

2 SSB 6007 - CONF REPT  
3 By Conference Committee

ADOPTED 3/9/94

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

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20 PURPOSE

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

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

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

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

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

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

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

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

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

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

23       (e) Misdemeanor when the crime attempted is a gross misdemeanor or  
24   misdemeanor.

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

26        NEW SECTION.    **Sec. 201.**    The legislature finds that witness  
27   intimidation and witness tampering serve to thwart both the effective  
28   prosecution of criminal conduct in the state of Washington and  
29   resolution of child dependencies.

30        Further, the legislature finds that intimidating persons who have  
31   information pertaining to a future proceeding serves to prevent both  
32   the bringing of a charge and prosecution of such future proceeding.  
33   The legislature finds that the period before a crime or child abuse or  
34   neglect is reported is when a victim is most vulnerable to influence,  
35   both from the defendant or from people acting on behalf of the

1 defendant and a time when the defendant is most able to threaten,  
2 bribe, and/or persuade potential witnesses to leave the jurisdiction or  
3 withhold information from law enforcement agencies.

4 The legislature moreover finds that a criminal defendant's  
5 admonishment or demand to a witness to "drop the charges" is  
6 intimidating to witnesses or other persons with information relevant to  
7 a criminal proceeding.

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

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

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

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

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

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

26 (d) Induce that person to refrain from reporting information  
27 relevant to a criminal investigation or the abuse or neglect of a minor  
28 child.

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

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

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

- 1 (a) (~~His~~) The person's testimony will thereby be influenced; or  
2 (b) (~~He~~) The person will attempt to avoid legal process summoning  
3 him or her to testify; or  
4 (c) (~~He~~) The person will attempt to absent himself or herself  
5 from an official proceeding to which he or she has been legally  
6 summoned; or  
7 (d) The person will not report information he or she has relevant  
8 to a criminal investigation or the abuse or neglect of a minor child.  
9 (2) Bribe receiving by a witness is a class B felony.

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

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

- 20 (a) Influence the testimony of that person; or  
21 (b) Induce that person to elude legal process summoning him or her  
22 to testify; or  
23 (c) Induce that person to absent himself or herself from such  
24 proceedings; or  
25 (d) Induce that person not to report the information relevant to a  
26 criminal investigation or the abuse or neglect of a minor child, not to  
27 prosecute the crime or the abuse or neglect of a minor child, not to  
28 have the crime or the abuse or neglect of a minor child prosecuted, or  
29 not to give truthful or complete information relevant to a criminal  
30 investigation or the abuse or neglect of a minor child.

- 31 (2) "Threat" as used in this section means:  
32 (a) To communicate, directly or indirectly, the intent immediately  
33 to use force against any person who is present at the time; or  
34 (b) Threats as defined in RCW 9A.04.110(25).  
35 (3) Intimidating a witness is a class B felony.

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

1 (1) A person is guilty of tampering with a witness if he or she  
2 attempts to induce a witness or person he or she has reason to believe  
3 is about to be called as a witness in any official proceeding or a  
4 person whom he or she has reason to believe may have information  
5 relevant to a criminal investigation or the abuse or neglect of a minor  
6 child to:

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

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

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

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

14 **PART III - CHILD MOLESTATION**

15 NEW SECTION. **Sec. 301.** The legislature hereby reaffirms its  
16 desire to protect the children of Washington from sexual abuse and  
17 further reaffirms its condemnation of child sexual abuse that takes the  
18 form of causing one child to engage in sexual contact with another  
19 child for the sexual gratification of the one causing such activities  
20 to take place.

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

23 As used in this chapter:

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

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

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

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

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

5 (4) "Mental incapacity" is that condition existing at the time of  
6 the offense which prevents a person from understanding the nature or  
7 consequences of the act of sexual intercourse whether that condition is  
8 produced by illness, defect, the influence of a substance or from some  
9 other cause.

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

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

17 (7) "Consent" means that at the time of the act of sexual  
18 intercourse or sexual contact there are actual words or conduct  
19 indicating freely given agreement to have sexual intercourse or sexual  
20 contact.

21 (8) "Significant relationship" means a situation in which the  
22 perpetrator is:

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

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

28 (9) "Abuse of a supervisory position" means a direct or indirect  
29 threat or promise to use authority to the detriment or benefit of a  
30 minor.

