;

19 (iv) The respondent is acting pursuant to any statutory authority
20 including, but not limited to, acts which are reasonably necessary
21 to:

22 (A) Protect property or liberty interests;

23 (B) Enforce the law; or

24 (C) Meet specific statutory duties or requirements;

25 (v) The respondent's course of conduct has the purpose or effect
26 of unreasonably interfering with the petitioner's privacy or the
27 purpose or effect of creating an intimidating, hostile, or offensive
28 living environment for the petitioner; or

29 (vi) Contact by the respondent with the petitioner or the
30 petitioner's family has been limited in any manner by any previous
31 court order.

32 (6) "Court clerk" means court administrators in courts of limited
33 jurisdiction and elected court clerks.

34 (7) "Dating relationship" means a social relationship of a
35 romantic nature. Factors that the court may consider in making this
36 determination include: (a) The length of time the relationship has
37 existed; (b) the nature of the relationship; and (c) the frequency of
38 interaction between the parties.

39 (8) "Domestic violence" means:

1 (a) Physical harm, bodily injury, assault, or the infliction of
2 fear of physical harm, bodily injury, or assault; nonconsensual
3 sexual conduct or nonconsensual sexual penetration; unlawful
4 harassment; or stalking of one intimate partner by another intimate
5 partner; or

6 (b) Physical harm, bodily injury, assault, or the infliction of
7 fear of physical harm, bodily injury, or assault; nonconsensual
8 sexual conduct or nonconsensual sexual penetration; unlawful
9 harassment; or stalking of one family or household member by another
10 family or household member.

11 (9) "Electronic monitoring" has the same meaning as in RCW
12 9.94A.030.

13 (10) "Essential personal effects" means those items necessary for
14 a person's immediate health, welfare, and livelihood. "Essential
15 personal effects" includes, but is not limited to, clothing, cribs,
16 bedding, medications, personal hygiene items, cellular phones and
17 other electronic devices, and documents, including immigration,
18 health care, financial, travel, and identity documents.

19 (11) "Facility" means a residence licensed or required to be
20 licensed under chapter 18.20 RCW, assisted living facilities; chapter
21 18.51 RCW, nursing homes; chapter 70.128 RCW, adult family homes;
22 chapter 72.36 RCW, soldiers' homes; chapter 71A.20 RCW, residential
23 habilitation centers; or any other facility licensed or certified by
24 the department of social and health services.

25 (12) "Family or household members" means: (a) Persons related by
26 blood, marriage, domestic partnership, or adoption; (b) persons who
27 currently or formerly resided together; (c) persons who have a
28 biological or legal parent-child relationship, including stepparents
29 and stepchildren and grandparents and grandchildren, or a parent's
30 intimate partner and children; and (d) a person who is acting or has
31 acted as a legal guardian.

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

38 (a) The use of deception, intimidation, or undue influence by a
39 person or entity in a position of trust and confidence with a
40 vulnerable adult to obtain or use the property, income, resources,

1 government benefits, health insurance benefits, or trust funds of the
2 vulnerable adult for the benefit of a person or entity other than the
3 vulnerable adult;

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

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

15 (14) "Firearm" means a weapon or device from which a projectile
16 or projectiles may be fired by an explosive such as gunpowder.
17 "Firearm" does not include a flare gun or other pyrotechnic visual
18 distress signaling device, or a powder-actuated tool or other device
19 designed solely to be used for construction purposes. "Firearm" also
20 includes parts that can be assembled to make a firearm.

21 (15) "Full hearing" means a hearing where the court determines
22 whether to issue a full protection order.

23 (16) "Full protection order" means a protection order that is
24 issued by the court after notice to the respondent and where the
25 parties had the opportunity for a full hearing by the court. "Full
26 protection order" includes a protection order entered by the court by
27 agreement of the parties to resolve the petition for a protection
28 order without a full hearing.

29 (17) "Hospital" means a facility licensed under chapter 70.41 or
30 71.12 RCW or a state hospital defined in chapter 72.23 RCW and any
31 employee, agent, officer, director, or independent contractor
32 thereof.

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

39 (19) "Intimate partner" means: (a) Spouses or domestic partners;
40 (b) former spouses or former domestic partners; (c) persons who have

1 a child in common regardless of whether they have been married or
2 have lived together at any time; or (d) persons who have or have had
3 a dating relationship where both persons are at least 13 years of age
4 or older.

5 (20)(a) "Isolate" or "isolation" means to restrict a person's
6 ability to communicate, visit, interact, or otherwise associate with
7 persons of his or her choosing. Isolation may be evidenced by acts
8 including, but not limited to:

9 (i) Acts that prevent a person from sending, making, or receiving
10 his or her personal mail, electronic communications, or telephone
11 calls; or

12 (ii) Acts that prevent or obstruct a person from meeting with
13 others, such as telling a prospective visitor or caller that the
14 person is not present or does not wish contact, where the statement
15 is contrary to the express wishes of the person.

16 (b) The term "isolate" or "isolation" may not be construed in a
17 manner that prevents a guardian or limited guardian from performing
18 his or her fiduciary obligations under chapter 11.92 RCW or prevents
19 a hospital or facility from providing treatment consistent with the
20 standard of care for delivery of health services.

21 (21) "Judicial day" means days of the week other than Saturdays,
22 Sundays, or legal holidays.

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

32 (23) "Minor" means a person who is under 18 years of age.

33 (24) "Neglect" means: (a) A pattern of conduct or inaction by a
34 person or entity with a duty of care that fails to provide the goods
35 and services that maintain the physical or mental health of a
36 vulnerable adult, or that fails to avoid or prevent physical or
37 mental harm or pain to a vulnerable adult; or (b) an act or omission
38 by a person or entity with a duty of care that demonstrates a serious
39 disregard of consequences of such a magnitude as to constitute a
40 clear and present danger to the vulnerable adult's health, welfare,

1 or safety including, but not limited to, conduct prohibited under RCW
2 9A.42.100.

3 (25) "Nonconsensual" means a lack of freely given consent.

4 (26) "Nonphysical contact" includes, but is not limited to,
5 written notes, mail, telephone calls, email, text messages, contact
6 through social media applications, contact through other
7 technologies, and contact through third parties.

8 (27) "Petitioner" means any named petitioner or any other person
9 identified in the petition on whose behalf the petition is brought.

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

17 (29) "Possession" means having an item in one's custody or
18 control. Possession may be either actual or constructive. Actual
19 possession occurs when the item is in the actual physical custody of
20 the person charged with possession. Constructive possession occurs
21 when there is no actual physical possession, but there is dominion
22 and control over the item.

23 (30) "Respondent" means the person who is identified as the
24 respondent in a petition filed under this chapter.

25 (31) "Sexual conduct" means any of the following:

26 (a) Any intentional or knowing touching or fondling of the
27 genitals, anus, or breasts, directly or indirectly, including through
28 clothing;

29 (b) Any intentional or knowing display of the genitals, anus, or
30 breasts for the purposes of arousal or sexual gratification of the
31 respondent;

32 (c) Any intentional or knowing touching or fondling of the
33 genitals, anus, or breasts, directly or indirectly, including through
34 clothing, that the petitioner is forced to perform by another person
35 or the respondent;

36 (d) Any forced display of the petitioner's genitals, anus, or
37 breasts for the purposes of arousal or sexual gratification of the
38 respondent or others;

39 (e) Any intentional or knowing touching of the clothed or
40 unclothed body of a child under the age of 16, if done for the

1 purpose of sexual gratification or arousal of the respondent or
2 others; or

3 (f) Any coerced or forced touching or fondling by a child under
4 the age of 16, directly or indirectly, including through clothing, of
5 the genitals, anus, or breasts of the respondent or others.

6 (32) "Sexual penetration" means any contact, however slight,
7 between the sex organ or anus of one person by an object, the sex
8 organ, mouth, or anus of another person, or any intrusion, however
9 slight, of any part of the body of one person or of any animal or
10 object into the sex organ or anus of another person including, but
11 not limited to, cunnilingus, fellatio, or anal penetration. Evidence
12 of emission of semen is not required to prove sexual penetration.

13 (33) "Stalking" means any of the following:

14 (a) Any act of stalking as defined under RCW 9A.46.110;

15 (b) Any act of (~~cyberstalking~~) cyber harassment as defined
16 under RCW 9.61.260 (as recodified by this act); or

17 (c) Any course of conduct involving repeated or continuing
18 contacts, attempts to contact, monitoring, tracking, surveillance,
19 keeping under observation, disrupting activities in a harassing
20 manner, or following of another person that:

21 (i) Would cause a reasonable person to feel intimidated,
22 frightened, under duress, significantly disrupted, or threatened and
23 that actually causes such a feeling;

24 (ii) Serves no lawful purpose; and

25 (iii) The respondent knows, or reasonably should know, threatens,
26 frightens, or intimidates the person, even if the respondent did not
27 intend to intimidate, frighten, or threaten the person.

28 (34) "Temporary protection order" means a protection order that
29 is issued before the court has decided whether to issue a full
30 protection order. "Temporary protection order" includes ex parte
31 temporary protection orders, as well as temporary protection orders
32 that are reissued by the court pending the completion of a full
33 hearing to decide whether to issue a full protection order. An "ex
34 parte temporary protection order" means a temporary protection order
35 that is issued without prior notice to the respondent.

36 (35) "Unlawful harassment" means:

37 (a) A knowing and willful course of conduct directed at a
38 specific person that seriously alarms, annoys, harasses, or is
39 detrimental to such person, and that serves no legitimate or lawful
40 purpose. The course of conduct must be such as would cause a

1 reasonable person to suffer substantial emotional distress, and must
2 actually cause substantial emotional distress to the petitioner; or

3 (b) A single act of violence or threat of violence directed at a
4 specific person that seriously alarms, annoys, harasses, or is
5 detrimental to such person, and that serves no legitimate or lawful
6 purpose, which would cause a reasonable person to suffer substantial
7 emotional distress, and must actually cause substantial emotional
8 distress to the petitioner. A single threat of violence must include:

9 (i) A malicious and intentional threat as described in RCW
10 9A.36.080(1)(c); or (ii) the presence of a firearm or other weapon.

11 (36) "Vulnerable adult" includes a person:

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

14 (b) Subject to a guardianship under RCW 11.130.265 or adult
15 subject to conservatorship under RCW 11.130.360; or

16 (c) Who has a developmental disability as defined under RCW
17 71A.10.020; or

18 (d) Admitted to any facility; or

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

22 (f) Receiving services from a person under contract with the
23 department of social and health services to provide services in the
24 home under chapter 74.09 or 74.39A RCW; or

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

27 **Sec. 9.** RCW 7.105.310 and 2021 c 215 s 39 are each amended to
28 read as follows:

29 (1) In issuing any type of protection order, other than an
30 extreme risk protection order, the court shall have broad discretion
31 to grant such relief as the court deems proper, including an order
32 that provides relief as follows:

33 (a) Restrain the respondent from committing any of the following
34 acts against the petitioner and other persons protected by the order:
35 Domestic violence; nonconsensual sexual conduct or nonconsensual
36 sexual penetration; sexual abuse; stalking; acts of abandonment,
37 abuse, neglect, or financial exploitation against a vulnerable adult;
38 and unlawful harassment;

1 (b) Restrain the respondent from making any attempts to have
2 contact, including nonphysical contact, with the petitioner or the
3 petitioner's family or household members who are minors or other
4 members of the petitioner's household, either directly, indirectly,
5 or through third parties regardless of whether those third parties
6 know of the order;

7 (c) Exclude the respondent from the dwelling that the parties
8 share; from the residence, workplace, or school of the petitioner; or
9 from the day care or school of a minor child;

10 (d) Restrain the respondent from knowingly coming within, or
11 knowingly remaining within, a specified distance from a specified
12 location including, but not limited to, a residence, school, day
13 care, workplace, the protected party's person, and the protected
14 party's vehicle. The specified distance shall presumptively be at
15 least 1,000 feet, unless the court for good cause finds that a
16 shorter specified distance is appropriate;

17 (e) If the parties have children in common, make residential
18 provisions with regard to their minor children on the same basis as
19 is provided in chapter 26.09 RCW. However, parenting plans as
20 specified in chapter 26.09 RCW must not be required under this
21 chapter. The court may not delay or defer relief under this chapter
22 on the grounds that the parties could seek a parenting plan or
23 modification to a parenting plan in a different action. A protection
24 order must not be denied on the grounds that the parties have an
25 existing parenting plan in effect. A protection order may suspend the
26 respondent's contact with the parties' children under an existing
27 parenting plan, subject to further orders in a family law proceeding;

28 (f) Order the respondent to participate in a state-certified
29 domestic violence perpetrator treatment program approved under RCW
30 43.20A.735 or a state-certified sex offender treatment program
31 approved under RCW 18.155.070;

32 (g) Order the respondent to obtain a mental health or chemical
33 dependency evaluation. If the court determines that a mental health
34 evaluation is necessary, the court shall clearly document the reason
35 for this determination and provide a specific question or questions
36 to be answered by the mental health professional. The court shall
37 consider the ability of the respondent to pay for an evaluation.
38 Minors are presumed to be unable to pay. The parent or legal guardian
39 is responsible for costs unless the parent or legal guardian
40 demonstrates inability to pay;

1 (h) In cases where the petitioner and the respondent are students
2 who attend the same public or private elementary, middle, or high
3 school, the court, when issuing a protection order and providing
4 relief, shall consider, among the other facts of the case, the
5 severity of the act, any continuing physical danger, emotional
6 distress, or educational disruption to the petitioner, and the
7 financial difficulty and educational disruption that would be caused
8 by a transfer of the respondent to another school. The court may
9 order that the respondent not attend the public or private
10 elementary, middle, or high school attended by the petitioner. If a
11 minor respondent is prohibited attendance at the minor's assigned
12 public school, the school district must provide the student
13 comparable educational services in another setting. In such a case,
14 the district shall provide transportation at no cost to the
15 respondent if the respondent's parent or legal guardian is unable to
16 pay for transportation. The district shall put in place any needed
17 supports to ensure successful transition to the new school
18 environment. The court shall send notice of the restriction on
19 attending the same school as the petitioner to the public or private
20 school the respondent will attend and to the school the petitioner
21 attends;

22 (i) Require the respondent to pay the administrative court costs
23 and service fees, as established by the county or municipality
24 incurring the expense, and to reimburse the petitioner for costs
25 incurred in bringing the action, including reasonable attorneys' fees
26 or limited license legal technician fees when such fees are incurred
27 by a person licensed and practicing in accordance with state supreme
28 court admission and practice rule 28, the limited practice rule for
29 limited license legal technicians. Minors are presumed to be unable
30 to pay. The parent or legal guardian is responsible for costs unless
31 the parent or legal guardian demonstrates inability to pay;

32 (j) Restrain the respondent from harassing, following,
33 monitoring, keeping under physical or electronic surveillance,
34 (~~cyberstalking~~) cyber harassment as defined in RCW 9.61.260 (as
35 recodified by this act), and using telephonic, audiovisual, or other
36 electronic means to monitor the actions, location, or communication
37 of the petitioner or the petitioner's family or household members who
38 are minors or other members of the petitioner's household. For the
39 purposes of this subsection, "communication" includes both "wire

1 communication" and "electronic communication" as defined in RCW
2 9.73.260;

3 (k) Other than for respondents who are minors, require the
4 respondent to submit to electronic monitoring. The order must specify
5 who shall provide the electronic monitoring services and the terms
6 under which the monitoring must be performed. The order also may
7 include a requirement that the respondent pay the costs of the
8 monitoring. The court shall consider the ability of the respondent to
9 pay for electronic monitoring;

10 (l) Consider the provisions of RCW 9.41.800, and order the
11 respondent to surrender, and prohibit the respondent from accessing,
12 having in his or her custody or control, possessing, purchasing,
13 attempting to purchase or receive, or receiving, all firearms,
14 dangerous weapons, and any concealed pistol license, as required in
15 RCW 9.41.800;

