
SUBSTITUTE HOUSE BILL 1652

State of Washington

53rd Legislature

1994 Regular Session

By House Committee on Judiciary (originally sponsored by Representatives Romero, G. Cole, Valle, Orr, Cothorn, Brown, Veloria, Holm, Zellinsky, Scott, Brough, Jones, R. Meyers, Dorn, Quall, Van Luven, Roland, L. Johnson, Long, Johanson and Anderson)

Read first time 01/14/94. Referred to Committee on .

1 AN ACT Relating to animal cruelty; amending RCW 16.52.020,
2 16.52.085, 16.52.100, 16.52.117, 16.52.180, 16.52.190, 16.52.200,
3 16.52.300, 9A.48.080, 13.40.020, and 81.56.120; reenacting and amending
4 RCW 10.31.100 and 9.94A.030; adding new sections to chapter 16.52 RCW;
5 repealing RCW 16.52.010, 16.52.030, 16.52.040, 16.52.050, 16.52.055,
6 16.52.060, 16.52.065, 16.52.070, 16.52.113, 16.52.120, 16.52.130,
7 16.52.140, and 16.52.160; and prescribing penalties.

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

9 NEW SECTION. **Sec. 1.** A new section is added to chapter 16.52 RCW
10 to read as follows:

11 (1) Principles of liability as defined in chapter 9A.08 RCW apply
12 to this chapter.

13 (2) Unless the context clearly requires otherwise, the definitions
14 in this section apply throughout this chapter.

15 (a) "Animal" means any nonhuman mammal, bird, reptile, or
16 amphibian.

17 (b) "Animal care and control agency" means any city or county
18 animal control agency or authority authorized to enforce city or county
19 municipal ordinances regulating the care, control, licensing, or

1 treatment of animals within the city or county, and any corporation
2 organized under RCW 16.52.020 that either contracts with a city or
3 county to enforce the city or county ordinances governing animal care
4 and control, or whose officers are judicially authorized to enforce
5 this chapter pursuant to section 5 of this act.

6 (c) "Animal control officer" means any individual employed,
7 contracted, or appointed pursuant to section 5 of this act by an animal
8 care and control agency or humane society to aid in the enforcement of
9 ordinances or laws regulating the care and control of animals. For
10 purposes of this chapter, the term "animal control officer" shall be
11 interpreted to include "humane officer" as defined in (e) of this
12 subsection and section 5 of this act.

13 (d) "Euthanasia" means the humane destruction of an animal
14 accomplished by a method that involves instantaneous unconsciousness
15 and immediate death, or by a method that causes painless loss of
16 consciousness, and death during the loss of consciousness.

17 (e) "Humane officer" means any individual employed, contracted, or
18 appointed by an animal care and control agency or humane society as
19 authorized under section 5 of this act.

20 (f) "Law enforcement agency" means a general authority Washington
21 law enforcement agency as defined in RCW 10.93.020.

22 (g) "Necessary food" means the provision at suitable intervals not
23 to exceed twenty-four hours of wholesome foodstuff suitable for the
24 animal's age and species and sufficient to provide a reasonable level
25 of nutrition for the animal.

26 (h) "Owner" means a person who has a right, claim, title, legal
27 share, or right of possession to an animal or a person having lawful
28 control, custody, or possession of an animal.

29 (i) "Person" means individuals, corporations, partnerships,
30 associations, or other legal entities, and agents of those entities.

31 (j) "Substantial bodily harm" means substantial bodily harm as
32 defined in RCW 9A.04.110.

33 NEW SECTION. **Sec. 2.** A new section is added to chapter 16.52 RCW
34 to read as follows:

35 (1) Law enforcement agencies and animal care and control agencies
36 may enforce the provisions of this chapter.

37 (2) Animal control officers enforcing this chapter shall comply
38 with the same constitutional and statutory restrictions concerning the

1 execution of police powers imposed on law enforcement officers who
2 enforce this chapter and other criminal laws of the state of
3 Washington.

4 (3) Animal control officers have the following enforcement powers
5 when enforcing this chapter:

6 (a) The power to issue citations based on probable cause to
7 offenders for misdemeanor and gross misdemeanor violations of this
8 chapter or RCW 9.08.070 or 81.56.120;

9 (b) The power to cause a law enforcement officer to arrest and take
10 into custody any person the animal control officer has probable cause
11 to believe has committed or is committing a violation of this chapter
12 or RCW 9.08.070 or 81.56.120. Animal control officers may make an oral
13 complaint to a law enforcement officer to initiate arrest. The animal
14 control officer causing the arrest shall file with the arresting agency
15 a written complaint within twenty-four hours of the arrest, excluding
16 Sundays and legal holidays, stating the alleged act or acts
17 constituting a violation;

18 (c) The power to carry nonfirearm protective devices for personal
19 protection;

20 (d) The power to prepare affidavits in support of search warrants
21 and to execute search warrants when accompanied by law enforcement
22 officers to investigate violations of this chapter or RCW 9.08.070 or
23 81.56.120, and to seize evidence of those violations.