31 (10) "Developmentally disabled," for purposes of RCW  
32 9A.44.050(1)(c) and 9A.44.100(1)(c), means a person with a  
33 developmental disability as defined in RCW 71A.10.020.

34 (11) "Person with supervisory authority," for purposes of RCW  
35 9A.44.050(1) (c) or (e) and 9A.44.100(1) (c) or (e), means any  
36 proprietor or employee of any public or private care or treatment  
37 facility who directly supervises developmentally disabled, mentally  
38 disordered, or chemically dependent persons at the facility.

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

4 (13) "Chemically dependent person" for purposes of RCW  
5 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person who is "chemically  
6 dependent" as defined in RCW 70.96A.020(4).

7 (14) "Health care provider" for purposes of RCW 9A.44.050 and  
8 9A.44.100 means a person who is, holds himself or herself out to be, or  
9 provides services as if he or she were: (a) A member of a health care  
10 profession under chapter 18.130 RCW; or (b) registered or certified  
11 under chapter 18.19 RCW, regardless of whether the health care provider  
12 is licensed, certified, or registered by the state.

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

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

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

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

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

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

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

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

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

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

8 **Sec. 306.** RCW 9A.44.093 and 1988 c 145 s 8 are each amended to  
9 read as follows:

10 (1) A person is guilty of sexual misconduct with a minor in the  
11 first degree when the person has, or knowingly causes another person  
12 under the age of eighteen to have, sexual intercourse with another  
13 person who is at least sixteen years old but less than eighteen years  
14 old and not married to the perpetrator, if the perpetrator is at least  
15 sixty months older than the victim, is in a significant relationship to  
16 the victim, and abuses a supervisory position within that relationship  
17 in order to engage in or cause another person under the age of eighteen  
18 to engage in sexual intercourse with the victim.

19 (2) Sexual misconduct with a minor in the first degree is a class  
20 C felony.

21 **Sec. 307.** RCW 9A.44.096 and 1988 c 145 s 9 are each amended to  
22 read as follows:

23 (1) A person is guilty of sexual misconduct with a minor in the  
24 second degree when the person has, or knowingly causes another person  
25 under the age of eighteen to have, sexual contact with another person  
26 who is at least sixteen years old but less than eighteen years old and  
27 not married to the perpetrator, if the perpetrator is at least sixty  
28 months older than the victim, is in a significant relationship to the  
29 victim, and abuses a supervisory position within that relationship in  
30 order to engage in or cause another person under the age of eighteen to  
31 engage in sexual contact with the victim.

32 (2) Sexual misconduct with a minor in the second degree is a gross  
33 misdemeanor.

34 **PART IV - DNA IDENTIFICATION**





1 signed by the supervisor of the state patrol's crime laboratory or the  
2 forensic scientist conducting the analysis is prima facie evidence of  
3 the results of the analytical findings.

4 (2) The defendant or a prosecutor may subpoena the forensic  
5 scientist who conducted the analysis of the substance to testify at the  
6 preliminary hearing and trial of the issue at no cost to the defendant,  
7 if the subpoena is issued at least ten days prior to the trial date.

8 (3) In all prosecutions involving the analysis of a certified  
9 simulator solution by the Washington state toxicology laboratory of the  
10 University of Washington, a certified copy of the analytical report  
11 signed by the state toxicologist or the toxicologist conducting the  
12 analysis is prima facie evidence of the results of the analytical  
13 findings, and of certification of the simulator solution used in the  
14 BAC verifier datamaster or any other alcohol/breath-testing equipment  
15 subsequently adopted by rule.

16 (4) The defendant of a prosecution may subpoena the toxicologist  
17 who conducted the analysis of the simulator solution to testify at the  
18 preliminary hearing and trial of the issue at no cost to the defendant,  
19 if thirty days prior to issuing the subpoena the defendant gives the  
20 state toxicologist notice of the defendant's intention to require the  
21 toxicologist's appearance.