16 (m) Order possession and use of essential personal effects. The
17 court shall list the essential personal effects with sufficient
18 specificity to make it clear which property is included. Personal
19 effects may include pets. The court may order that a petitioner be
20 granted the exclusive custody or control of any pet owned, possessed,
21 leased, kept, or held by the petitioner, respondent, or minor child
22 residing with either the petitioner or respondent, and may prohibit
23 the respondent from interfering with the petitioner's efforts to
24 obtain the pet. The court may also prohibit the respondent from
25 knowingly coming within, or knowingly remaining within, a specified
26 distance of specified locations where the pet is regularly found;

27 (n) Order use of a vehicle;

28 (o) Enter an order restricting the respondent from engaging in
29 abusive litigation as set forth in chapter 26.51 RCW or in frivolous
30 filings against the petitioner, making harassing or libelous
31 communications about the petitioner to third parties, or making false
32 reports to investigative agencies. A petitioner may request this
33 relief in the petition or by separate motion. A petitioner may
34 request this relief by separate motion at any time within five years
35 of the date the protection order is entered even if the order has
36 since expired. A stand-alone motion for an order restricting abusive
37 litigation may be brought by a party who meets the requirements of
38 chapter 26.51 RCW regardless of whether the party has previously
39 sought a protection order under this chapter, provided the motion is
40 made within five years of the date the order that made a finding of

1 domestic violence was entered. In cases where a finding of domestic
2 violence was entered pursuant to an order under chapter 26.09, 26.26,
3 or 26.26A RCW, a motion for an order restricting abusive litigation
4 may be brought under the family law case or as a stand-alone action
5 filed under this chapter, when it is not reasonable or practical to
6 file under the family law case;

7 (p) Restrain the respondent from committing acts of abandonment,
8 abuse, neglect, or financial exploitation against a vulnerable adult;

9 (q) Require an accounting by the respondent of the disposition of
10 the vulnerable adult's income or other resources;

11 (r) Restrain the transfer of either the respondent's or
12 vulnerable adult's property, or both, for a specified period not
13 exceeding 90 days;

14 (s) Order financial relief and restrain the transfer of jointly
15 owned assets;

16 (t) Restrain the respondent from possessing or distributing
17 intimate images, as defined in RCW 9A.86.010, depicting the
18 petitioner including, but not limited to, requiring the respondent
19 to: Take down and delete all intimate images and recordings of the
20 petitioner in the respondent's possession or control; and cease any
21 and all disclosure of those intimate images. The court may also
22 inform the respondent that it would be appropriate to ask third
23 parties in possession or control of the intimate images of this
24 protection order to take down and delete the intimate images so that
25 the order may not inadvertently be violated; or

26 (u) Order other relief as it deems necessary for the protection
27 of the petitioner and other family or household members who are
28 minors or vulnerable adults for whom the petitioner has sought
29 protection, including orders or directives to a law enforcement
30 officer, as allowed under this chapter.

31 (2) The court in granting a temporary antiharassment protection
32 order or a civil antiharassment protection order shall not prohibit
33 the respondent from exercising constitutionally protected free
34 speech. Nothing in this section prohibits the petitioner from
35 utilizing other civil or criminal remedies to restrain conduct or
36 communications not otherwise constitutionally protected.

37 (3) The court shall not take any of the following actions in
38 issuing a protection order.

1 (a) The court may not order the petitioner to obtain services
2 including, but not limited to, drug testing, victim support services,
3 a mental health assessment, or a psychological evaluation.

4 (b) The court may not order the petitioner to pay the
5 respondent's attorneys' fees or other costs.

6 (c) The court shall not issue a full protection order to any
7 party except upon notice to the respondent and the opportunity for a
8 hearing pursuant to a petition or counter-petition filed and served
9 by the party seeking relief in accordance with this chapter. Except
10 as provided in RCW 7.105.210, the court shall not issue a temporary
11 protection order to any party unless the party has filed a petition
12 or counter-petition for a protection order seeking relief in
13 accordance with this chapter.

14 (d) Under no circumstances shall the court deny the petitioner
15 the type of protection order sought in the petition on the grounds
16 that the court finds that a different type of protection order would
17 have a less severe impact on the respondent.

18 (4) The order shall specify the date the order expires, if any.
19 For permanent orders, the court shall set the date to expire 99 years
20 from the issuance date. The order shall also state whether the court
21 issued the protection order following personal service, service by
22 electronic means, service by mail, or service by publication, and
23 whether the court has approved service by mail or publication of an
24 order issued under this section.

25 **Sec. 10.** RCW 9.94A.030 and 2021 c 237 s 1 are each amended to
26 read as follows:

27 Unless the context clearly requires otherwise, the definitions in
28 this section apply throughout this chapter.

29 (1) "Board" means the indeterminate sentence review board created
30 under chapter 9.95 RCW.

31 (2) "Collect," or any derivative thereof, "collect and remit," or
32 "collect and deliver," when used with reference to the department,
33 means that the department, either directly or through a collection
34 agreement authorized by RCW 9.94A.760, is responsible for monitoring
35 and enforcing the offender's sentence with regard to the legal
36 financial obligation, receiving payment thereof from the offender,
37 and, consistent with current law, delivering daily the entire payment
38 to the superior court clerk without depositing it in a departmental
39 account.

1 (3) "Commission" means the sentencing guidelines commission.

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

6 (5) "Community custody" means that portion of an offender's
7 sentence of confinement in lieu of earned release time or imposed as
8 part of a sentence under this chapter and served in the community
9 subject to controls placed on the offender's movement and activities
10 by the department.

11 (6) "Community protection zone" means the area within (~~eight~~
12 ~~hundred eighty~~) 880 feet of the facilities and grounds of a public
13 or private school.

14 (7) "Community restitution" means compulsory service, without
15 compensation, performed for the benefit of the community by the
16 offender.

17 (8) "Confinement" means total or partial confinement.

18 (9) "Conviction" means an adjudication of guilt pursuant to Title
19 10 or 13 RCW and includes a verdict of guilty, a finding of guilty,
20 and acceptance of a plea of guilty.

21 (10) "Crime-related prohibition" means an order of a court
22 prohibiting conduct that directly relates to the circumstances of the
23 crime for which the offender has been convicted, and shall not be
24 construed to mean orders directing an offender affirmatively to
25 participate in rehabilitative programs or to otherwise perform
26 affirmative conduct. However, affirmative acts necessary to monitor
27 compliance with the order of a court may be required by the
28 department.

29 (11) "Criminal history" means the list of a defendant's prior
30 convictions and juvenile adjudications, whether in this state, in
31 federal court, or elsewhere, and any issued certificates of
32 restoration of opportunity pursuant to RCW 9.97.020.

33 (a) The history shall include, where known, for each conviction
34 (i) whether the defendant has been placed on probation and the length
35 and terms thereof; and (ii) whether the defendant has been
36 incarcerated and the length of incarceration.

37 (b) A conviction may be removed from a defendant's criminal
38 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,
39 9.95.240, or a similar out-of-state statute, or if the conviction has
40 been vacated pursuant to a governor's pardon. However, when a

1 defendant is charged with a recidivist offense, "criminal history"
2 includes a vacated prior conviction for the sole purpose of
3 establishing that such vacated prior conviction constitutes an
4 element of the present recidivist offense as provided in RCW
5 9.94A.640(4)(b) and 9.96.060(7)(c).

6 (c) The determination of a defendant's criminal history is
7 distinct from the determination of an offender score. A prior
8 conviction that was not included in an offender score calculated
9 pursuant to a former version of the sentencing reform act remains
10 part of the defendant's criminal history.

11 (12) "Criminal street gang" means any ongoing organization,
12 association, or group of three or more persons, whether formal or
13 informal, having a common name or common identifying sign or symbol,
14 having as one of its primary activities the commission of criminal
15 acts, and whose members or associates individually or collectively
16 engage in or have engaged in a pattern of criminal street gang
17 activity. This definition does not apply to employees engaged in
18 concerted activities for their mutual aid and protection, or to the
19 activities of labor and bona fide nonprofit organizations or their
20 members or agents.

21 (13) "Criminal street gang associate or member" means any person
22 who actively participates in any criminal street gang and who
23 intentionally promotes, furthers, or assists in any criminal act by
24 the criminal street gang.

25 (14) "Criminal street gang-related offense" means any felony or
26 misdemeanor offense, whether in this state or elsewhere, that is
27 committed for the benefit of, at the direction of, or in association
28 with any criminal street gang, or is committed with the intent to
29 promote, further, or assist in any criminal conduct by the gang, or
30 is committed for one or more of the following reasons:

31 (a) To gain admission, prestige, or promotion within the gang;

32 (b) To increase or maintain the gang's size, membership,
33 prestige, dominance, or control in any geographical area;

34 (c) To exact revenge or retribution for the gang or any member of
35 the gang;

36 (d) To obstruct justice, or intimidate or eliminate any witness
37 against the gang or any member of the gang;

38 (e) To directly or indirectly cause any benefit, aggrandizement,
39 gain, profit, or other advantage for the gang, its reputation,
40 influence, or membership; or

1 (f) To provide the gang with any advantage in, or any control or
2 dominance over any criminal market sector, including, but not limited
3 to, manufacturing, delivering, or selling any controlled substance
4 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
5 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88
6 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual
7 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter
8 9.68 RCW).

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

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

18 (17) "Department" means the department of corrections.

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

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

39 (20) "Domestic violence" has the same meaning as defined in RCW
40 10.99.020 and 26.50.010.

1 (21) "Drug offender sentencing alternative" is a sentencing
2 option available to persons convicted of a felony offense who are
3 eligible for the option under RCW 9.94A.660.

4 (22) "Drug offense" means:

5 (a) Any felony violation of chapter 69.50 RCW except possession
6 of a controlled substance (RCW 69.50.4013) or forged prescription for
7 a controlled substance (RCW 69.50.403);

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

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

14 (23) "Earned release" means earned release from confinement as
15 provided in RCW 9.94A.728.

16 (24) "Electronic monitoring" means tracking the location of an
17 individual through the use of technology that is capable of
18 determining or identifying the monitored individual's presence or
19 absence at a particular location including, but not limited to:

20 (a) Radio frequency signaling technology, which detects if the
21 monitored individual is or is not at an approved location and
22 notifies the monitoring agency of the time that the monitored
23 individual either leaves the approved location or tampers with or
24 removes the monitoring device; or

25 (b) Active or passive global positioning system technology, which
26 detects the location of the monitored individual and notifies the
27 monitoring agency of the monitored individual's location and which
28 may also include electronic monitoring with victim notification
29 technology that is capable of notifying a victim or protected party,
30 either directly or through a monitoring agency, if the monitored
31 individual enters within the restricted distance of a victim or
32 protected party, or within the restricted distance of a designated
33 location.

34 (25) "Escape" means:

35 (a) Sexually violent predator escape (RCW 9A.76.115), escape in
36 the first degree (RCW 9A.76.110), escape in the second degree (RCW
37 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
38 willful failure to return from work release (RCW 72.65.070), or
39 willful failure to be available for supervision by the department
40 while in community custody (RCW 72.09.310); or

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

4 (26) "Felony traffic offense" means:

5 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
6 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-
7 run injury-accident (RCW 46.52.020(4)), felony driving while under
8 the influence of intoxicating liquor or any drug (RCW 46.61.502(6)),
9 or felony physical control of a vehicle while under the influence of
10 intoxicating liquor or any drug (RCW 46.61.504(6)); or

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

14 (27) "Fine" means a specific sum of money ordered by the
15 sentencing court to be paid by the offender to the court over a
16 specific period of time.

17 (28) "First-time offender" means any person who has no prior
18 convictions for a felony and is eligible for the first-time offender
19 waiver under RCW 9.94A.650.

20 (29) "Home detention" is a subset of electronic monitoring and
21 means a program of partial confinement available to offenders wherein
22 the offender is confined in a private residence (~~((twenty-four))~~) 24
23 hours a day, unless an absence from the residence is approved,
24 authorized, or otherwise permitted in the order by the court or other
25 supervising agency that ordered home detention, and the offender is
26 subject to electronic monitoring.

27 (30) "Homelessness" or "homeless" means a condition where an
28 individual lacks a fixed, regular, and adequate nighttime residence
29 and who has a primary nighttime residence that is:

30 (a) A supervised, publicly or privately operated shelter designed
31 to provide temporary living accommodations;

32 (b) A public or private place not designed for, or ordinarily
33 used as, a regular sleeping accommodation for human beings; or

34 (c) A private residence where the individual stays as a transient
35 invitee.

36 (31) "Legal financial obligation" means a sum of money that is
37 ordered by a superior court of the state of Washington for legal
38 financial obligations which may include restitution to the victim,
39 statutorily imposed crime victims' compensation fees as assessed
40 pursuant to RCW 7.68.035, court costs, county or interlocal drug

1 funds, court-appointed attorneys' fees, and costs of defense, fines,
2 and any other financial obligation that is assessed to the offender
3 as a result of a felony conviction. Upon conviction for vehicular
4 assault while under the influence of intoxicating liquor or any drug,
5 RCW 46.61.522(1)(b), or vehicular homicide while under the influence
6 of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal
7 financial obligations may also include payment to a public agency of
8 the expense of an emergency response to the incident resulting in the
9 conviction, subject to RCW 38.52.430.

10 (32) "Most serious offense" means any of the following felonies
11 or a felony attempt to commit any of the following felonies:

12 (a) Any felony defined under any law as a class A felony or
13 criminal solicitation of or criminal conspiracy to commit a class A
14 felony;

15 (b) Assault in the second degree;

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

17 (d) Child molestation in the second degree;

18 (e) Controlled substance homicide;

19 (f) Extortion in the first degree;

20 (g) Incest when committed against a child under age (~~fourteen~~)
21 14;

22 (h) Indecent liberties;

23 (i) Kidnapping in the second degree;

24 (j) Leading organized crime;

25 (k) Manslaughter in the first degree;

26 (l) Manslaughter in the second degree;

27 (m) Promoting prostitution in the first degree;

28 (n) Rape in the third degree;

29 (o) Sexual exploitation;

30 (p) Vehicular assault, when caused by the operation or driving of
31 a vehicle by a person while under the influence of intoxicating
32 liquor or any drug or by the operation or driving of a vehicle in a
33 reckless manner;

34 (q) Vehicular homicide, when proximately caused by the driving of
35 any vehicle by any person while under the influence of intoxicating
36 liquor or any drug as defined by RCW 46.61.502, or by the operation
37 of any vehicle in a reckless manner;

38 (r) Any other class B felony offense with a finding of sexual
39 motivation;

1 (s) Any other felony with a deadly weapon verdict under RCW
2 9.94A.825;

3 (t) Any felony offense in effect at any time prior to December 2,
4 1993, that is comparable to a most serious offense under this
5 subsection, or any federal or out-of-state conviction for an offense
6 that under the laws of this state would be a felony classified as a
7 most serious offense under this subsection;

8 (u)(i) A prior conviction for indecent liberties under RCW
9 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex.
10 sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b),
11 and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW
12 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986,
13 until July 1, 1988;

14 (ii) A prior conviction for indecent liberties under RCW
15 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
16 if: (A) The crime was committed against a child under the age of
17 (~~fourteen~~) 14; or (B) the relationship between the victim and
18 perpetrator is included in the definition of indecent liberties under
19 RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27,
20 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25,
21 1993, through July 27, 1997;

22 (v) Any out-of-state conviction for a felony offense with a
23 finding of sexual motivation if the minimum sentence imposed was
24 (~~ten~~) 10 years or more; provided that the out-of-state felony
25 offense must be comparable to a felony offense under this title and
26 Title 9A RCW and the out-of-state definition of sexual motivation
27 must be comparable to the definition of sexual motivation contained
28 in this section.

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

31 (34) "Offender" means a person who has committed a felony
32 established by state law and is (~~eighteen~~) 18 years of age or older
33 or is less than (~~eighteen~~) 18 years of age but whose case is under
34 superior court jurisdiction under RCW 13.04.030 or has been
35 transferred by the appropriate juvenile court to a criminal court
36 pursuant to RCW 13.40.110. In addition, for the purpose of community
37 custody requirements under this chapter, "offender" also means a
38 misdemeanor or gross misdemeanor probationer ordered by a superior
39 court to probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210
40 and supervised by the department pursuant to RCW 9.94A.501 and

1 9.94A.5011. Throughout this chapter, the terms "offender" and
2 "defendant" are used interchangeably.