24 (4) Upon request of an animal control officer who has probable
25 cause to believe that a person has violated this chapter or RCW
26 9.08.070 or 81.56.120, a law enforcement agency officer may arrest the
27 alleged offender.

28 **Sec. 3.** RCW 10.31.100 and 1993 c 209 s 1 and 1993 c 128 s 5 are
29 each reenacted and amended to read as follows:

30 A police officer having probable cause to believe that a person has
31 committed or is committing a felony shall have the authority to arrest
32 the person without a warrant. A police officer may arrest a person
33 without a warrant for committing a misdemeanor or gross misdemeanor
34 only when the offense is committed in the presence of the officer,
35 except as provided in subsections (1) through (10) of this section.

36 (1) Any police officer having probable cause to believe that a
37 person has committed or is committing a misdemeanor or gross
38 misdemeanor, involving physical harm or threats of harm to any person,

1 animal, or property, or the unlawful taking of property, or involving
2 the use or possession of cannabis, or involving the acquisition,
3 possession, or consumption of alcohol by a person under the age of
4 twenty-one years under RCW 66.44.270 shall have the authority to arrest
5 the person.

6 (2) A police officer shall arrest and take into custody, pending
7 release on bail, personal recognizance, or court order, a person
8 without a warrant when the officer has probable cause to believe that:

9 (a) An order has been issued of which the person has knowledge
10 under RCW 10.99.040(2), 10.99.050, 26.09.060, 26.44.063, chapter 26.26
11 RCW, or chapter 26.50 RCW restraining the person and the person has
12 violated the terms of the order restraining the person from acts or
13 threats of violence or excluding the person from a residence or, in the
14 case of an order issued under RCW 26.44.063, imposing any other
15 restrictions or conditions upon the person; or

16 (b) The person is eighteen years or older and within the preceding
17 four hours has assaulted that person's spouse, former spouse, or a
18 person eighteen years or older with whom the person resides or has
19 formerly resided and the officer believes: (i) A felonious assault
20 has occurred; (ii) an assault has occurred which has resulted in bodily
21 injury to the victim, whether the injury is observable by the
22 responding officer or not; or (iii) that any physical action has
23 occurred which was intended to cause another person reasonably to fear
24 imminent serious bodily injury or death. Bodily injury means physical
25 pain, illness, or an impairment of physical condition. When the
26 officer has probable cause to believe that spouses, former spouses, or
27 other persons who reside together or formerly resided together have
28 assaulted each other, the officer is not required to arrest both
29 persons. The officer shall arrest the person whom the officer believes
30 to be the primary physical aggressor. In making this determination,
31 the officer shall make every reasonable effort to consider: (i) The
32 intent to protect victims of domestic violence under RCW 10.99.010;
33 (ii) the comparative extent of injuries inflicted or serious threats
34 creating fear of physical injury; and (iii) the history of domestic
35 violence between the persons involved.

36 (3) Any police officer having probable cause to believe that a
37 person has committed or is committing a violation of any of the
38 following traffic laws shall have the authority to arrest the person:

1 (a) RCW 46.52.010, relating to duty on striking an unattended car
2 or other property;

3 (b) RCW 46.52.020, relating to duty in case of injury to or death
4 of a person or damage to an attended vehicle;

5 (c) RCW 46.61.500 or 46.61.530, relating to reckless driving or
6 racing of vehicles;

7 (d) RCW 46.61.502 or 46.61.504, relating to persons under the
8 influence of intoxicating liquor or drugs;

9 (e) RCW 46.20.342, relating to driving a motor vehicle while
10 operator's license is suspended or revoked;

11 (f) RCW 46.61.525, relating to operating a motor vehicle in a
12 negligent manner.

13 (4) A law enforcement officer investigating at the scene of a motor
14 vehicle accident may arrest the driver of a motor vehicle involved in
15 the accident if the officer has probable cause to believe that the
16 driver has committed in connection with the accident a violation of any
17 traffic law or regulation.

18 (5) Any police officer having probable cause to believe that a
19 person has committed or is committing a violation of RCW ((88.12.100))
20 88.12.025 shall have the authority to arrest the person.

21 (6) An officer may act upon the request of a law enforcement
22 officer in whose presence a traffic infraction was committed, to stop,
23 detain, arrest, or issue a notice of traffic infraction to the driver
24 who is believed to have committed the infraction. The request by the
25 witnessing officer shall give an officer the authority to take
26 appropriate action under the laws of the state of Washington.

27 (7) Any police officer having probable cause to believe that a
28 person has committed or is committing any act of indecent exposure, as
29 defined in RCW 9A.88.010, may arrest the person.

30 (8) A police officer may arrest and take into custody, pending
31 release on bail, personal recognizance, or court order, a person
32 without a warrant when the officer has probable cause to believe that
33 an order has been issued of which the person has knowledge under
34 chapter 10.14 RCW and the person has violated the terms of that order.