22

#### PART VI - RESTITUTION

23 **Sec. 601.** RCW 9.94A.140 and 1989 c 252 s 5 are each amended to  
24 read as follows:

25 (1) If restitution is ordered, the court shall determine the amount  
26 of restitution due at the sentencing hearing or within sixty days. The  
27 court shall then set a minimum monthly payment that the offender is  
28 required to make towards the restitution that is ordered. The court  
29 should take into consideration the total amount of the restitution  
30 owed, the offender's present, past, and future ability to pay, as well  
31 as any assets that the offender may have. During the period of  
32 supervision, the community corrections officer may examine the offender  
33 to determine if there has been a change in circumstances that warrants  
34 an amendment of the monthly payment schedule. The community  
35 corrections officer may recommend a change to the schedule of payment  
36 and shall inform the court of the recommended change and the reasons  
37 for the change. The sentencing court may then reset the monthly

1 minimum payments based on the report from the community corrections  
2 officer of the change in circumstances. Restitution ordered by a court  
3 pursuant to a criminal conviction shall be based on easily  
4 ascertainable damages for injury to or loss of property, actual  
5 expenses incurred for treatment for injury to persons, and lost wages  
6 resulting from injury. Restitution shall not include reimbursement for  
7 damages for mental anguish, pain and suffering, or other intangible  
8 losses, but may include the costs of counseling reasonably related to  
9 the offense. The amount of restitution shall not exceed double the  
10 amount of the offender's gain or the victim's loss from the commission  
11 of the crime. For the purposes of this section, the offender shall  
12 remain under the court's jurisdiction for a maximum term of ten years  
13 (~~subsequent to the imposition of sentence~~) following the offender's  
14 release from total confinement or ten years subsequent to the entry of  
15 the judgment and sentence, whichever period is longer. The portion of  
16 the sentence concerning restitution may be modified as to amount, terms  
17 and conditions during the ten-year period, regardless of the expiration  
18 of the offender's term of community supervision and regardless of the  
19 statutory maximum for the crime. The offender's compliance with the  
20 restitution shall be supervised by the department.

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

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

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

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

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

36       (2) Restitution shall be ordered whenever the offender is convicted  
37 of an offense which results in injury to any person or damage to or  
38 loss of property unless extraordinary circumstances exist which make  
39 restitution inappropriate in the court's judgment and the court sets

1 forth such circumstances in the record. In addition, restitution shall  
2 be ordered to pay for an injury, loss, or damage if the offender pleads  
3 guilty to a lesser offense or fewer offenses and agrees with the  
4 prosecutor's recommendation that the offender be required to pay  
5 restitution to a victim of an offense or offenses which are not  
6 prosecuted pursuant to a plea agreement.

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

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

17 (5) This section shall apply to offenses committed after July 1,  
18 1985.

19 **PART VII - BAIL JUMPING**

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

22 **PART VIII - STALKING**

23 **Sec. 801.** RCW 9A.46.110 and 1992 c 186 s 1 are each amended to  
24 read as follows:

25 (1) A person commits the crime of stalking if, without lawful  
26 authority and under circumstances not amounting to a felony attempt of  
27 another crime:

28 (a) He or she intentionally and repeatedly harasses or repeatedly  
29 follows another person (~~(to that person's home, school, place of~~  
30 ~~employment, business, or any other location, or follows the person~~  
31 ~~while the person is in transit between locations)); and~~

32 (b) The person being harassed or followed is (~~(intimidated,~~  
33 ~~harassed, or)) placed in fear that the stalker intends to injure the~~  
34 person, another person, or property of the person (~~(being followed)) or~~  
35 of another person. The feeling of fear(~~(, intimidation, or~~

1 harassment)) must be one that a reasonable person in the same situation  
2 would experience under all the circumstances; and

3 (c) The stalker either:

4 (i) Intends to frighten, intimidate, or harass the person ((being  
5 followed)); or

6 (ii) Knows or reasonably should know that the person ((being  
7 followed)) is afraid, intimidated, or harassed even if the stalker did  
8 not intend to place the person in fear or intimidate or harass the  
9 person.

10 (2)(a) It is not a defense to the crime of stalking under  
11 subsection (1)(c)(i) of this section that the stalker was not given  
12 actual notice that the person ((being followed)) did not want the  
13 stalker to contact or follow the person; and

14 (b) It is not a defense to the crime of stalking under subsection  
15 (1)(c)(ii) of this section that the stalker did not intend to frighten,  
16 intimidate, or harass the person ((being followed)).