3 (35) "Partial confinement" means confinement for no more than one
4 year in a facility or institution operated or utilized under contract
5 by the state or any other unit of government, or, if home detention,
6 electronic monitoring, or work crew has been ordered by the court or
7 home detention has been ordered by the department as part of the
8 parenting program or the graduated reentry program, in an approved
9 residence, for a substantial portion of each day with the balance of
10 the day spent in the community. Partial confinement includes work
11 release, home detention, work crew, electronic monitoring, and a
12 combination of work crew, electronic monitoring, and home detention.

13 (36) "Pattern of criminal street gang activity" means:

14 (a) The commission, attempt, conspiracy, or solicitation of, or
15 any prior juvenile adjudication of or adult conviction of, two or
16 more of the following criminal street gang-related offenses:

17 (i) Any "serious violent" felony offense as defined in this
18 section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a
19 Child 1 (RCW 9A.36.120);

20 (ii) Any "violent" offense as defined by this section, excluding
21 Assault of a Child 2 (RCW 9A.36.130);

22 (iii) Deliver or Possession with Intent to Deliver a Controlled
23 Substance (chapter 69.50 RCW);

24 (iv) Any violation of the firearms and dangerous weapon act
25 (chapter 9.41 RCW);

26 (v) Theft of a Firearm (RCW 9A.56.300);

27 (vi) Possession of a Stolen Firearm (RCW 9A.56.310);

28 (vii) Hate Crime (RCW 9A.36.080);

29 (viii) Harassment where a subsequent violation or deadly threat
30 is made (RCW 9A.46.020(2)(b));

31 (ix) Criminal Gang Intimidation (RCW 9A.46.120);

32 (x) Any felony conviction by a person (~~(eighteen)~~) 18 years of
33 age or older with a special finding of involving a juvenile in a
34 felony offense under RCW 9.94A.833;

35 (xi) Residential Burglary (RCW 9A.52.025);

36 (xii) Burglary 2 (RCW 9A.52.030);

37 (xiii) Malicious Mischief 1 (RCW 9A.48.070);

38 (xiv) Malicious Mischief 2 (RCW 9A.48.080);

39 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);

40 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);

1 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW
2 9A.56.070);

3 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
4 9A.56.075);

5 (xix) Extortion 1 (RCW 9A.56.120);

6 (xx) Extortion 2 (RCW 9A.56.130);

7 (xxi) Intimidating a Witness (RCW 9A.72.110);

8 (xxii) Tampering with a Witness (RCW 9A.72.120);

9 (xxiii) Reckless Endangerment (RCW 9A.36.050);

10 (xxiv) Coercion (RCW 9A.36.070);

11 (xxv) Harassment (RCW 9A.46.020); or

12 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);

13 (b) That at least one of the offenses listed in (a) of this
14 subsection shall have occurred after July 1, 2008;

15 (c) That the most recent committed offense listed in (a) of this
16 subsection occurred within three years of a prior offense listed in
17 (a) of this subsection; and

18 (d) Of the offenses that were committed in (a) of this
19 subsection, the offenses occurred on separate occasions or were
20 committed by two or more persons.

21 (37) "Persistent offender" is an offender who:

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

24 (ii) Has, before the commission of the offense under (a) of this
25 subsection, been convicted as an offender on at least two separate
26 occasions, whether in this state or elsewhere, of felonies that under
27 the laws of this state would be considered most serious offenses and
28 would be included in the offender score under RCW 9.94A.525; provided
29 that of the two or more previous convictions, at least one conviction
30 must have occurred before the commission of any of the other most
31 serious offenses for which the offender was previously convicted; or

32 (b) (i) Has been convicted of: (A) Rape in the first degree, rape
33 of a child in the first degree, child molestation in the first
34 degree, rape in the second degree, rape of a child in the second
35 degree, or indecent liberties by forcible compulsion; (B) any of the
36 following offenses with a finding of sexual motivation: Murder in the
37 first degree, murder in the second degree, homicide by abuse,
38 kidnapping in the first degree, kidnapping in the second degree,
39 assault in the first degree, assault in the second degree, assault of
40 a child in the first degree, assault of a child in the second degree,

1 or burglary in the first degree; or (C) an attempt to commit any
2 crime listed in this subsection (37)(b)(i); and

3 (ii) Has, before the commission of the offense under (b)(i) of
4 this subsection, been convicted as an offender on at least one
5 occasion, whether in this state or elsewhere, of an offense listed in
6 (b)(i) of this subsection or any federal or out-of-state offense or
7 offense under prior Washington law that is comparable to the offenses
8 listed in (b)(i) of this subsection. A conviction for rape of a child
9 in the first degree constitutes a conviction under (b)(i) of this
10 subsection only when the offender was (~~sixteen~~) 16 years of age or
11 older when the offender committed the offense. A conviction for rape
12 of a child in the second degree constitutes a conviction under (b)(i)
13 of this subsection only when the offender was (~~eighteen~~) 18 years
14 of age or older when the offender committed the offense.

15 (38) "Predatory" means: (a) The perpetrator of the crime was a
16 stranger to the victim, as defined in this section; (b) the
17 perpetrator established or promoted a relationship with the victim
18 prior to the offense and the victimization of the victim was a
19 significant reason the perpetrator established or promoted the
20 relationship; or (c) the perpetrator was: (i) A teacher, counselor,
21 volunteer, or other person in authority in any public or private
22 school and the victim was a student of the school under his or her
23 authority or supervision. For purposes of this subsection, "school"
24 does not include home-based instruction as defined in RCW
25 28A.225.010; (ii) a coach, trainer, volunteer, or other person in
26 authority in any recreational activity and the victim was a
27 participant in the activity under his or her authority or
28 supervision; (iii) a pastor, elder, volunteer, or other person in
29 authority in any church or religious organization, and the victim was
30 a member or participant of the organization under his or her
31 authority; or (iv) a teacher, counselor, volunteer, or other person
32 in authority providing home-based instruction and the victim was a
33 student receiving home-based instruction while under his or her
34 authority or supervision. For purposes of this subsection: (A) "Home-
35 based instruction" has the same meaning as defined in RCW
36 28A.225.010; and (B) "teacher, counselor, volunteer, or other person
37 in authority" does not include the parent or legal guardian of the
38 victim.

39 (39) "Private school" means a school regulated under chapter
40 28A.195 or 28A.205 RCW.

1 (40) "Public school" has the same meaning as in RCW 28A.150.010.

2 (41) "Recidivist offense" means a felony offense where a prior
3 conviction of the same offense or other specified offense is an
4 element of the crime including, but not limited to:

5 (a) Assault in the fourth degree where domestic violence is
6 pleaded and proven, RCW 9A.36.041(3);

7 (b) (~~Cyberstalking~~) Cyber harassment, RCW 9.61.260(~~(3)(a)~~)
8 (2)(b)(i) (as recodified by this act);

9 (c) Harassment, RCW 9A.46.020(2)(b)(i);

10 (d) Indecent exposure, RCW 9A.88.010(2)(c);

11 (e) Stalking, RCW 9A.46.110(5)(b)(i) and (iii);

12 (f) Telephone harassment, RCW 9.61.230(2)(a); and

13 (g) Violation of a no-contact or protection order, RCW
14 26.50.110(5).

15 (42) "Repetitive domestic violence offense" means any:

16 (a)(i) Domestic violence assault that is not a felony offense
17 under RCW 9A.36.041;

18 (ii) Domestic violence violation of a no-contact order under
19 chapter 10.99 RCW that is not a felony offense;

20 (iii) Domestic violence violation of a protection order under
21 chapter 26.09, 26.26A, 26.26B, or 26.50 RCW that is not a felony
22 offense;

23 (iv) Domestic violence harassment offense under RCW 9A.46.020
24 that is not a felony offense; or

25 (v) Domestic violence stalking offense under RCW 9A.46.110 that
26 is not a felony offense; or

27 (b) Any federal, out-of-state, tribal court, military, county, or
28 municipal conviction for an offense that under the laws of this state
29 would be classified as a repetitive domestic violence offense under
30 (a) of this subsection.

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

35 (44) "Risk assessment" means the application of the risk
36 instrument recommended to the department by the Washington state
37 institute for public policy as having the highest degree of
38 predictive accuracy for assessing an offender's risk of reoffense.

39 (45) "Serious traffic offense" means:

1 (a) Nonfelony driving while under the influence of intoxicating
2 liquor or any drug (RCW 46.61.502), nonfelony actual physical control
3 while under the influence of intoxicating liquor or any drug (RCW
4 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an
5 attended vehicle (RCW 46.52.020(5)); or

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

9 (46) "Serious violent offense" is a subcategory of violent
10 offense and means:

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

12 (ii) Homicide by abuse;

13 (iii) Murder in the second degree;

14 (iv) Manslaughter in the first degree;

15 (v) Assault in the first degree;

16 (vi) Kidnapping in the first degree;

17 (vii) Rape in the first degree;

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

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

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

24 (47) "Sex offense" means:

25 (a)(i) A felony that is a violation of chapter 9A.44 RCW other
26 than RCW 9A.44.132;

27 (ii) A violation of RCW 9A.64.020;

28 (iii) A felony that is a violation of chapter 9.68A RCW other
29 than RCW 9.68A.080;

30 (iv) A felony that is, under chapter 9A.28 RCW, a criminal
31 attempt, criminal solicitation, or criminal conspiracy to commit such
32 crimes; or

33 (v) A felony violation of RCW 9A.44.132(1) (failure to register
34 as a sex offender) if the person has been convicted of violating RCW
35 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130
36 prior to June 10, 2010, on at least one prior occasion;

37 (b) Any conviction for a felony offense in effect at any time
38 prior to July 1, 1976, that is comparable to a felony classified as a
39 sex offense in (a) of this subsection;

1 (c) A felony with a finding of sexual motivation under RCW
2 9.94A.835 or 13.40.135; or

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

6 (48) "Sexual motivation" means that one of the purposes for which
7 the defendant committed the crime was for the purpose of his or her
8 sexual gratification.

9 (49) "Standard sentence range" means the sentencing court's
10 discretionary range in imposing a nonappealable sentence.

11 (50) "Statutory maximum sentence" means the maximum length of
12 time for which an offender may be confined as punishment for a crime
13 as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute
14 defining the crime, or other statute defining the maximum penalty for
15 a crime.

16 (51) "Stranger" means that the victim did not know the offender
17 (~~((twenty-four))~~) 24 hours before the offense.

18 (52) "Total confinement" means confinement inside the physical
19 boundaries of a facility or institution operated or utilized under
20 contract by the state or any other unit of government for (~~((twenty-~~
21 ~~four))~~) 24 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

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

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

31 (55) "Victim of domestic violence" means an intimate partner or
32 household member who has been subjected to the infliction of physical
33 harm or sexual and psychological abuse by an intimate partner or
34 household member as part of a pattern of assaultive, coercive, and
35 controlling behaviors directed at achieving compliance from or
36 control over that intimate partner or household member. Domestic
37 violence includes, but is not limited to, the offenses listed in RCW
38 10.99.020 and 26.50.010 committed by an intimate partner or household
39 member against a victim who is an intimate partner or household
40 member.

1 (56) "Victim of sex trafficking, prostitution, or commercial
2 sexual abuse of a minor" means a person who has been forced or
3 coerced to perform a commercial sex act including, but not limited
4 to, being a victim of offenses defined in RCW 9A.40.100, 9A.88.070,
5 9.68A.101, and the trafficking victims protection act of 2000, 22
6 U.S.C. Sec. 7101 et seq.; or a person who was induced to perform a
7 commercial sex act when they were less than 18 years of age including
8 but not limited to the offenses defined in chapter 9.68A RCW.

9 (57) "Victim of sexual assault" means any person who is a victim
10 of a sexual assault offense, nonconsensual sexual conduct, or
11 nonconsensual sexual penetration and as a result suffers physical,
12 emotional, financial, or psychological impacts. Sexual assault
13 offenses include, but are not limited to, the offenses defined in
14 chapter 9A.44 RCW.

15 (58) "Violent offense" means:

16 (a) Any of the following felonies:

17 (i) Any felony defined under any law as a class A felony or an
18 attempt to commit a class A felony;

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

21 (iii) Manslaughter in the first degree;

22 (iv) Manslaughter in the second degree;

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

24 (vi) Kidnapping in the second degree;

25 (vii) Arson in the second degree;

26 (viii) Assault in the second degree;

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

28 (x) Extortion in the first degree;

29 (xi) Robbery in the second degree;

30 (xii) Drive-by shooting;

31 (xiii) Vehicular assault, when caused by the operation or driving
32 of a vehicle by a person while under the influence of intoxicating
33 liquor or any drug or by the operation or driving of a vehicle in a
34 reckless manner; and

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

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

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

7 (59) "Work crew" means a program of partial confinement
8 consisting of civic improvement tasks for the benefit of the
9 community that complies with RCW 9.94A.725.

10 (60) "Work ethic camp" means an alternative incarceration program
11 as provided in RCW 9.94A.690 designed to reduce recidivism and lower
12 the cost of corrections by requiring offenders to complete a
13 comprehensive array of real-world job and vocational experiences,
14 character-building work ethics training, life management skills
15 development, substance abuse rehabilitation, counseling, literacy
16 training, and basic adult education.

17 (61) "Work release" means a program of partial confinement
18 available to offenders who are employed or engaged as a student in a
19 regular course of study at school.

20 **Sec. 11.** RCW 9.94A.030 and 2021 c 237 s 1 and 2021 c 215 s 97
21 are each reenacted and amended to read as follows:

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

24 (1) "Board" means the indeterminate sentence review board created
25 under chapter 9.95 RCW.

26 (2) "Collect," or any derivative thereof, "collect and remit," or
27 "collect and deliver," when used with reference to the department,
28 means that the department, either directly or through a collection
29 agreement authorized by RCW 9.94A.760, is responsible for monitoring
30 and enforcing the offender's sentence with regard to the legal
31 financial obligation, receiving payment thereof from the offender,
32 and, consistent with current law, delivering daily the entire payment
33 to the superior court clerk without depositing it in a departmental
34 account.

35 (3) "Commission" means the sentencing guidelines commission.

36 (4) "Community corrections officer" means an employee of the
37 department who is responsible for carrying out specific duties in
38 supervision of sentenced offenders and monitoring of sentence
39 conditions.

1 (5) "Community custody" means that portion of an offender's
2 sentence of confinement in lieu of earned release time or imposed as
3 part of a sentence under this chapter and served in the community
4 subject to controls placed on the offender's movement and activities
5 by the department.

6 (6) "Community protection zone" means the area within (~~eight~~
7 ~~hundred-eighty~~) 880 feet of the facilities and grounds of a public
8 or private school.

9 (7) "Community restitution" means compulsory service, without
10 compensation, performed for the benefit of the community by the
11 offender.

12 (8) "Confinement" means total or partial confinement.

13 (9) "Conviction" means an adjudication of guilt pursuant to Title
14 10 or 13 RCW and includes a verdict of guilty, a finding of guilty,
15 and acceptance of a plea of guilty.

16 (10) "Crime-related prohibition" means an order of a court
17 prohibiting conduct that directly relates to the circumstances of the
18 crime for which the offender has been convicted, and shall not be
19 construed to mean orders directing an offender affirmatively to
20 participate in rehabilitative programs or to otherwise perform
21 affirmative conduct. However, affirmative acts necessary to monitor
22 compliance with the order of a court may be required by the
23 department.

24 (11) "Criminal history" means the list of a defendant's prior
25 convictions and juvenile adjudications, whether in this state, in
26 federal court, or elsewhere, and any issued certificates of
27 restoration of opportunity pursuant to RCW 9.97.020.

28 (a) The history shall include, where known, for each conviction
29 (i) whether the defendant has been placed on probation and the length
30 and terms thereof; and (ii) whether the defendant has been
31 incarcerated and the length of incarceration.

32 (b) A conviction may be removed from a defendant's criminal
33 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,
34 9.95.240, or a similar out-of-state statute, or if the conviction has
35 been vacated pursuant to a governor's pardon. However, when a
36 defendant is charged with a recidivist offense, "criminal history"
37 includes a vacated prior conviction for the sole purpose of
38 establishing that such vacated prior conviction constitutes an
39 element of the present recidivist offense as provided in RCW
40 9.94A.640(4)(b) and 9.96.060(7)(c).