35 (9) Any police officer having probable cause to believe that a
36 person has, within twenty-four hours of the alleged violation,
37 committed a violation of RCW 9A.50.020 may arrest such person.

38 (10) A police officer having probable cause to believe that a
39 person illegally possesses or illegally has possessed a firearm or

1 other dangerous weapon on private or public elementary or secondary
2 school premises shall have the authority to arrest the person.

3 For purposes of this subsection, the term "firearm" has the meaning
4 defined in RCW 9.41.010 and the term "dangerous weapon" has the meaning
5 defined in RCW 9.41.250 and 9.41.280(1) (c) through (e).

6 (11) Except as specifically provided in subsections (2), (3), (4),
7 and (6) of this section, nothing in this section extends or otherwise
8 affects the powers of arrest prescribed in Title 46 RCW.

9 (12) As provided in section 2 of this act, an officer may act upon
10 the request of an animal control officer to arrest a person who the
11 animal control officer has probable cause to believe has committed a
12 violation of chapter 16.52 RCW, or RCW 9.08.070 or 81.56.120.

13 (13) No police officer may be held criminally or civilly liable for
14 making an arrest pursuant to ~~((RCW 10.31.100))~~ subsection (2) ((or)),
15 (8), or (12) of this section if the police officer acts in good faith
16 and without malice.

17 **Sec. 4.** RCW 16.52.020 and 1973 1st ex.s. c 125 s 1 are each
18 amended to read as follows:

19 Any citizens of the state of Washington ~~((who have heretofore, or~~
20 ~~who shall hereafter, incorporate as a body corporate,))~~ incorporated
21 under the laws of this state as a humane society or as a society for
22 the prevention of cruelty to animals may ~~((avail themselves of the~~
23 ~~privileges of RCW 16.52.010 through 16.52.050, 16.52.070 through~~
24 ~~16.52.090 and 16.52.100 through 16.52.180: PROVIDED, That))~~ enforce
25 the provisions of this chapter through its animal control officers
26 subject to the limitations in sections 2 and 5 of this act. The
27 legislative authority in each county may grant exclusive authority to
28 exercise the privileges and authority granted by this section to one or
29 more qualified corporations for a period of up to three years based
30 upon ability to fulfill the purposes of this chapter.

31 NEW SECTION. **Sec. 5.** A new section is added to chapter 16.52 RCW
32 to read as follows:

33 Trustees of humane societies incorporated pursuant to RCW 16.52.020
34 may appoint society members to act as animal control officers. The
35 trustee appointments shall be in writing. The appointment shall be
36 effective in a particular county only if an appointee obtains written
37 authorization from the superior court of the county in which the

1 appointee seeks to enforce this chapter. To obtain judicial
2 authorization, an appointee seeking judicial authorization on or after
3 the effective date of this section shall provide evidence satisfactory
4 to the judge that the appointee has successfully completed training
5 which has prepared the appointee to assume the powers granted to animal
6 control officers pursuant to section 2 of this act. The trustees shall
7 review appointments every three years and may revoke an appointment at
8 any time by filing a certified revocation with the superior court that
9 approved the appointment. Authorizations shall not exceed three years
10 or trustee termination, whichever occurs first. To qualify for
11 reappointment when a term expires on or after the effective date of
12 this section, the officer shall obtain training or satisfy the court
13 that the officer has sufficient experience to exercise the powers
14 granted to animal control officers pursuant to section 2 of this act.

15 **Sec. 6.** RCW 16.52.085 and 1987 c 335 s 1 are each amended to read
16 as follows:

17 (1) If ~~((the county sheriff or other))~~ a law enforcement officer
18 ~~((shall find))~~ or animal control officer has probable cause to believe
19 that ~~((said))~~ an owner of a domestic animal has ~~((been neglected by its~~
20 owner, he or she)) violated this chapter and no responsible person can
21 be found to assume the animal's care, the officer may authorize, with
22 a warrant, the removal of the animal to a ~~((proper pasture or other))~~
23 suitable place for feeding and ~~((restoring to health.))~~ care, or may
24 place the animal under the custody of an animal care and control
25 agency. In determining what is a suitable place, the officer shall
26 consider the animal's needs, including its size and behavioral
27 characteristics. An officer may remove an animal under this subsection
28 without a warrant only if the animal is in an immediate life-
29 threatening condition.

30 (2) If a law enforcement officer or an animal control officer has
31 probable cause to believe a violation of this chapter has occurred, the
32 officer may authorize an examination of an allegedly neglected or
33 abused domestic animal by a veterinarian to determine whether the level
34 of neglect or abuse is sufficient to require removal of the animal.
35 This section does not condone illegal entry onto private property.