17 (3) It shall be a defense to the crime of stalking that the  
18 defendant is a licensed private detective acting within the capacity of  
19 his or her license as provided by chapter 18.165 RCW.

20 (4) Attempts to contact or follow the person after being given  
21 actual notice that the person does not want to be contacted or followed  
22 constitutes prima facie evidence that the stalker intends to intimidate  
23 or harass the person.

24 (5) A person who stalks another person is guilty of a gross  
25 misdemeanor except that the person is guilty of a class C felony if any  
26 of the following applies: (a) The stalker has previously been  
27 convicted in this state or any other state of any crime of harassment,  
28 as defined in RCW 9A.46.060, of the same victim or members of the  
29 victim's family or household or any person specifically named in a  
30 ((no contact order or no harassment)) protective order; (b) the  
31 ((person)) stalking violates ((a court)) any protective order ((issued  
32 pursuant to RCW 9A.46.040)) protecting the person being stalked; ((or))  
33 (c) the stalker has previously been convicted of a gross misdemeanor or  
34 felony stalking offense under this section for stalking another person;  
35 (d) the stalker was armed with a deadly weapon, as defined in RCW  
36 9.94A.125, while stalking the person; (e) the stalker's victim is or  
37 was a law enforcement officer, judge, juror, attorney, victim advocate,  
38 legislator, or community correction's officer, and the stalker stalked  
39 the victim to retaliate against the victim for an act the victim

1 performed during the course of official duties or to influence the  
2 victim's performance of official duties; or (f) the stalker's victim is  
3 a current, former, or prospective witness in an adjudicative  
4 proceeding, and the stalker stalked the victim to retaliate against the  
5 victim as a result of the victim's testimony or potential testimony.

6 (6) As used in this section:

7 (a) "Follows" means deliberately maintaining visual or physical  
8 proximity to a specific person over a period of time. A finding that  
9 the alleged stalker repeatedly and deliberately appears at the person's  
10 home, school, place of employment, business, or any other location to  
11 maintain visual or physical proximity to the person is sufficient to  
12 find that the alleged stalker follows the person. It is not necessary  
13 to establish that the alleged stalker follows the person while in  
14 transit from one location to another.

15 (b) "Harasses" means unlawful harassment as defined in RCW  
16 10.14.020.

17 (c) "Protective order" means any temporary or permanent court order  
18 prohibiting or limiting violence against, harassment of, contact or  
19 communication with, or physical proximity to another person.

20 (d) "Repeatedly" means on two or more separate occasions.

21 **Sec. 802.** RCW 9A.46.060 and 1992 c 186 s 4 and 1992 c 145 s 12 are  
22 each reenacted and amended to read as follows:

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

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

1 (15) Criminal trespass in the first degree (RCW 9A.52.070);  
2 (16) Criminal trespass in the second degree (RCW 9A.52.080);  
3 (17) Malicious mischief in the first degree (RCW 9A.48.070);  
4 (18) Malicious mischief in the second degree (RCW 9A.48.080);  
5 (19) Malicious mischief in the third degree (RCW 9A.48.090);  
6 (20) Kidnapping in the first degree (RCW 9A.40.020);  
7 (21) Kidnapping in the second degree (RCW 9A.40.030);  
8 (22) Unlawful imprisonment (RCW 9A.40.040);  
9 (23) Rape in the first degree (RCW 9A.44.040);  
10 (24) Rape in the second degree (RCW 9A.44.050);  
11 (25) Rape in the third degree (RCW 9A.44.060);  
12 (26) Indecent liberties (RCW 9A.44.100);  
13 (27) Rape of a child in the first degree (RCW 9A.44.073);  
14 (28) Rape of a child in the second degree (RCW 9A.44.076);  
15 (29) Rape of a child in the third degree (RCW 9A.44.079);  
16 (30) Child molestation in the first degree (RCW 9A.44.083);  
17 (31) Child molestation in the second degree (RCW 9A.44.086);  
18 (32) Child molestation in the third degree (RCW 9A.44.089); ((and))  
19 (33) Stalking (RCW 9A.46.110); and  
20 (34) Violation of a temporary or permanent protective order issued  
21 pursuant to chapter 9A.46, 10.14, 10.99, 26.09, or 26.50 RCW.