1 (c) The determination of a defendant's criminal history is
2 distinct from the determination of an offender score. A prior
3 conviction that was not included in an offender score calculated
4 pursuant to a former version of the sentencing reform act remains
5 part of the defendant's criminal history.

6 (12) "Criminal street gang" means any ongoing organization,
7 association, or group of three or more persons, whether formal or
8 informal, having a common name or common identifying sign or symbol,
9 having as one of its primary activities the commission of criminal
10 acts, and whose members or associates individually or collectively
11 engage in or have engaged in a pattern of criminal street gang
12 activity. This definition does not apply to employees engaged in
13 concerted activities for their mutual aid and protection, or to the
14 activities of labor and bona fide nonprofit organizations or their
15 members or agents.

16 (13) "Criminal street gang associate or member" means any person
17 who actively participates in any criminal street gang and who
18 intentionally promotes, furthers, or assists in any criminal act by
19 the criminal street gang.

20 (14) "Criminal street gang-related offense" means any felony or
21 misdemeanor offense, whether in this state or elsewhere, that is
22 committed for the benefit of, at the direction of, or in association
23 with any criminal street gang, or is committed with the intent to
24 promote, further, or assist in any criminal conduct by the gang, or
25 is committed for one or more of the following reasons:

26 (a) To gain admission, prestige, or promotion within the gang;

27 (b) To increase or maintain the gang's size, membership,
28 prestige, dominance, or control in any geographical area;

29 (c) To exact revenge or retribution for the gang or any member of
30 the gang;

31 (d) To obstruct justice, or intimidate or eliminate any witness
32 against the gang or any member of the gang;

33 (e) To directly or indirectly cause any benefit, aggrandizement,
34 gain, profit, or other advantage for the gang, its reputation,
35 influence, or membership; or

36 (f) To provide the gang with any advantage in, or any control or
37 dominance over any criminal market sector, including, but not limited
38 to, manufacturing, delivering, or selling any controlled substance
39 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
40 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88

1 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual
2 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter
3 9.68 RCW).

4 (15) "Day fine" means a fine imposed by the sentencing court that
5 equals the difference between the offender's net daily income and the
6 reasonable obligations that the offender has for the support of the
7 offender and any dependents.

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

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

14 (18) "Determinate sentence" means a sentence that states with
15 exactitude the number of actual years, months, or days of total
16 confinement, of partial confinement, of community custody, the number
17 of actual hours or days of community restitution work, or dollars or
18 terms of a legal financial obligation. The fact that an offender
19 through earned release can reduce the actual period of confinement
20 shall not affect the classification of the sentence as a determinate
21 sentence.

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

34 (20)(a) "Domestic violence" has the same meaning as defined in
35 RCW 10.99.020.

36 (b) "Domestic violence" also means: (i) Physical harm, bodily
37 injury, assault, or the infliction of fear of imminent physical harm,
38 bodily injury, or assault, sexual assault, or stalking, as defined in
39 RCW 9A.46.110, of one intimate partner by another intimate partner as
40 defined in RCW 10.99.020; or (ii) physical harm, bodily injury,

1 assault, or the infliction of fear of imminent physical harm, bodily
2 injury, or assault, sexual assault, or stalking, as defined in RCW
3 9A.46.110, of one family or household member by another family or
4 household member as defined in RCW 10.99.020.

5 (21) "Drug offender sentencing alternative" is a sentencing
6 option available to persons convicted of a felony offense who are
7 eligible for the option under RCW 9.94A.660.

8 (22) "Drug offense" means:

9 (a) Any felony violation of chapter 69.50 RCW except possession
10 of a controlled substance (RCW 69.50.4013) or forged prescription for
11 a controlled substance (RCW 69.50.403);

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

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

18 (23) "Earned release" means earned release from confinement as
19 provided in RCW 9.94A.728.

20 (24) "Electronic monitoring" means tracking the location of an
21 individual through the use of technology that is capable of
22 determining or identifying the monitored individual's presence or
23 absence at a particular location including, but not limited to:

24 (a) Radio frequency signaling technology, which detects if the
25 monitored individual is or is not at an approved location and
26 notifies the monitoring agency of the time that the monitored
27 individual either leaves the approved location or tampers with or
28 removes the monitoring device; or

29 (b) Active or passive global positioning system technology, which
30 detects the location of the monitored individual and notifies the
31 monitoring agency of the monitored individual's location and which
32 may also include electronic monitoring with victim notification
33 technology that is capable of notifying a victim or protected party,
34 either directly or through a monitoring agency, if the monitored
35 individual enters within the restricted distance of a victim or
36 protected party, or within the restricted distance of a designated
37 location.

38 (25) "Escape" means:

39 (a) Sexually violent predator escape (RCW 9A.76.115), escape in
40 the first degree (RCW 9A.76.110), escape in the second degree (RCW

1 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
2 willful failure to return from work release (RCW 72.65.070), or
3 willful failure to be available for supervision by the department
4 while in community custody (RCW 72.09.310); or

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

8 (26) "Felony traffic offense" means:

9 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
10 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-
11 run injury-accident (RCW 46.52.020(4)), felony driving while under
12 the influence of intoxicating liquor or any drug (RCW 46.61.502(6)),
13 or felony physical control of a vehicle while under the influence of
14 intoxicating liquor or any drug (RCW 46.61.504(6)); or

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

18 (27) "Fine" means a specific sum of money ordered by the
19 sentencing court to be paid by the offender to the court over a
20 specific period of time.

21 (28) "First-time offender" means any person who has no prior
22 convictions for a felony and is eligible for the first-time offender
23 waiver under RCW 9.94A.650.

24 (29) "Home detention" is a subset of electronic monitoring and
25 means a program of partial confinement available to offenders wherein
26 the offender is confined in a private residence (~~(twenty-four)~~) 24
27 hours a day, unless an absence from the residence is approved,
28 authorized, or otherwise permitted in the order by the court or other
29 supervising agency that ordered home detention, and the offender is
30 subject to electronic monitoring.

31 (30) "Homelessness" or "homeless" means a condition where an
32 individual lacks a fixed, regular, and adequate nighttime residence
33 and who has a primary nighttime residence that is:

34 (a) A supervised, publicly or privately operated shelter designed
35 to provide temporary living accommodations;

36 (b) A public or private place not designed for, or ordinarily
37 used as, a regular sleeping accommodation for human beings; or

38 (c) A private residence where the individual stays as a transient
39 invitee.

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

15 (32) "Most serious offense" means any of the following felonies
16 or a felony attempt to commit any of the following felonies:

17 (a) Any felony defined under any law as a class A felony or
18 criminal solicitation of or criminal conspiracy to commit a class A
19 felony;

20 (b) Assault in the second degree;

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

22 (d) Child molestation in the second degree;

23 (e) Controlled substance homicide;

24 (f) Extortion in the first degree;

25 (g) Incest when committed against a child under age (~~fourteen~~)

26 14;

27 (h) Indecent liberties;

28 (i) Kidnapping in the second degree;

29 (j) Leading organized crime;

30 (k) Manslaughter in the first degree;

31 (l) Manslaughter in the second degree;

32 (m) Promoting prostitution in the first degree;

33 (n) Rape in the third degree;

34 (o) Sexual exploitation;

35 (p) Vehicular assault, when caused by the operation or driving of
36 a vehicle by a person while under the influence of intoxicating
37 liquor or any drug or by the operation or driving of a vehicle in a
38 reckless manner;

39 (q) Vehicular homicide, when proximately caused by the driving of
40 any vehicle by any person while under the influence of intoxicating

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

3 (r) Any other class B felony offense with a finding of sexual
4 motivation;

5 (s) Any other felony with a deadly weapon verdict under RCW
6 9.94A.825;

7 (t) Any felony offense in effect at any time prior to December 2,
8 1993, that is comparable to a most serious offense under this
9 subsection, or any federal or out-of-state conviction for an offense
10 that under the laws of this state would be a felony classified as a
11 most serious offense under this subsection;

12 (u)(i) A prior conviction for indecent liberties under RCW
13 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex.
14 sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b),
15 and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW
16 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986,
17 until July 1, 1988;

18 (ii) A prior conviction for indecent liberties under RCW
19 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
20 if: (A) The crime was committed against a child under the age of
21 (~~fourteen~~) 14; or (B) the relationship between the victim and
22 perpetrator is included in the definition of indecent liberties under
23 RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27,
24 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25,
25 1993, through July 27, 1997;

26 (v) Any out-of-state conviction for a felony offense with a
27 finding of sexual motivation if the minimum sentence imposed was
28 (~~ten~~) 10 years or more; provided that the out-of-state felony
29 offense must be comparable to a felony offense under this title and
30 Title 9A RCW and the out-of-state definition of sexual motivation
31 must be comparable to the definition of sexual motivation contained
32 in this section.

33 (33) "Nonviolent offense" means an offense which is not a violent
34 offense.

35 (34) "Offender" means a person who has committed a felony
36 established by state law and is (~~eighteen~~) 18 years of age or older
37 or is less than (~~eighteen~~) 18 years of age but whose case is under
38 superior court jurisdiction under RCW 13.04.030 or has been
39 transferred by the appropriate juvenile court to a criminal court
40 pursuant to RCW 13.40.110. In addition, for the purpose of community

1 custody requirements under this chapter, "offender" also means a
2 misdemeanor or gross misdemeanor probationer ordered by a superior
3 court to probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210
4 and supervised by the department pursuant to RCW 9.94A.501 and
5 9.94A.5011. Throughout this chapter, the terms "offender" and
6 "defendant" are used interchangeably.

7 (35) "Partial confinement" means confinement for no more than one
8 year in a facility or institution operated or utilized under contract
9 by the state or any other unit of government, or, if home detention,
10 electronic monitoring, or work crew has been ordered by the court or
11 home detention has been ordered by the department as part of the
12 parenting program or the graduated reentry program, in an approved
13 residence, for a substantial portion of each day with the balance of
14 the day spent in the community. Partial confinement includes work
15 release, home detention, work crew, electronic monitoring, and a
16 combination of work crew, electronic monitoring, and home detention.

17 (36) "Pattern of criminal street gang activity" means:

18 (a) The commission, attempt, conspiracy, or solicitation of, or
19 any prior juvenile adjudication of or adult conviction of, two or
20 more of the following criminal street gang-related offenses:

21 (i) Any "serious violent" felony offense as defined in this
22 section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a
23 Child 1 (RCW 9A.36.120);

24 (ii) Any "violent" offense as defined by this section, excluding
25 Assault of a Child 2 (RCW 9A.36.130);

26 (iii) Deliver or Possession with Intent to Deliver a Controlled
27 Substance (chapter 69.50 RCW);

28 (iv) Any violation of the firearms and dangerous weapon act
29 (chapter 9.41 RCW);

30 (v) Theft of a Firearm (RCW 9A.56.300);

31 (vi) Possession of a Stolen Firearm (RCW 9A.56.310);

32 (vii) Hate Crime (RCW 9A.36.080);

33 (viii) Harassment where a subsequent violation or deadly threat
34 is made (RCW 9A.46.020(2)(b));

35 (ix) Criminal Gang Intimidation (RCW 9A.46.120);

36 (x) Any felony conviction by a person (~~eighteen~~) 18 years of
37 age or older with a special finding of involving a juvenile in a
38 felony offense under RCW 9.94A.833;

39 (xi) Residential Burglary (RCW 9A.52.025);

40 (xii) Burglary 2 (RCW 9A.52.030);

1 (xiii) Malicious Mischief 1 (RCW 9A.48.070);
2 (xiv) Malicious Mischief 2 (RCW 9A.48.080);
3 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);
4 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);
5 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW
6 9A.56.070);
7 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
8 9A.56.075);
9 (xix) Extortion 1 (RCW 9A.56.120);
10 (xx) Extortion 2 (RCW 9A.56.130);
11 (xxi) Intimidating a Witness (RCW 9A.72.110);
12 (xxii) Tampering with a Witness (RCW 9A.72.120);
13 (xxiii) Reckless Endangerment (RCW 9A.36.050);
14 (xxiv) Coercion (RCW 9A.36.070);
15 (xxv) Harassment (RCW 9A.46.020); or
16 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);
17 (b) That at least one of the offenses listed in (a) of this
18 subsection shall have occurred after July 1, 2008;
19 (c) That the most recent committed offense listed in (a) of this
20 subsection occurred within three years of a prior offense listed in
21 (a) of this subsection; and
22 (d) Of the offenses that were committed in (a) of this
23 subsection, the offenses occurred on separate occasions or were
24 committed by two or more persons.
25 (37) "Persistent offender" is an offender who:
26 (a) (i) Has been convicted in this state of any felony considered
27 a most serious offense; and
28 (ii) Has, before the commission of the offense under (a) of this
29 subsection, been convicted as an offender on at least two separate
30 occasions, whether in this state or elsewhere, of felonies that under
31 the laws of this state would be considered most serious offenses and
32 would be included in the offender score under RCW 9.94A.525; provided
33 that of the two or more previous convictions, at least one conviction
34 must have occurred before the commission of any of the other most
35 serious offenses for which the offender was previously convicted; or
36 (b) (i) Has been convicted of: (A) Rape in the first degree, rape
37 of a child in the first degree, child molestation in the first
38 degree, rape in the second degree, rape of a child in the second
39 degree, or indecent liberties by forcible compulsion; (B) any of the
40 following offenses with a finding of sexual motivation: Murder in the

1 first degree, murder in the second degree, homicide by abuse,
2 kidnapping in the first degree, kidnapping in the second degree,
3 assault in the first degree, assault in the second degree, assault of
4 a child in the first degree, assault of a child in the second degree,
5 or burglary in the first degree; or (C) an attempt to commit any
6 crime listed in this subsection (37)(b)(i); and

7 (ii) Has, before the commission of the offense under (b)(i) of
8 this subsection, been convicted as an offender on at least one
9 occasion, whether in this state or elsewhere, of an offense listed in
10 (b)(i) of this subsection or any federal or out-of-state offense or
11 offense under prior Washington law that is comparable to the offenses
12 listed in (b)(i) of this subsection. A conviction for rape of a child
13 in the first degree constitutes a conviction under (b)(i) of this
14 subsection only when the offender was (~~sixteen~~) 16 years of age or
15 older when the offender committed the offense. A conviction for rape
16 of a child in the second degree constitutes a conviction under (b)(i)
17 of this subsection only when the offender was (~~eighteen~~) 18 years
18 of age or older when the offender committed the offense.

19 (38) "Predatory" means: (a) The perpetrator of the crime was a
20 stranger to the victim, as defined in this section; (b) the
21 perpetrator established or promoted a relationship with the victim
22 prior to the offense and the victimization of the victim was a
23 significant reason the perpetrator established or promoted the
24 relationship; or (c) the perpetrator was: (i) A teacher, counselor,
25 volunteer, or other person in authority in any public or private
26 school and the victim was a student of the school under his or her
27 authority or supervision. For purposes of this subsection, "school"
28 does not include home-based instruction as defined in RCW
29 28A.225.010; (ii) a coach, trainer, volunteer, or other person in
30 authority in any recreational activity and the victim was a
31 participant in the activity under his or her authority or
32 supervision; (iii) a pastor, elder, volunteer, or other person in
33 authority in any church or religious organization, and the victim was
34 a member or participant of the organization under his or her
35 authority; or (iv) a teacher, counselor, volunteer, or other person
36 in authority providing home-based instruction and the victim was a
37 student receiving home-based instruction while under his or her
38 authority or supervision. For purposes of this subsection: (A) "Home-
39 based instruction" has the same meaning as defined in RCW
40 28A.225.010; and (B) "teacher, counselor, volunteer, or other person

1 in authority" does not include the parent or legal guardian of the
2 victim.

3 (39) "Private school" means a school regulated under chapter
4 28A.195 or 28A.205 RCW.

5 (40) "Public school" has the same meaning as in RCW 28A.150.010.

