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5 Strike everything after the enacting clause and insert the
6 following:

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17 **PURPOSE**

18 NEW SECTION. **Sec. 1.** The purpose of this act is to make certain
19 technical corrections and correct oversights discovered only after
20 unanticipated circumstances have arisen. These changes are necessary
21 to give full expression to the original intent of the legislature.

22 **PART I - SENTENCING FOR ATTEMPTED MURDER**

1 **Sec. 101.** RCW 9A.28.020 and 1981 c 203 s 3 are each amended to
2 read as follows:

3 (1) A person is guilty of an attempt to commit crime if, with
4 intent to commit a specific crime, he does any act which is a
5 substantial step toward the commission of that crime.

6 (2) If the conduct in which a person engages otherwise constitutes
7 an attempt to commit a crime, it is no defense to a prosecution of such
8 attempt that the crime charged to have been attempted was, under the
9 attendant circumstances, factually or legally impossible of commission.

10 (3) An attempt to commit a crime is a:

11 (a) Class A felony when the crime attempted is murder in the first
12 degree, murder in the second degree, or arson in the first degree;

13 (b) Class B felony when the crime attempted is a class A felony
14 other than murder in the first degree, murder in the second degree, or
15 arson in the first degree;

16 (c) Class C felony when the crime attempted is a class B felony;

17 (d) Gross misdemeanor when the crime attempted is a class C felony;

18 (e) Misdemeanor when the crime attempted is a gross misdemeanor or
19 misdemeanor.

20 **PART II - WITNESS INTIMIDATION/TAMPERING**

21 NEW SECTION. **Sec. 201.** The legislature finds that witness
22 intimidation and witness tampering serve to thwart both the effective
23 prosecution of criminal conduct in the state of Washington and
24 resolution of child dependencies.

25 Further, the legislature finds that intimidating persons who have
26 information pertaining to a future proceeding serves to prevent both
27 the bringing of a charge and prosecution of such future proceeding.
28 The legislature finds that the period before a crime or child abuse or
29 neglect is reported is when a victim is most vulnerable to influence,
30 both from the defendant or from people acting on behalf of the
31 defendant and a time when the defendant is most able to threaten,
32 bribe, and/or persuade potential witnesses to leave the jurisdiction or
33 withhold information from law enforcement agencies.

34 The legislature moreover finds that a criminal defendant's
35 admonishment or demand to a witness to "drop the charges" is
36 intimidating to witnesses or other persons with information relevant to
37 a criminal proceeding.

1 The legislature finds, therefore, that tampering with and/or
2 intimidating witnesses or other persons with information relevant to a
3 present or future criminal or child dependency proceeding are grave
4 offenses which adversely impact the state's ability to promote public
5 safety and prosecute criminal behavior.

6 **Sec. 202.** RCW 9A.72.090 and 1982 1st ex.s. c 47 s 16 are each
7 amended to read as follows:

8 (1) A person is guilty of bribing a witness if he or she offers,
9 confers, or agrees to confer any benefit upon a witness or a person he
10 or she has reason to believe is about to be called as a witness in any
11 official proceeding or upon a person whom he or she has reason to
12 believe may have information relevant to a criminal investigation or
13 the abuse or neglect of a minor child, with intent to:

14 (a) Influence the testimony of that person; or

15 (b) Induce that person to avoid legal process summoning him or her
16 to testify; or

17 (c) Induce that person to absent himself or herself from an
18 official proceeding to which he or she has been legally summoned; or

19 (d) Induce that person to refrain from reporting information
20 relevant to a criminal investigation or the abuse or neglect of a minor
21 child.

22 (2) Bribing a witness is a class B felony.

23 **Sec. 203.** RCW 9A.72.100 and 1982 1st ex.s. c 47 s 17 are each
24 amended to read as follows:

25 (1) A witness or a person who has reason to believe he or she is
26 about to be called as a witness in any official proceeding or that he
27 or she may have information relevant to a criminal investigation or the
28 abuse or neglect of a minor child is guilty of bribe receiving by a
29 witness if he or she requests, accepts, or agrees to accept any benefit
30 pursuant to an agreement or understanding that:

31 (a) ((His)) The person's testimony will thereby be influenced; or

32 (b) ((He)) The person will attempt to avoid legal process summoning
33 him or her to testify; or

34 (c) ((He)) The person will attempt to absent himself or herself
35 from an official proceeding to which he or she has been legally
36 summoned; or

1 (d) The person will not report information he or she has relevant
2 to a criminal investigation or the abuse or neglect of a minor child.