22 **Sec. 803.** RCW 13.40.020 and 1993 c 373 s 1 are each amended to  
23 read as follows:

24 For the purposes of this chapter:

25 (1) "Serious offender" means a person fifteen years of age or older  
26 who has committed an offense which if committed by an adult would be:

27 (a) A class A felony, or an attempt to commit a class A felony;

28 (b) Manslaughter in the first degree; or

29 (c) Assault in the second degree, extortion in the first degree,  
30 child molestation in the second degree, kidnapping in the second  
31 degree, robbery in the second degree, residential burglary, or burglary  
32 in the second degree, where such offenses include the infliction of  
33 bodily harm upon another or where during the commission of or immediate  
34 withdrawal from such an offense the perpetrator is armed with a deadly  
35 weapon or firearm as defined in RCW 9A.04.110;

36 (2) "Community service" means compulsory service, without  
37 compensation, performed for the benefit of the community by the  
38 offender as punishment for committing an offense. Community service



1 may be performed through public or private organizations or through  
2 work crews;

3 (3) "Community supervision" means an order of disposition by the  
4 court of an adjudicated youth not committed to the department. A  
5 community supervision order for a single offense may be for a period of  
6 up to two years for a sex offense as defined by RCW 9.94A.030 and up to  
7 one year for other offenses. Community supervision is an  
8 individualized program comprised of one or more of the following:

9 (a) Community-based sanctions;

10 (b) Community-based rehabilitation;

11 (c) Monitoring and reporting requirements;

12 (4) Community-based sanctions may include one or more of the  
13 following:

14 (a) A fine, not to exceed one hundred dollars;

15 (b) Community service not to exceed one hundred fifty hours of  
16 service;

17 (5) "Community-based rehabilitation" means one or more of the  
18 following: Attendance of information classes; counseling, outpatient  
19 substance abuse treatment programs, outpatient mental health programs,  
20 anger management classes, or other services; or attendance at school or  
21 other educational programs appropriate for the juvenile as determined  
22 by the school district. Placement in community-based rehabilitation  
23 programs is subject to available funds;

24 (6) "Monitoring and reporting requirements" means one or more of  
25 the following: Curfews; requirements to remain at home, school, work,  
26 or court-ordered treatment programs during specified hours;  
27 restrictions from leaving or entering specified geographical areas;  
28 requirements to report to the probation officer as directed and to  
29 remain under the probation officer's supervision; and other conditions  
30 or limitations as the court may require which may not include  
31 confinement;

32 (7) "Confinement" means physical custody by the department of  
33 social and health services in a facility operated by or pursuant to a  
34 contract with the state, or physical custody in a detention facility  
35 operated by or pursuant to a contract with any county. The county may  
36 operate or contract with vendors to operate county detention  
37 facilities. The department may operate or contract to operate  
38 detention facilities for juveniles committed to the department.  
39 Pretrial confinement or confinement of less than thirty-one days

1 imposed as part of a disposition or modification order may be served  
2 consecutively or intermittently, in the discretion of the court and may  
3 be served in a detention group home, detention foster home, or with  
4 electronic monitoring. Detention group homes and detention foster  
5 homes used for confinement shall not also be used for the placement of  
6 dependent children. Confinement in detention group homes and detention  
7 foster homes and electronic monitoring are subject to available funds;

8 (8) "Court", when used without further qualification, means the  
9 juvenile court judge(s) or commissioner(s);

10 (9) "Criminal history" includes all criminal complaints against the  
11 respondent for which, prior to the commission of a current offense:

12 (a) The allegations were found correct by a court. If a respondent  
13 is convicted of two or more charges arising out of the same course of  
14 conduct, only the highest charge from among these shall count as an  
15 offense for the purposes of this chapter; or

16 (b) The criminal complaint was diverted by a prosecutor pursuant to  
17 the provisions of this chapter on agreement of the respondent and after  
18 an advisement to the respondent that the criminal complaint would be  
19 considered as part of the respondent's criminal history;

20 (10) "Department" means the department of social and health  
21 services;

22 (11) "Detention facility" means a county facility for the physical  
23 confinement of a juvenile alleged to have committed an offense or an  
24 adjudicated offender subject to a disposition or modification order;