6 (41) "Recidivist offense" means a felony offense where a prior
7 conviction of the same offense or other specified offense is an
8 element of the crime including, but not limited to:

9 (a) Assault in the fourth degree where domestic violence is
10 pleaded and proven, RCW 9A.36.041(3);

11 (b) (~~Cyberstalking~~) Cyber harassment, RCW 9.61.260(~~(3)(a)~~)
12 (2)(b)(i) (as recodified by this act);

13 (c) Harassment, RCW 9A.46.020(2)(b)(i);

14 (d) Indecent exposure, RCW 9A.88.010(2)(c);

15 (e) Stalking, RCW 9A.46.110(5)(b)(i) and (iii);

16 (f) Telephone harassment, RCW 9.61.230(2)(a); and

17 (g) Violation of a no-contact or protection order, RCW 7.105.450
18 or former RCW 26.50.110(5).

19 (42) "Repetitive domestic violence offense" means any:

20 (a)(i) Domestic violence assault that is not a felony offense
21 under RCW 9A.36.041;

22 (ii) Domestic violence violation of a no-contact order under
23 chapter 10.99 RCW that is not a felony offense;

24 (iii) Domestic violence violation of a protection order under
25 chapter 26.09, 26.26A, or 26.26B RCW or former chapter 26.50 RCW, or
26 violation of a domestic violence protection order under chapter 7.105
27 RCW, that is not a felony offense;

28 (iv) Domestic violence harassment offense under RCW 9A.46.020
29 that is not a felony offense; or

30 (v) Domestic violence stalking offense under RCW 9A.46.110 that
31 is not a felony offense; or

32 (b) Any federal, out-of-state, tribal court, military, county, or
33 municipal conviction for an offense that under the laws of this state
34 would be classified as a repetitive domestic violence offense under
35 (a) of this subsection.

36 (43) "Restitution" means a specific sum of money ordered by the
37 sentencing court to be paid by the offender to the court over a
38 specified period of time as payment of damages. The sum may include
39 both public and private costs.

1 (44) "Risk assessment" means the application of the risk
2 instrument recommended to the department by the Washington state
3 institute for public policy as having the highest degree of
4 predictive accuracy for assessing an offender's risk of reoffense.

5 (45) "Serious traffic offense" means:

6 (a) Nonfelony driving while under the influence of intoxicating
7 liquor or any drug (RCW 46.61.502), nonfelony actual physical control
8 while under the influence of intoxicating liquor or any drug (RCW
9 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an
10 attended vehicle (RCW 46.52.020(5)); or

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

14 (46) "Serious violent offense" is a subcategory of violent
15 offense and means:

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

17 (ii) Homicide by abuse;

18 (iii) Murder in the second degree;

19 (iv) Manslaughter in the first degree;

20 (v) Assault in the first degree;

21 (vi) Kidnapping in the first degree;

22 (vii) Rape in the first degree;

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

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

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

29 (47) "Sex offense" means:

30 (a) (i) A felony that is a violation of chapter 9A.44 RCW other
31 than RCW 9A.44.132;

32 (ii) A violation of RCW 9A.64.020;

33 (iii) A felony that is a violation of chapter 9.68A RCW other
34 than RCW 9.68A.080;

35 (iv) A felony that is, under chapter 9A.28 RCW, a criminal
36 attempt, criminal solicitation, or criminal conspiracy to commit such
37 crimes; or

38 (v) A felony violation of RCW 9A.44.132(1) (failure to register
39 as a sex offender) if the person has been convicted of violating RCW

1 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130
2 prior to June 10, 2010, on at least one prior occasion;

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

6 (c) A felony with a finding of sexual motivation under RCW
7 9.94A.835 or 13.40.135; or

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

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

14 (49) "Standard sentence range" means the sentencing court's
15 discretionary range in imposing a nonappealable sentence.

16 (50) "Statutory maximum sentence" means the maximum length of
17 time for which an offender may be confined as punishment for a crime
18 as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute
19 defining the crime, or other statute defining the maximum penalty for
20 a crime.

21 (51) "Stranger" means that the victim did not know the offender
22 (~~((twenty-four))~~) 24 hours before the offense.

23 (52) "Total confinement" means confinement inside the physical
24 boundaries of a facility or institution operated or utilized under
25 contract by the state or any other unit of government for (~~((twenty-~~
26 ~~four))~~) 24 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

27 (53) "Transition training" means written and verbal instructions
28 and assistance provided by the department to the offender during the
29 two weeks prior to the offender's successful completion of the work
30 ethic camp program. The transition training shall include
31 instructions in the offender's requirements and obligations during
32 the offender's period of community custody.

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

36 (55) "Victim of domestic violence" means an intimate partner or
37 household member who has been subjected to the infliction of physical
38 harm or sexual and psychological abuse by an intimate partner or
39 household member as part of a pattern of assaultive, coercive, and
40 controlling behaviors directed at achieving compliance from or

1 control over that intimate partner or household member. Domestic
2 violence includes, but is not limited to, the offenses listed in RCW
3 10.99.020 and 26.50.010 committed by an intimate partner or household
4 member against a victim who is an intimate partner or household
5 member.

6 (56) "Victim of sex trafficking, prostitution, or commercial
7 sexual abuse of a minor" means a person who has been forced or
8 coerced to perform a commercial sex act including, but not limited
9 to, being a victim of offenses defined in RCW 9A.40.100, 9A.88.070,
10 9.68A.101, and the trafficking victims protection act of 2000, 22
11 U.S.C. Sec. 7101 et seq.; or a person who was induced to perform a
12 commercial sex act when they were less than 18 years of age including
13 but not limited to the offenses defined in chapter 9.68A RCW.

14 (57) "Victim of sexual assault" means any person who is a victim
15 of a sexual assault offense, nonconsensual sexual conduct, or
16 nonconsensual sexual penetration and as a result suffers physical,
17 emotional, financial, or psychological impacts. Sexual assault
18 offenses include, but are not limited to, the offenses defined in
19 chapter 9A.44 RCW.

20 (58) "Violent offense" means:

21 (a) Any of the following felonies:

22 (i) Any felony defined under any law as a class A felony or an
23 attempt to commit a class A felony;

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

26 (iii) Manslaughter in the first degree;

27 (iv) Manslaughter in the second degree;

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

29 (vi) Kidnapping in the second degree;

30 (vii) Arson in the second degree;

31 (viii) Assault in the second degree;

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

33 (x) Extortion in the first degree;

34 (xi) Robbery in the second degree;

35 (xii) Drive-by shooting;

36 (xiii) Vehicular assault, when caused by the operation or driving
37 of a vehicle by a person while under the influence of intoxicating
38 liquor or any drug or by the operation or driving of a vehicle in a
39 reckless manner; and

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

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

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

11 (59) "Work crew" means a program of partial confinement
12 consisting of civic improvement tasks for the benefit of the
13 community that complies with RCW 9.94A.725.

14 (60) "Work ethic camp" means an alternative incarceration program
15 as provided in RCW 9.94A.690 designed to reduce recidivism and lower
16 the cost of corrections by requiring offenders to complete a
17 comprehensive array of real-world job and vocational experiences,
18 character-building work ethics training, life management skills
19 development, substance abuse rehabilitation, counseling, literacy
20 training, and basic adult education.

21 (61) "Work release" means a program of partial confinement
22 available to offenders who are employed or engaged as a student in a
23 regular course of study at school.

24 **Sec. 12.** RCW 9.94A.515 and 2020 c 344 s 4 are each amended to
25 read as follows:

26

TABLE 2

CRIMES INCLUDED WITHIN EACH
SERIOUSNESS LEVEL

27

28

29 XVI Aggravated Murder 1 (RCW 10.95.020)

30 XV Homicide by abuse (RCW 9A.32.055)

31 Malicious explosion 1 (RCW

32 70.74.280(1))

33 Murder 1 (RCW 9A.32.030)

34 XIV Murder 2 (RCW 9A.32.050)

35 Trafficking 1 (RCW 9A.40.100(1))

1 XIII Malicious explosion 2 (RCW
2 70.74.280(2))
3 Malicious placement of an explosive 1
4 (RCW 70.74.270(1))
5 XII Assault 1 (RCW 9A.36.011)
6 Assault of a Child 1 (RCW 9A.36.120)
7 Malicious placement of an imitation
8 device 1 (RCW 70.74.272(1)(a))
9 Promoting Commercial Sexual Abuse of
10 a Minor (RCW 9.68A.101)
11 Rape 1 (RCW 9A.44.040)
12 Rape of a Child 1 (RCW 9A.44.073)
13 Trafficking 2 (RCW 9A.40.100(3))
14 XI Manslaughter 1 (RCW 9A.32.060)
15 Rape 2 (RCW 9A.44.050)
16 Rape of a Child 2 (RCW 9A.44.076)
17 Vehicular Homicide, by being under the
18 influence of intoxicating liquor or
19 any drug (RCW 46.61.520)
20 Vehicular Homicide, by the operation of
21 any vehicle in a reckless manner
22 (RCW 46.61.520)
23 X Child Molestation 1 (RCW 9A.44.083)
24 Criminal Mistreatment 1 (RCW
25 9A.42.020)
26 Indecent Liberties (with forcible
27 compulsion) (RCW
28 9A.44.100(1)(a))
29 Kidnapping 1 (RCW 9A.40.020)
30 Leading Organized Crime (RCW
31 9A.82.060(1)(a))
32 Malicious explosion 3 (RCW
33 70.74.280(3))
34 Sexually Violent Predator Escape (RCW
35 9A.76.115)

1 IX Abandonment of Dependent Person 1
2 (RCW 9A.42.060)
3 Assault of a Child 2 (RCW 9A.36.130)
4 Explosive devices prohibited (RCW
5 70.74.180)
6 Hit and Run—Death (RCW
7 46.52.020(4)(a))
8 Homicide by Watercraft, by being under
9 the influence of intoxicating liquor
10 or any drug (RCW 79A.60.050)
11 Inciting Criminal Profiteering (RCW
12 9A.82.060(1)(b))
13 Malicious placement of an explosive 2
14 (RCW 70.74.270(2))
15 Robbery 1 (RCW 9A.56.200)
16 Sexual Exploitation (RCW 9.68A.040)
17 VIII Arson 1 (RCW 9A.48.020)
18 Commercial Sexual Abuse of a Minor
19 (RCW 9.68A.100)
20 Homicide by Watercraft, by the
21 operation of any vessel in a reckless
22 manner (RCW 79A.60.050)
23 Manslaughter 2 (RCW 9A.32.070)
24 Promoting Prostitution 1 (RCW
25 9A.88.070)
26 Theft of Ammonia (RCW 69.55.010)
27 VII Air bag diagnostic systems (causing
28 bodily injury or death) (RCW
29 46.37.660(2)(b))
30 Air bag replacement requirements
31 (causing bodily injury or death)
32 (RCW 46.37.660(1)(b))
33 Burglary 1 (RCW 9A.52.020)
34 Child Molestation 2 (RCW 9A.44.086)

1 Civil Disorder Training (RCW
2 9A.48.120)
3 Dealing in depictions of minor engaged
4 in sexually explicit conduct 1
5 (RCW 9.68A.050(1))
6 Drive-by Shooting (RCW 9A.36.045)
7 False Reporting 1 (RCW
8 9A.84.040(2)(a))
9 Homicide by Watercraft, by disregard
10 for the safety of others (RCW
11 79A.60.050)
12 Indecent Liberties (without forcible
13 compulsion) (RCW 9A.44.100(1)
14 (b) and (c))
15 Introducing Contraband 1 (RCW
16 9A.76.140)
17 Malicious placement of an explosive 3
18 (RCW 70.74.270(3))
19 Manufacture or import counterfeit,
20 nonfunctional, damaged, or
21 previously deployed air bag
22 (causing bodily injury or death)
23 (RCW 46.37.650(1)(b))
24 Negligently Causing Death By Use of a
25 Signal Preemption Device (RCW
26 46.37.675)
27 Sell, install, or reinstall counterfeit,
28 nonfunctional, damaged, or
29 previously deployed airbag (RCW
30 46.37.650(2)(b))
31 Sending, bringing into state depictions
32 of minor engaged in sexually
33 explicit conduct 1 (RCW
34 9.68A.060(1))
35 Unlawful Possession of a Firearm in the
36 first degree (RCW 9.41.040(1))

1 Use of a Machine Gun or Bump-fire
2 Stock in Commission of a Felony
3 (RCW 9A.41.225)
4 Vehicular Homicide, by disregard for
5 the safety of others (RCW
6 46.61.520)
7 VI Bail Jumping with Murder 1 (RCW
8 9A.76.170(3)(a))
9 Bribery (RCW 9A.68.010)
10 Incest 1 (RCW 9A.64.020(1))
11 Intimidating a Judge (RCW 9A.72.160)
12 Intimidating a Juror/Witness (RCW
13 9A.72.110, 9A.72.130)
14 Malicious placement of an imitation
15 device 2 (RCW 70.74.272(1)(b))
16 Possession of Depictions of a Minor
17 Engaged in Sexually Explicit
18 Conduct 1 (RCW 9.68A.070(1))
19 Rape of a Child 3 (RCW 9A.44.079)
20 Theft of a Firearm (RCW 9A.56.300)
21 Theft from a Vulnerable Adult 1 (RCW
22 9A.56.400(1))
23 Unlawful Storage of Ammonia (RCW
24 69.55.020)
25 V Abandonment of Dependent Person 2
26 (RCW 9A.42.070)
27 Advancing money or property for
28 extortionate extension of credit
29 (RCW 9A.82.030)
30 Air bag diagnostic systems (RCW
31 46.37.660(2)(c))
32 Air bag replacement requirements
33 (RCW 46.37.660(1)(c))
34 Bail Jumping with class A Felony
35 (RCW 9A.76.170(3)(b))

1 Child Molestation 3 (RCW 9A.44.089)
2 Criminal Mistreatment 2 (RCW
3 9A.42.030)
4 Custodial Sexual Misconduct 1 (RCW
5 9A.44.160)
6 Dealing in Depictions of Minor
7 Engaged in Sexually Explicit
8 Conduct 2 (RCW 9.68A.050(2))
9 Domestic Violence Court Order
10 Violation (RCW 10.99.040,
11 10.99.050, 26.09.300, 26.10.220,
12 26.26B.050, 26.50.110, 26.52.070,
13 or 74.34.145)
14 Extortion 1 (RCW 9A.56.120)
15 Extortionate Extension of Credit (RCW
16 9A.82.020)
17 Extortionate Means to Collect
18 Extensions of Credit (RCW
19 9A.82.040)
20 Incest 2 (RCW 9A.64.020(2))
21 Kidnapping 2 (RCW 9A.40.030)
22 Manufacture or import counterfeit,
23 nonfunctional, damaged, or
24 previously deployed air bag (RCW
25 46.37.650(1)(c))
26 Perjury 1 (RCW 9A.72.020)
27 Persistent prison misbehavior (RCW
28 9.94.070)
29 Possession of a Stolen Firearm (RCW
30 9A.56.310)
31 Rape 3 (RCW 9A.44.060)
32 Rendering Criminal Assistance 1 (RCW
33 9A.76.070)

1 Sell, install, or reinstall counterfeit,
2 nonfunctional, damaged, or
3 previously deployed airbag (RCW
4 46.37.650(2)(c))
5 Sending, Bringing into State Depictions
6 of Minor Engaged in Sexually
7 Explicit Conduct 2 (RCW
8 9.68A.060(2))
9 Sexual Misconduct with a Minor 1
10 (RCW 9A.44.093)
11 Sexually Violating Human Remains
12 (RCW 9A.44.105)
13 Stalking (RCW 9A.46.110)
14 Taking Motor Vehicle Without
15 Permission 1 (RCW 9A.56.070)
16 IV Arson 2 (RCW 9A.48.030)
17 Assault 2 (RCW 9A.36.021)
18 Assault 3 (of a Peace Officer with a
19 Projectile Stun Gun) (RCW
20 9A.36.031(1)(h))
21 Assault 4 (third domestic violence
22 offense) (RCW 9A.36.041(3))
23 Assault by Watercraft (RCW
24 79A.60.060)
25 Bribing a Witness/Bribe Received by
26 Witness (RCW 9A.72.090,
27 9A.72.100)
28 Cheating 1 (RCW 9.46.1961)
29 Commercial Bribery (RCW 9A.68.060)
30 Counterfeiting (RCW 9.16.035(4))
31 Driving While Under the Influence
32 (RCW 46.61.502(6))
33 Endangerment with a Controlled
34 Substance (RCW 9A.42.100)
35 Escape 1 (RCW 9A.76.110)