3 (2) Bribe receiving by a witness is a class B felony.

4 **Sec. 204.** RCW 9A.72.110 and 1985 c 327 s 2 are each amended to
5 read as follows:

6 (1) A person is guilty of intimidating a witness if a person
7 directs a threat to a former witness because of the witness' testimony
8 in any official proceeding, or if, by use of a threat directed to a
9 current witness or a person he or she has reason to believe is about to
10 be called as a witness in any official proceeding or to a person whom
11 he or she has reason to believe may have information relevant to a
12 criminal investigation or the abuse or neglect of a minor child, he or
13 she attempts to:

14 (a) Influence the testimony of that person; or

15 (b) Induce that person to elude legal process summoning him or her
16 to testify; or

17 (c) Induce that person to absent himself or herself from such
18 proceedings; or

19 (d) Induce that person not to report the information relevant to a
20 criminal investigation or the abuse or neglect of a minor child, not to
21 prosecute the crime or the abuse or neglect of a minor child, not to
22 have the crime or the abuse or neglect of a minor child prosecuted, or
23 not to give truthful or complete information relevant to a criminal
24 investigation or the abuse or neglect of a minor child.

25 (2) "Threat" as used in this section means:

26 (a) To communicate, directly or indirectly, the intent immediately
27 to use force against any person who is present at the time; or

28 (b) Threats as defined in RCW 9A.04.110(25).

29 (3) Intimidating a witness is a class B felony.

30 **Sec. 205.** RCW 9A.72.120 and 1982 1st ex.s. c 47 s 19 are each
31 amended to read as follows:

32 (1) A person is guilty of tampering with a witness if he or she
33 attempts to induce a witness or person he or she has reason to believe
34 is about to be called as a witness in any official proceeding or a
35 person whom he or she has reason to believe may have information
36 relevant to a criminal investigation or the abuse or neglect of a minor
37 child to:

1 (a) Testify falsely or, without right or privilege to do so, to
2 withhold any testimony; or

3 (b) Absent himself or herself from such proceedings; or

4 (c) Withhold from a law enforcement agency information which he or
5 she has relevant to a criminal investigation or the abuse or neglect of
6 a minor child to the agency.

7 (2) Tampering with a witness is a class C felony.

8 **PART III - CHILD MOLESTATION**

9 NEW SECTION. **Sec. 301.** The legislature hereby reaffirms its
10 desire to protect the children of Washington from sexual abuse and
11 further reaffirms its condemnation of child sexual abuse that takes the
12 form of causing one child to engage in sexual contact with another
13 child for the sexual gratification of the one causing such activities
14 to take place.

15 **Sec. 302.** RCW 9A.44.010 and 1993 c 477 s 1 are each amended to
16 read as follows:

17 As used in this chapter:

18 (1) "Sexual intercourse" (a) has its ordinary meaning and occurs
19 upon any penetration, however slight, and

20 (b) Also means any penetration of the vagina or anus however
21 slight, by an object, when committed on one person by another, whether
22 such persons are of the same or opposite sex, except when such
23 penetration is accomplished for medically recognized treatment or
24 diagnostic purposes, and

25 (c) Also means any act of sexual contact between persons involving
26 the sex organs of one person and the mouth or anus of another whether
27 such persons are of the same or opposite sex.

28 (2) "Sexual contact" means any touching of the sexual or other
29 intimate parts of a person done for the purpose of gratifying sexual
30 desire of either party or a third party.

31 (3) "Married" means one who is legally married to another, but does
32 not include a person who is living separate and apart from his or her
33 spouse and who has filed in an appropriate court for legal separation
34 or for dissolution of his or her marriage.

35 (4) "Mental incapacity" is that condition existing at the time of
36 the offense which prevents a person from understanding the nature or

1 consequences of the act of sexual intercourse whether that condition is
2 produced by illness, defect, the influence of a substance or from some
3 other cause.

4 (5) "Physically helpless" means a person who is unconscious or for
5 any other reason is physically unable to communicate unwillingness to
6 an act.

7 (6) "Forcible compulsion" means physical force which overcomes
8 resistance, or a threat, express or implied, that places a person in
9 fear of death or physical injury to herself or himself or another
10 person, or in fear that she or he or another person will be kidnapped.