25 (12) "Diversion unit" means any probation counselor who enters into  
26 a diversion agreement with an alleged youthful offender, or any other  
27 person or entity except a law enforcement official or entity, with whom  
28 the juvenile court administrator has contracted to arrange and  
29 supervise such agreements pursuant to RCW 13.40.080, or any person or  
30 entity specially funded by the legislature to arrange and supervise  
31 diversion agreements in accordance with the requirements of this  
32 chapter;

33 (13) "Institution" means a juvenile facility established pursuant  
34 to chapters 72.05 and 72.16 through 72.20 RCW;

35 (14) "Juvenile," "youth," and "child" mean any individual who is  
36 under the chronological age of eighteen years and who has not been  
37 previously transferred to adult court;

38 (15) "Juvenile offender" means any juvenile who has been found by  
39 the juvenile court to have committed an offense, including a person

1 eighteen years of age or older over whom jurisdiction has been extended  
2 under RCW 13.40.300;

3 (16) "Manifest injustice" means a disposition that would either  
4 impose an excessive penalty on the juvenile or would impose a serious,  
5 and clear danger to society in light of the purposes of this chapter;

6 (17) "Middle offender" means a person who has committed an offense  
7 and who is neither a minor or first offender nor a serious offender;

8 (18) "Minor or first offender" means a person sixteen years of age  
9 or younger whose current offense(s) and criminal history fall entirely  
10 within one of the following categories:

11 (a) Four misdemeanors;

12 (b) Two misdemeanors and one gross misdemeanor;

13 (c) One misdemeanor and two gross misdemeanors;

14 (d) Three gross misdemeanors;

15 (e) One class C felony except: (i)(A) Manslaughter in the second  
16 degree; or (B) felony stalking; and (ii) one misdemeanor or gross  
17 misdemeanor;

18 (f) One class B felony except: Any felony which constitutes an  
19 attempt to commit a class A felony; manslaughter in the first degree;  
20 assault in the second degree; extortion in the first degree; indecent  
21 liberties; kidnapping in the second degree; robbery in the second  
22 degree; burglary in the second degree; residential burglary; vehicular  
23 homicide; or arson in the second degree.

24 For purposes of this definition, current violations shall be  
25 counted as misdemeanors;

26 (19) "Offense" means an act designated a violation or a crime if  
27 committed by an adult under the law of this state, under any ordinance  
28 of any city or county of this state, under any federal law, or under  
29 the law of another state if the act occurred in that state;

30 (20) "Respondent" means a juvenile who is alleged or proven to have  
31 committed an offense;

32 (21) "Restitution" means financial reimbursement by the offender to  
33 the victim, and shall be limited to easily ascertainable damages for  
34 injury to or loss of property, actual expenses incurred for medical  
35 treatment for physical injury to persons, lost wages resulting from  
36 physical injury, and costs of the victim's counseling reasonably  
37 related to the offense if the offense is a sex offense. Restitution  
38 shall not include reimbursement for damages for mental anguish, pain  
39 and suffering, or other intangible losses. Nothing in this chapter

1 shall limit or replace civil remedies or defenses available to the  
2 victim or offender;

3 (22) "Secretary" means the secretary of the department of social  
4 and health services;

5 (23) "Services" mean services which provide alternatives to  
6 incarceration for those juveniles who have pleaded or been adjudicated  
7 guilty of an offense or have signed a diversion agreement pursuant to  
8 this chapter;

9 (24) "Sex offense" means an offense defined as a sex offense in RCW  
10 9.94A.030;

11 (25) "Sexual motivation" means that one of the purposes for which  
12 the respondent committed the offense was for the purpose of his or her  
13 sexual gratification;

14 (26) "Foster care" means temporary physical care in a foster family  
15 home or group care facility as defined in RCW 74.15.020 and licensed by  
16 the department, or other legally authorized care;

17 (27) "Violation" means an act or omission, which if committed by an  
18 adult, must be proven beyond a reasonable doubt, and is punishable by  
19 sanctions which do not include incarceration.

20 **PART IX - DISCHARGE OF OFFENDERS**

21 **Sec. 901.** RCW 9.94A.220 and 1984 c 209 s 14 are each amended to  
22 read as follows:

23 (1) When an offender has completed the requirements of the  
24 sentence, the secretary of the department or ~~((his))~~ the secretary's  
25 designee shall notify the sentencing court, which shall discharge the  
26 offender and provide the offender with a certificate of discharge.