36 (3) Any owner whose domestic animal is removed ~~((to a suitable~~
37 place)) pursuant to this chapter shall be given written notice of the
38 circumstances of the removal and notice of legal remedies available to

1 the owner. The notice shall be given by posting at the place of
2 seizure, by delivery to a person residing at the place of seizure, or
3 by registered mail if the owner is known. In making the decision to
4 remove an animal pursuant to this chapter, the ~~((law enforcement))~~
5 officer shall make a good faith effort to contact the animal's owner
6 before removal ~~((unless the animal is in a life threatening condition~~
7 ~~or unless the officer reasonably believes that the owner would remove~~
8 ~~the animal from the jurisdiction))~~.

9 (4) The agency having custody of the animal may euthanize the
10 animal or may find a responsible person to adopt the animal not less
11 than five business days after the animal is taken into custody. A
12 custodial agency may euthanize severely injured, diseased, or suffering
13 animals at any time. An owner may prevent the animal's destruction or
14 adoption by: (a) Petitioning the district court of the county where
15 the animal was seized for the animal's immediate return subject to
16 court-imposed conditions, or (b) posting a bond or security in an
17 amount sufficient to provide for the animal's care for a minimum of
18 thirty days from the seizure date. If the custodial agency still has
19 custody of the animal when the bond or security expires, the animal
20 shall become the agency's property unless the court orders an
21 alternative disposition. If a court order prevents the agency from
22 assuming ownership and the agency continues to care for the animal, the
23 court shall order the owner to renew a bond or security for the
24 agency's continuing costs for the animal's care.

25 (5) If no criminal case is filed within seventy-two hours of the
26 ~~((removal of the animal))~~ animal's removal, the owner may petition the
27 district court of the county where the ~~((removal of the))~~ animal
28 ~~((occurred))~~ was removed for the ~~((return of the animal))~~ animal's
29 return. The petition shall be filed with the court, with copies served
30 to the law enforcement or animal care and control agency responsible
31 for removing the animal and to the prosecuting attorney. If a criminal
32 action is filed after the petition is filed but before the animal is
33 returned, the petition shall be joined with the criminal matter.

34 ~~((+5))~~ (6) In a motion or petition for the ~~((return of the removed~~
35 ~~animal))~~ animal's return before a trial, the burden is on the owner to
36 prove by a preponderance of the evidence that the animal will not
37 suffer future neglect or abuse and is not in need of being restored to
38 health.

1 (~~(6)~~) (7) Any authorized person treating or attempting to restore
2 an animal to health under this chapter shall not be civilly or
3 criminally liable for such action.

4 NEW SECTION. Sec. 7. A new section is added to chapter 16.52 RCW
5 to read as follows:

6 (1) A person is guilty of animal cruelty in the first degree if the
7 person intentionally tortures, torments, or cruelly treats any animal
8 and the animal suffers substantial bodily harm or substantial pain as
9 a result of the torture, torment, or cruel treatment.

10 (2) Animal cruelty in the first degree is a class C felony.

11 NEW SECTION. Sec. 8. A new section is added to chapter 16.52 RCW
12 to read as follows:

13 (1) A person is guilty of animal cruelty in the second degree if,
14 under circumstances not amounting to first degree animal cruelty, the
15 person knowingly, recklessly, or with criminal negligence inflicts
16 unnecessary suffering or pain upon an animal.

17 (2) An owner of an animal is guilty of animal cruelty in the second
18 degree if, under circumstances not amounting to first degree animal
19 cruelty, the owner knowingly, recklessly, or with criminal negligence:

20 (a) Fails to provide the animal with necessary food, water,
21 shelter, rest, sanitation, ventilation, space, or medical attention and
22 the animal suffers unnecessary or unjustifiable physical pain as a
23 result of the failure; or

24 (b) Abandons the animal.

25 (3) Animal cruelty in the second degree is a misdemeanor.

26 **Sec. 9.** RCW 16.52.100 and 1982 c 114 s 6 are each amended to read
27 as follows:

28 (~~(Any person who shall impound or confine or cause to be impounded
29 or confined any domestic animal, shall supply the same during such
30 confinement with a sufficient quantity of good and wholesome food and
31 water, and in default thereof shall be guilty of a misdemeanor. In
32 ease)) If any domestic animal (~~shall be~~) is impounded or confined
33 (~~as aforesaid and shall continue to be~~) without necessary food and
34 water for more than twenty-four consecutive hours, (~~it shall be lawful
35 for~~) any person may, from time to time, as (~~it shall be deemed~~) is
36 necessary (~~to~~), enter into and open any pound or place of confinement~~

1 in which any domestic animal (~~((shall be))~~) is confined, and supply it
2 with necessary food and water so long as it (~~((shall be))~~) is confined.
3 (~~((Such))~~) The person shall not be liable to action for (~~((such))~~) the
4 entry, and may collect from the animal's owner the reasonable cost of
5 (~~((such))~~) the food and water (~~((may be collected by him of the owner of~~
6 ~~such animal, and the said))~~). The animal shall be subject to attachment
7 (~~((therefor))~~) for the costs and shall not be exempt from levy and sale
8 upon execution issued upon a judgment (~~((therefor))~~). If an
9 investigating officer finds it extremely difficult to supply (~~((such))~~)
10 confined animals with food and water, the officer may remove the
11 animals to protective custody for that purpose.