11 (7) "Consent" means that at the time of the act of sexual
12 intercourse or sexual contact there are actual words or conduct
13 indicating freely given agreement to have sexual intercourse or sexual
14 contact.

15 (8) "Significant relationship" means a situation in which the
16 perpetrator is:

17 (a) A person who undertakes the responsibility, professionally or
18 voluntarily, to provide education, health, welfare, or organized
19 recreational activities principally for minors; or

20 (b) A person who in the course of his or her employment supervises
21 minors.

22 (9) "Abuse of a supervisory position" means a direct or indirect
23 threat or promise to use authority to the detriment or benefit of a
24 minor.

25 (10) "Developmentally disabled," for purposes of RCW
26 9A.44.050(1)(c) and 9A.44.100(1)(c), means a person with a
27 developmental disability as defined in RCW 71A.10.020.

28 (11) "Person with supervisory authority," for purposes of RCW
29 9A.44.050(1) (c) or (e) and 9A.44.100(1) (c) or (e), means any
30 proprietor or employee of any public or private care or treatment
31 facility who directly supervises developmentally disabled, mentally
32 disordered, or chemically dependent persons at the facility.

33 (12) "Mentally disordered person" for the purposes of RCW
34 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person with a "mental
35 disorder" as defined in RCW 71.05.020(2).

36 (13) "Chemically dependent person" for purposes of RCW
37 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person who is "chemically
38 dependent" as defined in RCW 70.96A.020(4).

1 (14) "Health care provider" for purposes of RCW 9A.44.050 and
2 9A.44.100 means a person who is, holds himself or herself out to be, or
3 provides services as if he or she were: (a) A member of a health care
4 profession under chapter 18.130 RCW; or (b) registered or certified
5 under chapter 18.19 RCW, regardless of whether the health care provider
6 is licensed, certified, or registered by the state.

7 (15) "Treatment" for purposes of RCW 9A.44.050 and 9A.44.100 means
8 the active delivery of professional services by a health care provider
9 which the health care provider holds himself or herself out to be
10 qualified to provide.

11 **Sec. 303.** RCW 9A.44.083 and 1990 c 3 s 902 are each amended to
12 read as follows:

13 (1) A person is guilty of child molestation in the first degree
14 when the person has, or knowingly causes another person under the age
15 of eighteen to have, sexual contact with another who is less than
16 twelve years old and not married to the perpetrator and the perpetrator
17 is at least thirty-six months older than the victim.

18 (2) Child molestation in the first degree is a class A felony.

19 **Sec. 304.** RCW 9A.44.086 and 1988 c 145 s 6 are each amended to
20 read as follows:

21 (1) A person is guilty of child molestation in the second degree
22 when the person has, or knowingly causes another person under the age
23 of eighteen to have, sexual contact with another who is at least twelve
24 years old but less than fourteen years old and not married to the
25 perpetrator and the perpetrator is at least thirty-six months older
26 than the victim.

27 (2) Child molestation in the second degree is a class B felony.

28 **Sec. 305.** RCW 9A.44.089 and 1988 c 145 s 7 are each amended to
29 read as follows:

30 (1) A person is guilty of child molestation in the third degree
31 when the person has, or knowingly causes another person under the age
32 of eighteen to have, sexual contact with another who is at least
33 fourteen years old but less than sixteen years old and not married to
34 the perpetrator and the perpetrator is at least forty-eight months
35 older than the victim.

36 (2) Child molestation in the third degree is a class C felony.

1 losses, but may include the costs of counseling reasonably related to
2 the offense. The amount of restitution shall not exceed double the
3 amount of the offender's gain or the victim's loss from the commission
4 of the crime. For the purposes of this section, the offender shall
5 remain under the court's jurisdiction for a maximum term of ten years
6 (~~subsequent to the imposition of sentence~~) following the offender's
7 release from total confinement or ten years subsequent to the entry of
8 the judgment and sentence, whichever period is longer. The portion of
9 the sentence concerning restitution may be modified as to amount, terms
10 and conditions during the ten-year period, regardless of the expiration
11 of the offender's term of community supervision and regardless of the
12 statutory maximum for the crime. The offender's compliance with the
13 restitution shall be supervised by the department.