1 Hate Crime (RCW 9A.36.080)
2 Hit and Run—Injury (RCW
3 46.52.020(4)(b))
4 Hit and Run with Vessel—Injury
5 Accident (RCW 79A.60.200(3))
6 Identity Theft 1 (RCW 9.35.020(2))
7 Indecent Exposure to Person Under Age
8 ((~~Fourteen~~) 14 (subsequent sex
9 offense) (RCW 9A.88.010)
10 Influencing Outcome of Sporting Event
11 (RCW 9A.82.070)
12 Physical Control of a Vehicle While
13 Under the Influence (RCW
14 46.61.504(6))
15 Possession of Depictions of a Minor
16 Engaged in Sexually Explicit
17 Conduct 2 (RCW 9.68A.070(2))
18 Residential Burglary (RCW 9A.52.025)
19 Robbery 2 (RCW 9A.56.210)
20 Theft of Livestock 1 (RCW 9A.56.080)
21 Threats to Bomb (RCW 9.61.160)
22 Trafficking in Stolen Property 1 (RCW
23 9A.82.050)
24 Unlawful factoring of a credit card or
25 payment card transaction (RCW
26 9A.56.290(4)(b))
27 Unlawful transaction of health coverage
28 as a health care service contractor
29 (RCW 48.44.016(3))
30 Unlawful transaction of health coverage
31 as a health maintenance
32 organization (RCW 48.46.033(3))
33 Unlawful transaction of insurance
34 business (RCW 48.15.023(3))
35 Unlicensed practice as an insurance
36 professional (RCW 48.17.063(2))

1 Use of Proceeds of Criminal
2 Profiteering (RCW 9A.82.080 (1)
3 and (2))
4 Vehicle Prowling 2 (third or subsequent
5 offense) (RCW 9A.52.100(3))
6 Vehicular Assault, by being under the
7 influence of intoxicating liquor or
8 any drug, or by the operation or
9 driving of a vehicle in a reckless
10 manner (RCW 46.61.522)
11 Viewing of Depictions of a Minor
12 Engaged in Sexually Explicit
13 Conduct 1 (RCW 9.68A.075(1))
14 Willful Failure to Return from Furlough
15 (RCW 72.66.060)
16 III Animal Cruelty 1 (Sexual Conduct or
17 Contact) (RCW 16.52.205(3))
18 Assault 3 (Except Assault 3 of a Peace
19 Officer With a Projectile Stun Gun)
20 (RCW 9A.36.031 except subsection
21 (1)(h))
22 Assault of a Child 3 (RCW 9A.36.140)
23 Bail Jumping with class B or C Felony
24 (RCW 9A.76.170(3)(c))
25 Burglary 2 (RCW 9A.52.030)
26 Communication with a Minor for
27 Immoral Purposes (RCW
28 9.68A.090)
29 Criminal Gang Intimidation (RCW
30 9A.46.120)
31 Custodial Assault (RCW 9A.36.100)
32 ~~((Cyberstalking (subsequent conviction
33 or threat of death)))~~ Cyber
34 Harassment (RCW 9.61.260(~~(3)~~))
35 (2)(b) (as recodified by this act)
36 Escape 2 (RCW 9A.76.120)

1 Extortion 2 (RCW 9A.56.130)
2 False Reporting 2 (RCW
3 9A.84.040(2)(b))
4 Harassment (RCW 9A.46.020)
5 Intimidating a Public Servant (RCW
6 9A.76.180)
7 Introducing Contraband 2 (RCW
8 9A.76.150)
9 Malicious Injury to Railroad Property
10 (RCW 81.60.070)
11 Manufacture of Untraceable Firearm
12 with Intent to Sell (RCW 9.41.190)
13 Manufacture or Assembly of an
14 Undetectable Firearm or
15 Untraceable Firearm (RCW
16 9.41.325)
17 Mortgage Fraud (RCW 19.144.080)
18 Negligently Causing Substantial Bodily
19 Harm By Use of a Signal
20 Preemption Device (RCW
21 46.37.674)
22 Organized Retail Theft 1 (RCW
23 9A.56.350(2))
24 Perjury 2 (RCW 9A.72.030)
25 Possession of Incendiary Device (RCW
26 9.40.120)
27 Possession of Machine Gun, Bump-Fire
28 Stock, Undetectable Firearm, or
29 Short-Barreled Shotgun or Rifle
30 (RCW 9.41.190)
31 Promoting Prostitution 2 (RCW
32 9A.88.080)
33 Retail Theft with Special Circumstances
34 1 (RCW 9A.56.360(2))
35 Securities Act violation (RCW
36 21.20.400)

1 Tampering with a Witness (RCW
2 9A.72.120)
3 Telephone Harassment (subsequent
4 conviction or threat of death) (RCW
5 9.61.230(2))
6 Theft of Livestock 2 (RCW 9A.56.083)
7 Theft with the Intent to Resell 1 (RCW
8 9A.56.340(2))
9 Trafficking in Stolen Property 2 (RCW
10 9A.82.055)
11 Unlawful Hunting of Big Game 1 (RCW
12 77.15.410(3)(b))
13 Unlawful Imprisonment (RCW
14 9A.40.040)
15 Unlawful Misbranding of Fish or
16 Shellfish 1 (RCW 77.140.060(3))
17 Unlawful possession of firearm in the
18 second degree (RCW 9.41.040(2))
19 Unlawful Taking of Endangered Fish or
20 Wildlife 1 (RCW 77.15.120(3)(b))
21 Unlawful Trafficking in Fish, Shellfish,
22 or Wildlife 1 (RCW
23 77.15.260(3)(b))
24 Unlawful Use of a Nondesignated
25 Vessel (RCW 77.15.530(4))
26 Vehicular Assault, by the operation or
27 driving of a vehicle with disregard
28 for the safety of others (RCW
29 46.61.522)
30 Willful Failure to Return from Work
31 Release (RCW 72.65.070)
32 II Commercial Fishing Without a License
33 1 (RCW 77.15.500(3)(b))
34 Computer Trespass 1 (RCW 9A.90.040)
35 Counterfeiting (RCW 9.16.035(3))

1 Electronic Data Service Interference
2 (RCW 9A.90.060)
3 Electronic Data Tampering 1 (RCW
4 9A.90.080)
5 Electronic Data Theft (RCW 9A.90.100)
6 Engaging in Fish Dealing Activity
7 Unlicensed 1 (RCW 77.15.620(3))
8 Escape from Community Custody
9 (RCW 72.09.310)
10 Failure to Register as a Sex Offender
11 (second or subsequent offense)
12 (RCW 9A.44.130 prior to June 10,
13 2010, and RCW 9A.44.132)
14 Health Care False Claims (RCW
15 48.80.030)
16 Identity Theft 2 (RCW 9.35.020(3))
17 Improperly Obtaining Financial
18 Information (RCW 9.35.010)
19 Malicious Mischief 1 (RCW 9A.48.070)
20 Organized Retail Theft 2 (RCW
21 9A.56.350(3))
22 Possession of Stolen Property 1 (RCW
23 9A.56.150)
24 Possession of a Stolen Vehicle (RCW
25 9A.56.068)
26 Retail Theft with Special Circumstances
27 2 (RCW 9A.56.360(3))
28 Scrap Processing, Recycling, or
29 Supplying Without a License
30 (second or subsequent offense)
31 (RCW 19.290.100)
32 Theft 1 (RCW 9A.56.030)
33 Theft of a Motor Vehicle (RCW
34 9A.56.065)

1 Theft of Rental, Leased, Lease-
2 purchased, or Loaned Property
3 (valued at (~~five thousand dollars~~)
4 \$5,000 or more) (RCW
5 9A.56.096(5)(a))
6 Theft with the Intent to Resell 2 (RCW
7 9A.56.340(3))
8 Trafficking in Insurance Claims (RCW
9 48.30A.015)
10 Unlawful factoring of a credit card or
11 payment card transaction (RCW
12 9A.56.290(4)(a))
13 Unlawful Participation of Non-Indians
14 in Indian Fishery (RCW
15 77.15.570(2))
16 Unlawful Practice of Law (RCW
17 2.48.180)
18 Unlawful Purchase or Use of a License
19 (RCW 77.15.650(3)(b))
20 Unlawful Trafficking in Fish, Shellfish,
21 or Wildlife 2 (RCW
22 77.15.260(3)(a))
23 Unlicensed Practice of a Profession or
24 Business (RCW 18.130.190(7))
25 Voyeurism 1 (RCW 9A.44.115)
26 I Attempting to Elude a Pursuing Police
27 Vehicle (RCW 46.61.024)
28 False Verification for Welfare (RCW
29 74.08.055)
30 Forgery (RCW 9A.60.020)
31 Fraudulent Creation or Revocation of a
32 Mental Health Advance Directive
33 (RCW 9A.60.060)
34 Malicious Mischief 2 (RCW 9A.48.080)
35 Mineral Trespass (RCW 78.44.330)

1 Possession of Stolen Property 2 (RCW
2 9A.56.160)
3 Reckless Burning 1 (RCW 9A.48.040)
4 Spotlighting Big Game 1 (RCW
5 77.15.450(3)(b))
6 Suspension of Department Privileges 1
7 (RCW 77.15.670(3)(b))
8 Taking Motor Vehicle Without
9 Permission 2 (RCW 9A.56.075)
10 Theft 2 (RCW 9A.56.040)
11 Theft from a Vulnerable Adult 2 (RCW
12 9A.56.400(2))
13 Theft of Rental, Leased, Lease-
14 purchased, or Loaned Property
15 (valued at (~~seven hundred fifty~~
16 ~~dollars~~) \$750 or more but less than
17 (~~five thousand dollars~~) \$5,000)
18 (RCW 9A.56.096(5)(b))
19 Transaction of insurance business
20 beyond the scope of licensure
21 (RCW 48.17.063)
22 Unlawful Fish and Shellfish Catch
23 Accounting (RCW 77.15.630(3)(b))
24 Unlawful Issuance of Checks or Drafts
25 (RCW 9A.56.060)
26 Unlawful Possession of Fictitious
27 Identification (RCW 9A.56.320)
28 Unlawful Possession of Instruments of
29 Financial Fraud (RCW 9A.56.320)
30 Unlawful Possession of Payment
31 Instruments (RCW 9A.56.320)
32 Unlawful Possession of a Personal
33 Identification Device (RCW
34 9A.56.320)
35 Unlawful Production of Payment
36 Instruments (RCW 9A.56.320)

1 Unlawful Releasing, Planting,
 2 Possessing, or Placing Deleterious
 3 Exotic Wildlife (RCW
 4 77.15.250(2)(b))
 5 Unlawful Trafficking in Food Stamps
 6 (RCW 9.91.142)
 7 Unlawful Use of Food Stamps (RCW
 8 9.91.144)
 9 Unlawful Use of Net to Take Fish 1
 10 (RCW 77.15.580(3)(b))
 11 Unlawful Use of Prohibited Aquatic
 12 Animal Species (RCW
 13 77.15.253(3))
 14 Vehicle Prowl 1 (RCW 9A.52.095)
 15 Violating Commercial Fishing Area or
 16 Time 1 (RCW 77.15.550(3)(b))

17 **Sec. 13.** RCW 9.94A.515 and 2021 c 215 s 99 are each amended to
 18 read as follows:

19 TABLE 2

20 CRIMES INCLUDED WITHIN EACH

21 SERIOUSNESS LEVEL

22	XVI	Aggravated Murder 1 (RCW 10.95.020)
23	XV	Homicide by abuse (RCW 9A.32.055)
24		Malicious explosion 1 (RCW
25		70.74.280(1))
26		Murder 1 (RCW 9A.32.030)
27	XIV	Murder 2 (RCW 9A.32.050)
28		Trafficking 1 (RCW 9A.40.100(1))
29	XIII	Malicious explosion 2 (RCW
30		70.74.280(2))
31		Malicious placement of an explosive 1
32		(RCW 70.74.270(1))
33	XII	Assault 1 (RCW 9A.36.011)
34		Assault of a Child 1 (RCW 9A.36.120)

1 Malicious placement of an imitation
2 device 1 (RCW 70.74.272(1)(a))
3 Promoting Commercial Sexual Abuse of
4 a Minor (RCW 9.68A.101)
5 Rape 1 (RCW 9A.44.040)
6 Rape of a Child 1 (RCW 9A.44.073)
7 Trafficking 2 (RCW 9A.40.100(3))
8 XI Manslaughter 1 (RCW 9A.32.060)
9 Rape 2 (RCW 9A.44.050)
10 Rape of a Child 2 (RCW 9A.44.076)
11 Vehicular Homicide, by being under the
12 influence of intoxicating liquor or
13 any drug (RCW 46.61.520)
14 Vehicular Homicide, by the operation of
15 any vehicle in a reckless manner
16 (RCW 46.61.520)
17 X Child Molestation 1 (RCW 9A.44.083)
18 Criminal Mistreatment 1 (RCW
19 9A.42.020)
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 (RCW
29 9A.76.115)
30 IX Abandonment of Dependent Person 1
31 (RCW 9A.42.060)
32 Assault of a Child 2 (RCW 9A.36.130)
33 Explosive devices prohibited (RCW
34 70.74.180)

1 Hit and Run—Death (RCW
2 46.52.020(4)(a))
3 Homicide by Watercraft, by being under
4 the influence of intoxicating liquor
5 or any drug (RCW 79A.60.050)
6 Inciting Criminal Profiteering (RCW
7 9A.82.060(1)(b))
8 Malicious placement of an explosive 2
9 (RCW 70.74.270(2))
10 Robbery 1 (RCW 9A.56.200)
11 Sexual Exploitation (RCW 9.68A.040)
12 VIII Arson 1 (RCW 9A.48.020)
13 Commercial Sexual Abuse of a Minor
14 (RCW 9.68A.100)
15 Homicide by Watercraft, by the
16 operation of any vessel in a reckless
17 manner (RCW 79A.60.050)
18 Manslaughter 2 (RCW 9A.32.070)
19 Promoting Prostitution 1 (RCW
20 9A.88.070)
21 Theft of Ammonia (RCW 69.55.010)
22 VII Air bag diagnostic systems (causing
23 bodily injury or death) (RCW
24 46.37.660(2)(b))
25 Air bag replacement requirements
26 (causing bodily injury or death)
27 (RCW 46.37.660(1)(b))
28 Burglary 1 (RCW 9A.52.020)
29 Child Molestation 2 (RCW 9A.44.086)
30 Civil Disorder Training (RCW
31 9A.48.120)
32 Dealing in depictions of minor engaged
33 in sexually explicit conduct 1
34 (RCW 9.68A.050(1))
35 Drive-by Shooting (RCW 9A.36.045)

1 False Reporting 1 (RCW
2 9A.84.040(2)(a))
3 Homicide by Watercraft, by disregard
4 for the safety of others (RCW
5 79A.60.050)
6 Indecent Liberties (without forcible
7 compulsion) (RCW 9A.44.100(1)
8 (b) and (c))
9 Introducing Contraband 1 (RCW
10 9A.76.140)
11 Malicious placement of an explosive 3
12 (RCW 70.74.270(3))
13 Manufacture or import counterfeit,
14 nonfunctional, damaged, or
15 previously deployed air bag
16 (causing bodily injury or death)
17 (RCW 46.37.650(1)(b))
18 Negligently Causing Death By Use of a
19 Signal Preemption Device (RCW
20 46.37.675)
21 Sell, install, or reinstall counterfeit,
22 nonfunctional, damaged, or
23 previously deployed airbag (RCW
24 46.37.650(2)(b))
25 Sending, bringing into state depictions
26 of minor engaged in sexually
27 explicit conduct 1 (RCW
28 9.68A.060(1))
29 Unlawful Possession of a Firearm in the
30 first degree (RCW 9.41.040(1))
31 Use of a Machine Gun or Bump-fire
32 Stock in Commission of a Felony
33 (RCW 9.41.225)
34 Vehicular Homicide, by disregard for
35 the safety of others (RCW
36 46.61.520)