12 **Sec. 10.** RCW 16.52.117 and 1982 c 114 s 9 are each amended to read
13 as follows:

14 (1) Any person who does any of the following is guilty of a gross
15 misdemeanor punishable by imprisonment not to exceed one year, or by a
16 fine not to exceed five thousand dollars, or by both fine and
17 imprisonment:

18 (a) Owns, possesses, keeps, or trains any (~~((dog))~~) animal with the
19 intent that the (~~((dog))~~) animal shall be engaged in an exhibition of
20 fighting with another (~~((dog))~~) animal;

21 (b) For amusement or gain causes any (~~((dog))~~) animal to fight with
22 another (~~((dog))~~) animal, or causes any (~~((dogs))~~) animals to injure each
23 other; or

24 (c) Permits any act in violation of (a) or (b) of this subsection
25 to be done on any premises under his or her charge or control, or
26 promotes or aids or abets any such act.

27 (2) Any person who is knowingly present, as a spectator, at any
28 place or building where preparations are being made for an exhibition
29 of the fighting of (~~((dogs))~~) animals, with the intent to be present at
30 such preparations, or is knowingly present at such exhibition or at any
31 other fighting or injuring as described in subsection (1)(b) of this
32 section, with the intent to be present at such exhibition, fighting, or
33 injuring, is guilty of a misdemeanor.

34 (3) Nothing in this section may prohibit the following:

35 (a) The use of dogs in the management of livestock, as defined by
36 chapter 16.57 RCW, by the owner of the livestock or the owner's
37 employees or agents or other persons in lawful custody of the
38 livestock;

1 (b) The use of dogs in hunting as permitted by law; or
2 (c) The training of (~~dogs~~) animals or the use of equipment in the
3 training of (~~dogs~~) animals for any purpose not prohibited by law.

4 **Sec. 11.** RCW 16.52.180 and 1901 c 146 s 18 are each amended to
5 read as follows:

6 No part of (~~RCW 16.52.010 through 16.52.050, 16.52.070 through~~
7 ~~16.52.090 and 16.52.100 through 16.52.180~~) this chapter shall be
8 deemed to interfere with any of the laws of this state known as the
9 "game laws," nor (~~shall RCW 16.52.010 through 16.52.050, 16.52.070~~
10 ~~through 16.52.090 and 16.52.100 through 16.52.180~~) be deemed to
11 interfere with the right to destroy any venomous reptile or any known
12 as dangerous to life, limb or property, or to interfere with the right
13 to kill animals to be used for food or with any properly conducted
14 scientific experiments or investigations, which experiments or
15 investigations shall be performed only under the authority of the
16 faculty of some regularly incorporated college or university of the
17 state of Washington or a research facility registered with the United
18 States department of agriculture and regulated by 7 U.S.C. Sec. 2131 et
19 seq.

20 **Sec. 12.** RCW 16.52.190 and 1941 c 105 s 1 are each amended to read
21 as follows:

22 (~~It shall be unlawful for any person to wilfully or maliciously~~
23 ~~poison any domestic animal or domestic bird: PROVIDED, That the~~
24 ~~provisions~~) (1) Except as provided in subsections (2) and (3) of this
25 section, a person is guilty of the crime of poisoning animals if the
26 person intentionally or knowingly poisons an animal under circumstances
27 which do not constitute animal cruelty in the first degree.

28 (2) Subsection (1) of this section shall not apply to ((the
29 killing)) euthanizing by poison ((such)) an animal ((or bird)) in a

30 lawful and humane manner by the animal's owner ((thereof)), or by a
31 duly authorized servant or agent of ((such)) the owner, or by a person
32 acting pursuant to instructions from a duly constituted public
33 authority.

34 (3) Subsection (1) of this section shall not apply to the
35 reasonable use of rodent poison, insecticides, fungicides, or slug bait
36 for their intended purposes.

1 **Sec. 13.** RCW 16.52.200 and 1987 c 335 s 2 are each amended to read
2 as follows:

3 (1) The sentence imposed for a misdemeanor or gross misdemeanor
4 violation of this chapter may be deferred or suspended in accordance
5 with RCW 3.66.067 and 3.66.068, however the probationary period shall
6 be two years.

7 (2) In case of multiple misdemeanor or gross misdemeanor
8 convictions, the sentences shall be consecutive, however the
9 probationary period shall remain two years.

10 (3) In addition to the penalties imposed by the court, the court
11 shall order the forfeiture of all animals held by law enforcement or
12 animal care and control authorities under the provisions of this
13 chapter if any one of the animals involved dies as a result of a
14 violation of this chapter or if the defendant has a prior conviction
15 under this chapter. In other cases the court may enter an order
16 requiring the owner to forfeit the animal if the court deems the
17 ~~((crue+))~~ animal's treatment to have been severe and likely to reoccur.
18 If forfeiture is ordered, the owner shall be prohibited from owning or
19 caring for any similar animals for a period of two years. The court
20 may delay its decision on forfeiture under this subsection until the
21 end of the probationary period.