27 (2) An offender who is not convicted of a violent offense or a sex  
28 offense and is sentenced to a term involving community supervision may  
29 be considered for a discharge of sentence by the sentencing court prior  
30 to the completion of community supervision, provided that the offender  
31 has completed at least one-half of the term of community supervision  
32 and has met all other sentence requirements.

33 (3) The discharge shall have the effect of restoring all civil  
34 rights lost by operation of law upon conviction, and the certificate of  
35 discharge shall so state. Nothing in this section prohibits the use of  
36 an offender's prior record for purposes of determining sentences for  
37 later offenses as provided in this chapter. Nothing in this section

1 affects or prevents use of the offender's prior conviction in a later  
2 criminal prosecution either as an element of an offense or for  
3 impeachment purposes. A certificate of discharge is not based on a  
4 finding of rehabilitation.

5 (4) Upon release from custody, the offender may apply to the  
6 department for counseling and help in adjusting to the community. This  
7 voluntary help may be provided for up to one year following the release  
8 from custody.

9 **PART X - SITING OF CORRECTIONAL FACILITIES**

10 **NEW SECTION. Sec. 1001.** A new section is added to chapter 72.65  
11 RCW to read as follows:

12 (1) The department and other state agencies that have  
13 responsibility for siting the department's facilities shall establish  
14 a process for early and continuous public participation in establishing  
15 or relocating work release or other community-based facilities. This  
16 process shall include public meetings in the local communities  
17 affected, opportunities for written and oral comments, and wide  
18 dissemination of proposals and alternatives.

19 (2) The department may establish or relocate a work release or  
20 other community-based facility only after holding local public meetings  
21 and providing public notification to local communities consistent with  
22 this chapter.

23 (3) When the department has selected three or fewer sites for final  
24 consideration for site selection of a work release or other community-  
25 based facility, notification shall be given and public hearings shall  
26 be held in the final three or fewer local communities where the siting  
27 is proposed. Additional notification and a public hearing shall also  
28 be conducted in the local community selected as the final proposed  
29 site, prior to completion of the siting process. All hearings and  
30 notifications shall be consistent with this chapter.

31 (4) Throughout this process the department shall provide  
32 notification to all newspapers of general circulation in the local area  
33 and all local radio stations, television stations, and cable networks.

34 (5) Notice shall also be provided to appropriate school districts,  
35 private schools, kindergartens, city and county libraries, and all  
36 other local government offices within a one-half mile radius of the  
37 proposed facility.

1 (6) In addition, the department shall also provide notice to the  
2 local chamber of commerce, local economic development agencies, and any  
3 other local organizations that request such notification from the  
4 department.

5 (7) Notification in writing shall be provided to all residents  
6 and/or property owners within a one-half mile radius of the proposed  
7 site.

8 **PART XI - MISCELLANEOUS**

9 NEW SECTION. **Sec. 1101.** Section 1001 of this act shall take  
10 effect July 1, 1994.

11 NEW SECTION. **Sec. 1102.** Part headings and the table of contents  
12 as used in this act do not constitute any part of the law.

13 NEW SECTION. **Sec. 1103.** If any provision of this act or its  
14 application to any person or circumstance is held invalid, the  
15 remainder of the act or the application of the provision to other  
16 persons or circumstances is not affected."

17 **SSB 6007** - CONF REPT  
18 By Conference Committee

19 ADOPTED 3/9/94  
20

21 On page 1, line 1 of the title, after "crimes;" strike the  
22 remainder of the title and insert "amending RCW 9A.28.020, 9A.72.090,  
23 9A.72.100, 9A.72.110, 9A.72.120, 9A.44.010, 9A.44.083, 9A.44.086,  
24 9A.44.089, 9A.44.093, 9A.44.096, 43.43.754, 43.43.680, 9.94A.140,  
25 9.94A.142, 9A.46.110, 13.40.020, and 9.94A.220; reenacting and amending  
26 RCW 9A.46.060; adding a new section to chapter 72.65 RCW; creating new  
27 sections; repealing RCW 10.19.130; prescribing penalties; and providing  
28 an effective date."

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