1 VI Bail Jumping with Murder 1 (RCW
2 9A.76.170(3)(a))
3 Bribery (RCW 9A.68.010)
4 Incest 1 (RCW 9A.64.020(1))
5 Intimidating a Judge (RCW 9A.72.160)
6 Intimidating a Juror/Witness (RCW
7 9A.72.110, 9A.72.130)
8 Malicious placement of an imitation
9 device 2 (RCW 70.74.272(1)(b))
10 Possession of Depictions of a Minor
11 Engaged in Sexually Explicit
12 Conduct 1 (RCW 9.68A.070(1))
13 Rape of a Child 3 (RCW 9A.44.079)
14 Theft of a Firearm (RCW 9A.56.300)
15 Theft from a Vulnerable Adult 1 (RCW
16 9A.56.400(1))
17 Unlawful Storage of Ammonia (RCW
18 69.55.020)
19 V Abandonment of Dependent Person 2
20 (RCW 9A.42.070)
21 Advancing money or property for
22 extortionate extension of credit
23 (RCW 9A.82.030)
24 Air bag diagnostic systems (RCW
25 46.37.660(2)(c))
26 Air bag replacement requirements
27 (RCW 46.37.660(1)(c))
28 Bail Jumping with class A Felony
29 (RCW 9A.76.170(3)(b))
30 Child Molestation 3 (RCW 9A.44.089)
31 Criminal Mistreatment 2 (RCW
32 9A.42.030)
33 Custodial Sexual Misconduct 1 (RCW
34 9A.44.160)

1 Dealing in Depictions of Minor
2 Engaged in Sexually Explicit
3 Conduct 2 (RCW 9.68A.050(2))
4 Domestic Violence Court Order
5 Violation (RCW 7.105.450,
6 10.99.040, 10.99.050, 26.09.300,
7 26.10.220, 26.26B.050, 26.50.110,
8 26.52.070, or 74.34.145)
9 Extortion 1 (RCW 9A.56.120)
10 Extortionate Extension of Credit (RCW
11 9A.82.020)
12 Extortionate Means to Collect
13 Extensions of Credit (RCW
14 9A.82.040)
15 Incest 2 (RCW 9A.64.020(2))
16 Kidnapping 2 (RCW 9A.40.030)
17 Manufacture or import counterfeit,
18 nonfunctional, damaged, or
19 previously deployed air bag (RCW
20 46.37.650(1)(c))
21 Perjury 1 (RCW 9A.72.020)
22 Persistent prison misbehavior (RCW
23 9.94.070)
24 Possession of a Stolen Firearm (RCW
25 9A.56.310)
26 Rape 3 (RCW 9A.44.060)
27 Rendering Criminal Assistance 1 (RCW
28 9A.76.070)
29 Sell, install, or reinstall counterfeit,
30 nonfunctional, damaged, or
31 previously deployed airbag (RCW
32 46.37.650(2)(c))
33 Sending, Bringing into State Depictions
34 of Minor Engaged in Sexually
35 Explicit Conduct 2 (RCW
36 9.68A.060(2))

1 Sexual Misconduct with a Minor 1
2 (RCW 9A.44.093)
3 Sexually Violating Human Remains
4 (RCW 9A.44.105)
5 Stalking (RCW 9A.46.110)
6 Taking Motor Vehicle Without
7 Permission 1 (RCW 9A.56.070)
8 IV Arson 2 (RCW 9A.48.030)
9 Assault 2 (RCW 9A.36.021)
10 Assault 3 (of a Peace Officer with a
11 Projectile Stun Gun) (RCW
12 9A.36.031(1)(h))
13 Assault 4 (third domestic violence
14 offense) (RCW 9A.36.041(3))
15 Assault by Watercraft (RCW
16 79A.60.060)
17 Bribing a Witness/Bribe Received by
18 Witness (RCW 9A.72.090,
19 9A.72.100)
20 Cheating 1 (RCW 9A.46.1961)
21 Commercial Bribery (RCW 9A.68.060)
22 Counterfeiting (RCW 9A.16.035(4))
23 Driving While Under the Influence
24 (RCW 46.61.502(6))
25 Endangerment with a Controlled
26 Substance (RCW 9A.42.100)
27 Escape 1 (RCW 9A.76.110)
28 Hate Crime (RCW 9A.36.080)
29 Hit and Run—Injury (RCW
30 46.52.020(4)(b))
31 Hit and Run with Vessel—Injury
32 Accident (RCW 79A.60.200(3))
33 Identity Theft 1 (RCW 9A.35.020(2))

1 Indecent Exposure to Person Under Age
2 ((~~Fourteen~~)) 14 (subsequent sex
3 offense) (RCW 9A.88.010)
4 Influencing Outcome of Sporting Event
5 (RCW 9A.82.070)
6 Physical Control of a Vehicle While
7 Under the Influence (RCW
8 46.61.504(6))
9 Possession of Depictions of a Minor
10 Engaged in Sexually Explicit
11 Conduct 2 (RCW 9.68A.070(2))
12 Residential Burglary (RCW 9A.52.025)
13 Robbery 2 (RCW 9A.56.210)
14 Theft of Livestock 1 (RCW 9A.56.080)
15 Threats to Bomb (RCW 9.61.160)
16 Trafficking in Stolen Property 1 (RCW
17 9A.82.050)
18 Unlawful factoring of a credit card or
19 payment card transaction (RCW
20 9A.56.290(4)(b))
21 Unlawful transaction of health coverage
22 as a health care service contractor
23 (RCW 48.44.016(3))
24 Unlawful transaction of health coverage
25 as a health maintenance
26 organization (RCW 48.46.033(3))
27 Unlawful transaction of insurance
28 business (RCW 48.15.023(3))
29 Unlicensed practice as an insurance
30 professional (RCW 48.17.063(2))
31 Use of Proceeds of Criminal
32 Profiteering (RCW 9A.82.080 (1)
33 and (2))
34 Vehicle Prowling 2 (third or subsequent
35 offense) (RCW 9A.52.100(3))

1 Vehicular Assault, by being under the
2 influence of intoxicating liquor or
3 any drug, or by the operation or
4 driving of a vehicle in a reckless
5 manner (RCW 46.61.522)

6 Viewing of Depictions of a Minor
7 Engaged in Sexually Explicit
8 Conduct 1 (RCW 9.68A.075(1))

9 Willful Failure to Return from Furlough
10 (RCW 72.66.060)

11 III Animal Cruelty 1 (Sexual Conduct or
12 Contact) (RCW 16.52.205(3))

13 Assault 3 (Except Assault 3 of a Peace
14 Officer With a Projectile Stun Gun)
15 (RCW 9A.36.031 except subsection
16 (1)(h))

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

18 Bail Jumping with class B or C Felony
19 (RCW 9A.76.170(3)(c))

20 Burglary 2 (RCW 9A.52.030)

21 Communication with a Minor for
22 Immoral Purposes (RCW
23 9.68A.090)

24 Criminal Gang Intimidation (RCW
25 9A.46.120)

26 Custodial Assault (RCW 9A.36.100)

27 ~~((Cyberstalking (subsequent conviction
28 or threat of death)))~~ Cyber
29 Harassment (RCW 9.61.260~~((3))~~)
30 (2)(b) (as recodified by this act)

31 Escape 2 (RCW 9A.76.120)

32 Extortion 2 (RCW 9A.56.130)

33 False Reporting 2 (RCW
34 9A.84.040(2)(b))

35 Harassment (RCW 9A.46.020)

1 Intimidating a Public Servant (RCW
2 9A.76.180)
3 Introducing Contraband 2 (RCW
4 9A.76.150)
5 Malicious Injury to Railroad Property
6 (RCW 81.60.070)
7 Manufacture of Untraceable Firearm
8 with Intent to Sell (RCW 9.41.190)
9 Manufacture or Assembly of an
10 Undetectable Firearm or
11 Untraceable Firearm (RCW
12 9.41.325)
13 Mortgage Fraud (RCW 19.144.080)
14 Negligently Causing Substantial Bodily
15 Harm By Use of a Signal
16 Preemption Device (RCW
17 46.37.674)
18 Organized Retail Theft 1 (RCW
19 9A.56.350(2))
20 Perjury 2 (RCW 9A.72.030)
21 Possession of Incendiary Device (RCW
22 9.40.120)
23 Possession of Machine Gun, Bump-Fire
24 Stock, Undetectable Firearm, or
25 Short-Barreled Shotgun or Rifle
26 (RCW 9.41.190)
27 Promoting Prostitution 2 (RCW
28 9A.88.080)
29 Retail Theft with Special Circumstances
30 1 (RCW 9A.56.360(2))
31 Securities Act violation (RCW
32 21.20.400)
33 Tampering with a Witness (RCW
34 9A.72.120)

1 Telephone Harassment (subsequent
2 conviction or threat of death) (RCW
3 9.61.230(2))
4 Theft of Livestock 2 (RCW 9A.56.083)
5 Theft with the Intent to Resell 1 (RCW
6 9A.56.340(2))
7 Trafficking in Stolen Property 2 (RCW
8 9A.82.055)
9 Unlawful Hunting of Big Game 1 (RCW
10 77.15.410(3)(b))
11 Unlawful Imprisonment (RCW
12 9A.40.040)
13 Unlawful Misbranding of Fish or
14 Shellfish 1 (RCW 77.140.060(3))
15 Unlawful possession of firearm in the
16 second degree (RCW 9.41.040(2))
17 Unlawful Taking of Endangered Fish or
18 Wildlife 1 (RCW 77.15.120(3)(b))
19 Unlawful Trafficking in Fish, Shellfish,
20 or Wildlife 1 (RCW
21 77.15.260(3)(b))
22 Unlawful Use of a Nondesigned
23 Vessel (RCW 77.15.530(4))
24 Vehicular Assault, by the operation or
25 driving of a vehicle with disregard
26 for the safety of others (RCW
27 46.61.522)
28 Willful Failure to Return from Work
29 Release (RCW 72.65.070)
30 II Commercial Fishing Without a License
31 1 (RCW 77.15.500(3)(b))
32 Computer Trespass 1 (RCW 9A.90.040)
33 Counterfeiting (RCW 9.16.035(3))
34 Electronic Data Service Interference
35 (RCW 9A.90.060)

1 Electronic Data Tampering 1 (RCW
2 9A.90.080)
3 Electronic Data Theft (RCW 9A.90.100)
4 Engaging in Fish Dealing Activity
5 Unlicensed 1 (RCW 77.15.620(3))
6 Escape from Community Custody
7 (RCW 72.09.310)
8 Failure to Register as a Sex Offender
9 (second or subsequent offense)
10 (RCW 9A.44.130 prior to June 10,
11 2010, and RCW 9A.44.132)
12 Health Care False Claims (RCW
13 48.80.030)
14 Identity Theft 2 (RCW 9.35.020(3))
15 Improperly Obtaining Financial
16 Information (RCW 9.35.010)
17 Malicious Mischief 1 (RCW 9A.48.070)
18 Organized Retail Theft 2 (RCW
19 9A.56.350(3))
20 Possession of Stolen Property 1 (RCW
21 9A.56.150)
22 Possession of a Stolen Vehicle (RCW
23 9A.56.068)
24 Retail Theft with Special Circumstances
25 2 (RCW 9A.56.360(3))
26 Scrap Processing, Recycling, or
27 Supplying Without a License
28 (second or subsequent offense)
29 (RCW 19.290.100)
30 Theft 1 (RCW 9A.56.030)
31 Theft of a Motor Vehicle (RCW
32 9A.56.065)

1 Theft of Rental, Leased, Lease-
2 purchased, or Loaned Property
3 (valued at (~~five thousand dollars~~)
4 \$5,000 or more) (RCW
5 9A.56.096(5)(a))
6 Theft with the Intent to Resell 2 (RCW
7 9A.56.340(3))
8 Trafficking in Insurance Claims (RCW
9 48.30A.015)
10 Unlawful factoring of a credit card or
11 payment card transaction (RCW
12 9A.56.290(4)(a))
13 Unlawful Participation of Non-Indians
14 in Indian Fishery (RCW
15 77.15.570(2))
16 Unlawful Practice of Law (RCW
17 2.48.180)
18 Unlawful Purchase or Use of a License
19 (RCW 77.15.650(3)(b))
20 Unlawful Trafficking in Fish, Shellfish,
21 or Wildlife 2 (RCW
22 77.15.260(3)(a))
23 Unlicensed Practice of a Profession or
24 Business (RCW 18.130.190(7))
25 Voyeurism 1 (RCW 9A.44.115)
26 I Attempting to Elude a Pursuing Police
27 Vehicle (RCW 46.61.024)
28 False Verification for Welfare (RCW
29 74.08.055)
30 Forgery (RCW 9A.60.020)
31 Fraudulent Creation or Revocation of a
32 Mental Health Advance Directive
33 (RCW 9A.60.060)
34 Malicious Mischief 2 (RCW 9A.48.080)
35 Mineral Trespass (RCW 78.44.330)

1 Possession of Stolen Property 2 (RCW
2 9A.56.160)
3 Reckless Burning 1 (RCW 9A.48.040)
4 Spotlighting Big Game 1 (RCW
5 77.15.450(3)(b))
6 Suspension of Department Privileges 1
7 (RCW 77.15.670(3)(b))
8 Taking Motor Vehicle Without
9 Permission 2 (RCW 9A.56.075)
10 Theft 2 (RCW 9A.56.040)
11 Theft from a Vulnerable Adult 2 (RCW
12 9A.56.400(2))
13 Theft of Rental, Leased, Lease-
14 purchased, or Loaned Property
15 (valued at (~~seven hundred fifty~~
16 ~~dollars~~) \$750 or more but less than
17 (~~five thousand dollars~~) \$5,000)
18 (RCW 9A.56.096(5)(b))
19 Transaction of insurance business
20 beyond the scope of licensure
21 (RCW 48.17.063)
22 Unlawful Fish and Shellfish Catch
23 Accounting (RCW 77.15.630(3)(b))
24 Unlawful Issuance of Checks or Drafts
25 (RCW 9A.56.060)
26 Unlawful Possession of Fictitious
27 Identification (RCW 9A.56.320)
28 Unlawful Possession of Instruments of
29 Financial Fraud (RCW 9A.56.320)
30 Unlawful Possession of Payment
31 Instruments (RCW 9A.56.320)
32 Unlawful Possession of a Personal
33 Identification Device (RCW
34 9A.56.320)
35 Unlawful Production of Payment
36 Instruments (RCW 9A.56.320)

1 Unlawful Releasing, Planting,
2 Possessing, or Placing Deleterious
3 Exotic Wildlife (RCW
4 77.15.250(2)(b))
5 Unlawful Trafficking in Food Stamps
6 (RCW 9.91.142)
7 Unlawful Use of Food Stamps (RCW
8 9.91.144)
9 Unlawful Use of Net to Take Fish 1
10 (RCW 77.15.580(3)(b))
11 Unlawful Use of Prohibited Aquatic
12 Animal Species (RCW
13 77.15.253(3))
14 Vehicle Prowl 1 (RCW 9A.52.095)
15 Violating Commercial Fishing Area or
16 Time 1 (RCW 77.15.550(3)(b))

17 **Sec. 14.** RCW 9A.46.060 and 2019 c 271 s 8 are each amended to
18 read as follows:

19 As used in this chapter, "harassment" may include but is not
20 limited to any of the following crimes:

- 21 (1) Harassment (RCW 9A.46.020);
- 22 (2) Hate crime (RCW 9A.36.080);
- 23 (3) Telephone harassment (RCW 9.61.230);
- 24 (4) Assault in the first degree (RCW 9A.36.011);
- 25 (5) Assault of a child in the first degree (RCW 9A.36.120);
- 26 (6) Assault in the second degree (RCW 9A.36.021);
- 27 (7) Assault of a child in the second degree (RCW 9A.36.130);
- 28 (8) Assault in the fourth degree (RCW 9A.36.041);
- 29 (9) Reckless endangerment (RCW 9A.36.050);
- 30 (10) Extortion in the first degree (RCW 9A.56.120);
- 31 (11) Extortion in the second degree (RCW 9A.56.130);
- 32 (12) Coercion (RCW 9A.36.070);
- 33 (13) Burglary in the first degree (RCW 9A.52.020);
- 34 (14) Burglary in the second degree (RCW 9A.52.030);
- 35 (15) Criminal trespass in the first degree (RCW 9A.52.070);
- 36 (16) Criminal trespass in the second degree (RCW 9A.52.080);
- 37 (17) Malicious mischief in the first degree (RCW 9A.48.070);

- 1 (18) Malicious mischief in the second degree (RCW 9A.48.080);
- 2 (19) Malicious mischief in the third degree (RCW 9A.48.090);
- 3 (20) Kidnapping in the first degree (RCW 9A.40.020);
- 4 (21) Kidnapping in the second degree (RCW 9A.40.030);
- 5 (22) Unlawful imprisonment (RCW 9A.40.040);
- 6 (23) Rape in the first degree (RCW 9A.44.040);
- 7 (24) Rape in the second degree (RCW 9A.44.050);
- 8 (25) Rape in the third degree (RCW 9A.44.060);
- 9 (26) Indecent liberties (RCW 9A.44.100);
- 10 (27) Rape of a child in the first degree (RCW 9A.44.073);
- 11 (28) Rape of a child in the second degree (RCW 9A.44.076);
- 12 (29) Rape of a child in the third degree (RCW 9A.44.079);
- 13 (30) Child molestation in the first degree (RCW 9A.44.083);
- 14 (31) Child molestation in the second degree (RCW 9A.44.086);
- 15 (32) Child molestation in the third degree (RCW 9A.44.089);
- 16 (33) Stalking (RCW 9A.46.110);
- 17 (34) ((~~Cyberstalking~~)) Cyber harassment (RCW 9.61.260 (as
- 18 recodified by this act));
- 19 (35) Residential burglary (RCW 9A.52.025);
- 20 (36) Violation of a temporary, permanent, or final protective
- 21 order issued pursuant to chapter 7.90, 9A.46, 10.14, 10.99, 26.09, or
- 22 26.50 RCW;
- 23 (37) Unlawful discharge of a laser in the first degree (RCW
- 24 9A.49.020); and
- 25 (38) Unlawful discharge of a laser in the second degree (RCW
- 26 9A.49.030).