22 (4) In addition to fines and court costs, the ~~((owner))~~ defendant,
23 only if convicted or in agreement, shall be liable for reasonable costs
24 incurred pursuant to this chapter by ~~((the))~~ law enforcement agencies,
25 animal care and control agencies, or authorized private or public
26 entities involved with the care of the animals. Reasonable costs
27 include expenses of the investigation, and the animal's care,
28 euthanization, or adoption.

29 (5) If convicted, the ~~((owner))~~ defendant shall also pay a civil
30 penalty of one ~~((hundred))~~ thousand dollars to the county to prevent
31 cruelty to animals. These funds shall be used to prosecute offenses
32 under this chapter and to care for forfeited animals pending trial.

33 (6) As a condition of the sentence imposed under this chapter or
34 RCW 9.08.070, the court may also order the defendant to participate in
35 an available animal cruelty prevention or education program or obtain
36 available psychological counseling to treat mental health problems
37 contributing to the violation's commission. The defendant shall bear
38 the costs of the program or treatment.

1 **Sec. 14.** RCW 16.52.300 and 1990 c 226 s 1 are each amended to read
2 as follows:

3 (1) If any person ((who uses)) commits the crime of animal cruelty
4 in the first or second degree by using or trapping to use domestic dogs
5 or cats as bait, prey, or targets for the purpose of training dogs or
6 other animals to track, fight, or hunt, ((in such a fashion as to
7 torture, torment, deprive of necessary sustenance, cruelly beat, or
8 mutilate such animals, shall be guilty of a misdemeanor.

9 ~~(2) Any person who violates the provisions of subsection (1) of~~
10 ~~this section, and whose actions result in the death of the animal,~~
11 ~~shall be guilty of a gross misdemeanor.~~

12 ~~(3) Any person who captures by trap a domestic dog or cat to be~~
13 ~~used as bait, prey, or targets for the purpose of training dogs or~~
14 ~~other animals to track, fight, or hunt, in such a fashion as to~~
15 ~~torture, torment, deprive of necessary sustenance, cruelly beat, or~~
16 ~~mutilate such animals, shall be guilty of a misdemeanor.~~

17 ~~(4) Any person who violates the provisions of subsection (3) of~~
18 ~~this section, and whose actions result in the death of the animal,~~
19 ~~shall be guilty of a gross misdemeanor.~~

20 ~~(5) If a person violates this section,)) law enforcement~~
21 ~~((authorities)) officers or animal control officers shall seize and~~
22 ~~hold the animals being trained. ((Such)) The seized animals shall be~~
23 ~~disposed of by the court pursuant to the provisions of RCW~~
24 ~~16.52.200(3).~~

25 ~~((+6))~~ (2) This section shall not in any way interfere with or
26 impair the operation of any provision of Title 28B RCW, relating to
27 higher education or biomedical research.

28 NEW SECTION. **Sec. 15.** A new section is added to chapter 16.52 RCW
29 to read as follows:

30 (1) An animal owner may bring a civil action to recover actual
31 damages and damages for emotional distress against a person who abused
32 the owner's animal in violation of this chapter or RCW 9.08.070 or
33 81.56.120.

34 (2) An animal care and control agency that investigated alleged
35 violations of this chapter or RCW 9.08.070 or 81.56.120 may bring a
36 civil action against a person including an owner who abused an animal
37 in violation of this chapter or RCW 9.08.070 or 81.56.120. Damages
38 shall be limited to reasonable costs the agency incurred to investigate

1 the violation, and to capture, care for, transport, feed, shelter,
2 euthanize, and adopt the abused animals.

3 (3) Restitution collected by an owner or animal control agency
4 pursuant to a sentence for a conviction of a violation of this chapter
5 or RCW 9.08.070 or 81.56.120 shall be applied to any damage award.

6 (4) An award of damages made by a district court pursuant to this
7 section shall not exceed the amount authorized by RCW 3.66.020.

8 (5) In an action brought under this section, a prevailing party
9 shall be awarded costs and fees of the action including reasonable
10 attorneys' fees.

11 (6) In any action brought under this section, it is not a defense
12 that the defendant has not been charged with, or convicted of, a
13 violation of this chapter or RCW 9.08.070 or 81.56.120. The remedies
14 provided by this section are in addition to any other remedy available
15 under law.