14 (2) Restitution may be ordered whenever the offender is convicted
15 of an offense which results in injury to any person or damage to or
16 loss of property. In addition, restitution may be ordered to pay for
17 an injury, loss, or damage if the offender pleads guilty to a lesser
18 offense or fewer offenses and agrees with the prosecutor's
19 recommendation that the offender be required to pay restitution to a
20 victim of an offense or offenses which are not prosecuted pursuant to
21 a plea agreement.

22 (3) In addition to any sentence that may be imposed, a defendant
23 who has been found guilty of an offense involving fraud or other
24 deceptive practice or an organization which has been found guilty of
25 any such offense may be ordered by the sentencing court to give notice
26 of the conviction to the class of persons or to the sector of the
27 public affected by the conviction or financially interested in the
28 subject matter of the offense by mail, by advertising in designated
29 areas or through designated media, or by other appropriate means.

30 (4) This section does not limit civil remedies or defenses
31 available to the victim or defendant.

32 **Sec. 602.** RCW 9.94A.142 and 1989 c 252 s 6 are each amended to
33 read as follows:

34 (1) When restitution is ordered, the court shall determine the
35 amount of restitution due at the sentencing hearing or within sixty
36 days. The court shall then set a minimum monthly payment that the
37 offender is required to make towards the restitution that is ordered.
38 The court should take into consideration the total amount of the

1 restitution owed, the offender's present, past, and future ability to
2 pay, as well as any assets that the offender may have. During the
3 period of supervision, the community corrections officer may examine
4 the offender to determine if there has been a change in circumstances
5 that warrants an amendment of the monthly payment schedule. The
6 community corrections officer may recommend a change to the schedule of
7 payment and shall inform the court of the recommended change and the
8 reasons for the change. The sentencing court may then reset the
9 monthly minimum payments based on the report from the community
10 corrections officer of the change in circumstances. Restitution
11 ordered by a court pursuant to a criminal conviction shall be based on
12 easily ascertainable damages for injury to or loss of property, actual
13 expenses incurred for treatment for injury to persons, and lost wages
14 resulting from injury. Restitution shall not include reimbursement for
15 damages for mental anguish, pain and suffering, or other intangible
16 losses, but may include the costs of counseling reasonably related to
17 the offense. The amount of restitution shall not exceed double the
18 amount of the offender's gain or the victim's loss from the commission
19 of the crime. For the purposes of this section, the offender shall
20 remain under the court's jurisdiction for a maximum term of ten years
21 (~~subsequent to the imposition of sentence~~) following the offender's
22 release from total confinement or ten years subsequent to the entry of
23 the judgment and sentence, whichever period is longer. The portion of
24 the sentence concerning restitution may be modified as to amount, terms
25 and conditions during the ten-year period, regardless of the expiration
26 of the offender's term of community supervision and regardless of the
27 statutory maximum for the crime. The offender's compliance with the
28 restitution shall be supervised by the department.

29 (2) Restitution shall be ordered whenever the offender is convicted
30 of an offense which results in injury to any person or damage to or
31 loss of property unless extraordinary circumstances exist which make
32 restitution inappropriate in the court's judgment and the court sets
33 forth such circumstances in the record. In addition, restitution shall
34 be ordered to pay for an injury, loss, or damage if the offender pleads
35 guilty to a lesser offense or fewer offenses and agrees with the
36 prosecutor's recommendation that the offender be required to pay
37 restitution to a victim of an offense or offenses which are not
38 prosecuted pursuant to a plea agreement.

1 (3) In addition to any sentence that may be imposed, a defendant
2 who has been found guilty of an offense involving fraud or other
3 deceptive practice or an organization which has been found guilty of
4 any such offense may be ordered by the sentencing court to give notice
5 of the conviction to the class of persons or to the sector of the
6 public affected by the conviction or financially interested in the
7 subject matter of the offense by mail, by advertising in designated
8 areas or through designated media, or by other appropriate means.

9 (4) This section does not limit civil remedies or defenses
10 available to the victim, survivors of the victim, or defendant.

11 (5) This section shall apply to offenses committed after July 1,
12 1985.

13 **PART VII - BAIL JUMPING**

14 NEW SECTION. **Sec. 701.** RCW 10.19.130 and 1975 1st ex.s. c 2 s 1
15 are each repealed.

16 **PART VIII - MISCELLANEOUS**

17 NEW SECTION. **Sec. 801.** Part headings and the table of contents as
18 used in this act do not constitute any part of the law."

--- END ---