27 **Sec. 15.** RCW 9A.46.060 and 2021 c 215 s 109 are each amended to
28 read as follows:

29 As used in this chapter, "harassment" may include but is not
30 limited to any of the following crimes:

- 31 (1) Harassment (RCW 9A.46.020);
- 32 (2) Hate crime (RCW 9A.36.080);
- 33 (3) Telephone harassment (RCW 9.61.230);
- 34 (4) Assault in the first degree (RCW 9A.36.011);
- 35 (5) Assault of a child in the first degree (RCW 9A.36.120);
- 36 (6) Assault in the second degree (RCW 9A.36.021);
- 37 (7) Assault of a child in the second degree (RCW 9A.36.130);
- 38 (8) Assault in the fourth degree (RCW 9A.36.041);
- 39 (9) Reckless endangerment (RCW 9A.36.050);

- 1 (10) Extortion in the first degree (RCW 9A.56.120);
- 2 (11) Extortion in the second degree (RCW 9A.56.130);
- 3 (12) Coercion (RCW 9A.36.070);
- 4 (13) Burglary in the first degree (RCW 9A.52.020);
- 5 (14) Burglary in the second degree (RCW 9A.52.030);
- 6 (15) Criminal trespass in the first degree (RCW 9A.52.070);
- 7 (16) Criminal trespass in the second degree (RCW 9A.52.080);
- 8 (17) Malicious mischief in the first degree (RCW 9A.48.070);
- 9 (18) Malicious mischief in the second degree (RCW 9A.48.080);
- 10 (19) Malicious mischief in the third degree (RCW 9A.48.090);
- 11 (20) Kidnapping in the first degree (RCW 9A.40.020);
- 12 (21) Kidnapping in the second degree (RCW 9A.40.030);
- 13 (22) Unlawful imprisonment (RCW 9A.40.040);
- 14 (23) Rape in the first degree (RCW 9A.44.040);
- 15 (24) Rape in the second degree (RCW 9A.44.050);
- 16 (25) Rape in the third degree (RCW 9A.44.060);
- 17 (26) Indecent liberties (RCW 9A.44.100);
- 18 (27) Rape of a child in the first degree (RCW 9A.44.073);
- 19 (28) Rape of a child in the second degree (RCW 9A.44.076);
- 20 (29) Rape of a child in the third degree (RCW 9A.44.079);
- 21 (30) Child molestation in the first degree (RCW 9A.44.083);
- 22 (31) Child molestation in the second degree (RCW 9A.44.086);
- 23 (32) Child molestation in the third degree (RCW 9A.44.089);
- 24 (33) Stalking (RCW 9A.46.110);
- 25 (34) (~~Cyberstalking~~) Cyber harassment (RCW 9.61.260 (as
- 26 recodified by this act));
- 27 (35) Residential burglary (RCW 9A.52.025);
- 28 (36) Violation of a temporary, permanent, or final protective
- 29 order issued pursuant to chapter 9A.44, 9A.46, 10.99, or 26.09 RCW or
- 30 any of the former chapters 7.90, 10.14, and 26.50 RCW, or violation
- 31 of a domestic violence protection order, sexual assault protection
- 32 order, or antiharassment protection order issued under chapter 7.105
- 33 RCW;
- 34 (37) Unlawful discharge of a laser in the first degree (RCW
- 35 9A.49.020); and
- 36 (38) Unlawful discharge of a laser in the second degree (RCW
- 37 9A.49.030).

38 **Sec. 16.** RCW 26.50.060 and 2020 c 311 s 9 are each amended to
39 read as follows:

1 (1) Upon notice and after hearing, the court may provide relief
2 as follows:

3 (a) Restrain the respondent from committing acts of domestic
4 violence;

5 (b) Exclude the respondent from the dwelling that the parties
6 share, from the residence, workplace, or school of the petitioner, or
7 from the day care or school of a child;

8 (c) Prohibit the respondent from knowingly coming within, or
9 knowingly remaining within, a specified distance from a specified
10 location;

11 (d) On the same basis as is provided in chapter 26.09 RCW, the
12 court shall make residential provision with regard to minor children
13 of the parties. However, parenting plans as specified in chapter
14 26.09 RCW shall not be required under this chapter;

15 (e) Order the respondent to participate in a domestic violence
16 perpetrator treatment program approved under RCW 26.50.150;

17 (f) Order other relief as it deems necessary for the protection
18 of the petitioner and other family or household members sought to be
19 protected, including orders or directives to a peace officer, as
20 allowed under this chapter;

21 (g) Require the respondent to pay the administrative court costs
22 and service fees, as established by the county or municipality
23 incurring the expense and to reimburse the petitioner for costs
24 incurred in bringing the action, including reasonable attorneys' fees
25 or limited license legal technician fees when such fees are incurred
26 by a person licensed and practicing in accordance with the state
27 supreme court's admission to practice rule 28, the limited practice
28 rule for limited license legal technicians;

29 (h) Restrain the respondent from having any contact with the
30 victim of domestic violence or the victim's children or members of
31 the victim's household;

32 (i) Restrain the respondent from harassing, following, keeping
33 under physical or electronic surveillance, (~~cyberstalking~~) cyber
34 harassment as defined in RCW 9.61.260 (as recodified by this act),
35 and using telephonic, audiovisual, or other electronic means to
36 monitor the actions, location, or communication of a victim of
37 domestic violence, the victim's children, or members of the victim's
38 household. For the purposes of this subsection, "communication"
39 includes both "wire communication" and "electronic communication" as
40 defined in RCW 9.73.260;

1 (j) Require the respondent to submit to electronic monitoring.
2 The order shall specify who shall provide the electronic monitoring
3 services and the terms under which the monitoring must be performed.
4 The order also may include a requirement that the respondent pay the
5 costs of the monitoring. The court shall consider the ability of the
6 respondent to pay for electronic monitoring;

7 (k) Consider the provisions of RCW 9.41.800;

8 (l) Order possession and use of essential personal effects. The
9 court shall list the essential personal effects with sufficient
10 specificity to make it clear which property is included. Personal
11 effects may include pets. The court may order that a petitioner be
12 granted the exclusive custody or control of any pet owned, possessed,
13 leased, kept, or held by the petitioner, respondent, or minor child
14 residing with either the petitioner or respondent and may prohibit
15 the respondent from interfering with the petitioner's efforts to
16 remove the pet. The court may also prohibit the respondent from
17 knowingly coming within, or knowingly remaining within, a specified
18 distance of specified locations where the pet is regularly found;

19 (m) Order use of a vehicle; and

20 (n) Enter an order restricting the respondent from engaging in
21 abusive litigation as set forth in chapter 26.51 RCW. A petitioner
22 may request this relief in the petition or by separate motion. A
23 petitioner may request this relief by separate motion at any time
24 within five years of the date the order for protection is entered
25 even if the order has since expired. A stand-alone motion for an
26 order restricting abusive litigation may be brought by a party who
27 meets the requirements of chapter 26.51 RCW regardless of whether the
28 party has previously sought an order for protection under this
29 chapter, provided the motion is made within five years of the date
30 the order that made a finding of domestic violence was entered. In
31 cases where a finding of domestic violence was entered pursuant to an
32 order under chapter 26.09, 26.26, or 26.26A RCW, a motion for an
33 order restricting abusive litigation may be brought under the family
34 law case or as a stand-alone action filed under this chapter, when it
35 is not reasonable or practical to file under the family law case.

36 (2) If a protection order restrains the respondent from
37 contacting the respondent's minor children the restraint shall be for
38 a fixed period not to exceed one year. This limitation is not
39 applicable to orders for protection issued under chapter 26.09,
40 26.10, 26.26A, or 26.26B RCW. With regard to other relief, if the

1 petitioner has petitioned for relief on his or her own behalf or on
2 behalf of the petitioner's family or household members or minor
3 children, and the court finds that the respondent is likely to resume
4 acts of domestic violence against the petitioner or the petitioner's
5 family or household members or minor children when the order expires,
6 the court may either grant relief for a fixed period or enter a
7 permanent order of protection.

8 If the petitioner has petitioned for relief on behalf of the
9 respondent's minor children, the court shall advise the petitioner
10 that if the petitioner wants to continue protection for a period
11 beyond one year the petitioner may either petition for renewal
12 pursuant to the provisions of this chapter or may seek relief
13 pursuant to the provisions of chapter 26.09, 26.26A, or 26.26B RCW.

14 (3) If the court grants an order for a fixed time period, the
15 petitioner may apply for renewal of the order by filing a petition
16 for renewal at any time within the three months before the order
17 expires. The petition for renewal shall state the reasons why the
18 petitioner seeks to renew the protection order. Upon receipt of the
19 petition for renewal the court shall order a hearing which shall be
20 not later than (~~fourteen~~) 14 days from the date of the order.
21 Except as provided in RCW 26.50.085, personal service shall be made
22 on the respondent not less than five days before the hearing. If
23 timely service cannot be made the court shall set a new hearing date
24 and shall either require additional attempts at obtaining personal
25 service or permit service by publication as provided in RCW 26.50.085
26 or by mail as provided in RCW 26.50.123. If the court permits service
27 by publication or mail, the court shall set the new hearing date not
28 later than (~~twenty-four~~) 24 days from the date of the order. If the
29 order expires because timely service cannot be made the court shall
30 grant an ex parte order of protection as provided in RCW 26.50.070.
31 The court shall grant the petition for renewal unless the respondent
32 proves by a preponderance of the evidence that the respondent will
33 not resume acts of domestic violence against the petitioner or the
34 petitioner's children or family or household members when the order
35 expires. The court may renew the protection order for another fixed
36 time period or may enter a permanent order as provided in this
37 section. The court may award court costs, service fees, and
38 reasonable attorneys' fees as provided in subsection (1)(g) of this
39 section.

1 (4) In providing relief under this chapter, the court may realign
2 the designation of the parties as "petitioner" and "respondent" where
3 the court finds that the original petitioner is the abuser and the
4 original respondent is the victim of domestic violence and may issue
5 an ex parte temporary order for protection in accordance with RCW
6 26.50.070 on behalf of the victim until the victim is able to prepare
7 a petition for an order for protection in accordance with RCW
8 26.50.030.

9 (5) Except as provided in subsection (4) of this section, no
10 order for protection shall grant relief to any party except upon
11 notice to the respondent and hearing pursuant to a petition or
12 counter-petition filed and served by the party seeking relief in
13 accordance with RCW 26.50.050.

14 (6) The court order shall specify the date the order expires if
15 any. The court order shall also state whether the court issued the
16 protection order following personal service, service by publication,
17 or service by mail and whether the court has approved service by
18 publication or mail of an order issued under this section.

19 (7) If the court declines to issue an order for protection or
20 declines to renew an order for protection, the court shall state in
21 writing on the order the particular reasons for the court's denial.

22 **Sec. 17.** RCW 26.50.070 and 2019 c 245 s 14 are each amended to
23 read as follows:

24 (1) Where an application under this section alleges that
25 irreparable injury could result from domestic violence if an order is
26 not issued immediately without prior notice to the respondent, the
27 court may grant an ex parte temporary order for protection, pending a
28 full hearing, and grant relief as the court deems proper, including
29 an order:

30 (a) Restraining any party from committing acts of domestic
31 violence;

32 (b) Restraining any party from going onto the grounds of or
33 entering the dwelling that the parties share, from the residence,
34 workplace, or school of the other, or from the day care or school of
35 a child until further order of the court;

36 (c) Prohibiting any party from knowingly coming within, or
37 knowingly remaining within, a specified distance from a specified
38 location;

1 (d) Restraining any party from interfering with the other's
2 custody of the minor children or from removing the children from the
3 jurisdiction of the court;

4 (e) Restraining any party from having any contact with the victim
5 of domestic violence or the victim's children or members of the
6 victim's household; and

7 (f) Restraining the respondent from harassing, following, keeping
8 under physical or electronic surveillance, (~~cyberstalking~~) cyber
9 harassment as defined in RCW 9.61.260 (as recodified by this act),
10 and using telephonic, audiovisual, or other electronic means to
11 monitor the actions, location, or communication of a victim of
12 domestic violence, the victim's children, or members of the victim's
13 household. For the purposes of this subsection, "communication"
14 includes both "wire communication" and "electronic communication" as
15 defined in RCW 9.73.260.

16 (2) In issuing the order, the court shall consider the provisions
17 of RCW 9.41.800, and shall order the respondent to surrender, and
18 prohibit the respondent from possessing, all firearms, dangerous
19 weapons, and any concealed pistol license as required in RCW
20 9.41.800.

21 (3) Irreparable injury under this section includes but is not
22 limited to situations in which the respondent has recently threatened
23 petitioner with bodily injury or has engaged in acts of domestic
24 violence against the petitioner.

25 (4) The court shall hold an ex parte hearing in person or by
26 telephone on the day the petition is filed or on the following
27 judicial day.

28 (5) An ex parte temporary order for protection shall be effective
29 for a fixed period not to exceed (~~fourteen~~) 14 days or (~~twenty-~~
30 ~~four~~) 24 days if the court has permitted service by publication
31 under RCW 26.50.085 or by mail under RCW 26.50.123. The ex parte
32 temporary order may be reissued. A full hearing, as provided in this
33 chapter, shall be set for not later than (~~fourteen~~) 14 days from
34 the issuance of the ex parte temporary order or not later than
35 (~~twenty-four~~) 24 days if service by publication or by mail is
36 permitted. Except as provided in RCW 26.50.050, 26.50.085, and
37 26.50.123, the respondent shall be personally served with a copy of
38 the ex parte temporary order along with a copy of the petition and
39 notice of the date set for the hearing.

1 (6) Any order issued under this section shall contain the date
2 and time of issuance and the expiration date and shall be entered
3 into a statewide judicial information system by the clerk of the
4 court within one judicial day after issuance.

5 (7) If the court declines to issue an ex parte temporary order
6 for protection the court shall state the particular reasons for the
7 court's denial. The court's denial of a motion for an ex parte
8 temporary order for protection shall be filed with the court.

9 NEW SECTION. **Sec. 18.** Sections 7, 10, 12, 14, 16, and 17 of
10 this act expire July 1, 2022.

11 NEW SECTION. **Sec. 19.** Sections 8, 9, 11, 13, and 15 of this act
12 take effect July 1, 2022.

Passed by the Senate March 7, 2022.
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