16 **Sec. 16.** RCW 9.94A.030 and 1994 c 1 s 3 (Initiative Measure No.
17 593), 1993 c 338 s 2, 1993 c 251 s 4, and 1993 c 164 s 1 are each
18 reenacted and amended to read as follows:

19 Unless the context clearly requires otherwise, the definitions in
20 this section apply throughout this chapter.

21 (1) "Collect," or any derivative thereof, "collect and remit," or
22 "collect and deliver," when used with reference to the department of
23 corrections, means that the department is responsible for monitoring
24 and enforcing the offender's sentence with regard to the legal
25 financial obligation, receiving payment thereof from the offender, and,
26 consistent with current law, delivering daily the entire payment to the
27 superior court clerk without depositing it in a departmental account.

28 (2) "Commission" means the sentencing guidelines commission.

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

33 (4) "Community custody" means that portion of an inmate's sentence
34 of confinement in lieu of earned early release time served in the
35 community subject to controls placed on the inmate's movement and
36 activities by the department of corrections.

37 (5) "Community placement" means that period during which the
38 offender is subject to the conditions of community custody and/or

1 postrelease supervision, which begins either upon completion of the
2 term of confinement (postrelease supervision) or at such time as the
3 offender is transferred to community custody in lieu of earned early
4 release. Community placement may consist of entirely community
5 custody, entirely postrelease supervision, or a combination of the two.

6 (6) "Community service" means compulsory service, without
7 compensation, performed for the benefit of the community by the
8 offender.

9 (7) "Community supervision" means a period of time during which a
10 convicted offender is subject to crime-related prohibitions and other
11 sentence conditions imposed by a court pursuant to this chapter or RCW
12 16.52.200(6) or 46.61.524. For first-time offenders, the supervision
13 may include crime-related prohibitions and other conditions imposed
14 pursuant to RCW 9.94A.120(5). For purposes of the interstate compact
15 for out-of-state supervision of parolees and probationers, RCW
16 9.95.270, community supervision is the functional equivalent of
17 probation and should be considered the same as probation by other
18 states.

19 (8) "Confinement" means total or partial confinement as defined in
20 this section.

21 (9) "Conviction" means an adjudication of guilt pursuant to Titles
22 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
23 acceptance of a plea of guilty.

24 (10) "Court-ordered legal financial obligation" means a sum of
25 money that is ordered by a superior court of the state of Washington
26 for legal financial obligations which may include restitution to the
27 victim, statutorily imposed crime victims' compensation fees as
28 assessed pursuant to RCW 7.68.035, court costs, county or interlocal
29 drug funds, court-appointed attorneys' fees, and costs of defense,
30 fines, and any other financial obligation that is assessed to the
31 offender as a result of a felony conviction. Upon conviction for
32 vehicular assault while under the influence of intoxicating liquor or
33 any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the
34 influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a),
35 legal financial obligations may also include payment to a public agency
36 of the expense of an emergency response to the incident resulting in
37 the conviction, subject to the provisions in RCW 38.52.430.

38 (11) "Crime-related prohibition" means an order of a court
39 prohibiting conduct that directly relates to the circumstances of the

1 crime for which the offender has been convicted, and shall not be
2 construed to mean orders directing an offender affirmatively to
3 participate in rehabilitative programs or to otherwise perform
4 affirmative conduct.

5 (12)(a) "Criminal history" means the list of a defendant's prior
6 convictions, whether in this state, in federal court, or elsewhere.
7 The history shall include, where known, for each conviction (i) whether
8 the defendant has been placed on probation and the length and terms
9 thereof; and (ii) whether the defendant has been incarcerated and the
10 length of incarceration.

11 (b) "Criminal history" shall always include juvenile convictions
12 for sex offenses and shall also include a defendant's other prior
13 convictions in juvenile court if: (i) The conviction was for an
14 offense which is a felony or a serious traffic offense and is criminal
15 history as defined in RCW 13.40.020(~~(+6)(a))~~) (9); (ii) the defendant
16 was fifteen years of age or older at the time the offense was
17 committed; and (iii) with respect to prior juvenile class B and C
18 felonies or serious traffic offenses, the defendant was less than
19 twenty-three years of age at the time the offense for which he or she
20 is being sentenced was committed.

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

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

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

1 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
2 or Title 74 RCW.

3 (16) "Drug offense" means:

4 (a) Any felony violation of chapter 69.50 RCW except possession of
5 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
6 controlled substance (RCW 69.50.403);

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

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

13 (17) "Escape" means:

14 (a) Escape in the first degree (RCW 9A.76.110), escape in the
15 second degree (RCW 9A.76.120), willful failure to return from furlough
16 (RCW 72.66.060), willful failure to return from work release (RCW
17 72.65.070), or willful failure to be available for supervision by the
18 department while in community custody (RCW 72.09.310); or

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

22 (18) "Felony traffic offense" means:

23 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
24 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
25 and-run injury-accident (RCW 46.52.020(4)); 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 felony
28 traffic offense under (a) of this subsection.

29 (19) "Fines" means the requirement that the offender pay a specific
30 sum of money over a specific period of time to the court.

31 (20)(a) "First-time offender" means any person who is convicted of
32 a felony (i) not classified as a violent offense or a sex offense under
33 this chapter, or (ii) that is not the manufacture, delivery, or
34 possession with intent to manufacture or deliver a controlled substance
35 classified in schedule I or II that is a narcotic drug or the selling
36 for profit of any controlled substance or counterfeit substance
37 classified in schedule I, RCW 69.50.204, except leaves and flowering
38 tops of marihuana, and except as provided in (b) of this subsection,
39 who previously has never been convicted of a felony in this state,

1 federal court, or another state, and who has never participated in a
2 program of deferred prosecution for a felony offense.

3 (b) For purposes of (a) of this subsection, a juvenile adjudication
4 for an offense committed before the age of fifteen years is not a
5 previous felony conviction except for adjudications of sex offenses.

6 (21) "Most serious offense" means any of the following felonies or
7 a felony attempt to commit any of the following felonies, as now
8 existing or hereafter amended:

9 (a) Any felony defined under any law as a class A felony or
10 criminal solicitation of or criminal conspiracy to commit a class A
11 felony;

12 (b) Assault in the second degree;

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

14 (d) Child molestation in the second degree;

15 (e) Controlled substance homicide;

16 (f) Extortion in the first degree;

17 (g) Incest when committed against a child under age fourteen;

18 (h) Indecent liberties;

19 (i) Kidnapping in the second degree;

20 (j) Leading organized crime;

21 (k) Manslaughter in the first degree;

22 (l) Manslaughter in the second degree;

23 (m) Promoting prostitution in the first degree;

24 (n) Rape in the third degree;

25 (o) Robbery in the second degree;

26 (p) Sexual exploitation;

27 (q) Vehicular assault;

28 (r) Vehicular homicide, when proximately caused by the driving of
29 any vehicle by any person while under the influence of intoxicating
30 liquor or any drug as defined by RCW 46.61.502, or by the operation of
31 any vehicle in a reckless manner;

32 (s) Any other class B felony offense with a finding of sexual
33 motivation, as "sexual motivation" is defined under this section;

34 (t) Any other felony with a deadly weapon verdict under RCW
35 9.94A.125;

36 (u) Any felony offense in effect at any time prior to December 2,
37 1993, that is comparable to a most serious offense under this
38 subsection, or any federal or out-of-state conviction for an offense

1 that under the laws of this state would be a felony classified as a
2 most serious offense under this subsection.

3 (22) "Nonviolent offense" means an offense which is not a violent
4 offense.

5 (23) "Offender" means a person who has committed a felony
6 established by state law and is eighteen years of age or older or is
7 less than eighteen years of age but whose case has been transferred by
8 the appropriate juvenile court to a criminal court pursuant to RCW
9 13.40.110. Throughout this chapter, the terms "offender" and
10 "defendant" are used interchangeably.

11 (24) "Partial confinement" means confinement for no more than one
12 year in a facility or institution operated or utilized under contract
13 by the state or any other unit of government, or, if home detention or
14 work crew has been ordered by the court, in an approved residence, for
15 a substantial portion of each day with the balance of the day spent in
16 the community. Partial confinement includes work release, home
17 detention, work crew, and a combination of work crew and home detention
18 as defined in this section.

19 (25) "Persistent offender" is an offender who:

20 (a) Has been convicted in this state of any felony considered a
21 most serious offense; and

22 (b) Has, before the commission of the offense under (a) of this
23 subsection, been convicted as an offender on at least two separate
24 occasions, whether in this state or elsewhere, of felonies that under
25 the laws of this state would be considered most serious offenses and
26 would be included in the offender score under RCW 9.94A.360; provided
27 that of the two or more previous convictions, at least one conviction
28 must have occurred before the commission of any of the other most
29 serious offenses for which the offender was previously convicted.

30 (26) "Postrelease supervision" is that portion of an offender's
31 community placement that is not community custody.

32 (27) "Restitution" means the requirement that the offender pay a
33 specific sum of money over a specific period of time to the court as
34 payment of damages. The sum may include both public and private costs.
35 The imposition of a restitution order does not preclude civil redress.

36 (28) "Serious traffic offense" means:

37 (a) Driving while under the influence of intoxicating liquor or any
38 drug (RCW 46.61.502), actual physical control while under the influence
39 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving

1 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));
2 or

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

6 (29) "Serious violent offense" is a subcategory of violent offense
7 and means:

8 (a) Murder in the first degree, homicide by abuse, murder in the
9 second degree, assault in the first degree, kidnapping in the first
10 degree, or rape in the first degree, assault of a child in the first
11 degree, or an attempt, criminal solicitation, or criminal conspiracy to
12 commit one of these felonies; or

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

16 (30) "Sentence range" means the sentencing court's discretionary
17 range in imposing a nonappealable sentence.

18 (31) "Sex offense" means:

19 (a) A felony that is a violation of chapter 9A.44 RCW or RCW
20 9A.64.020 or 9.68A.090 or that is, under chapter 9A.28 RCW, a criminal
21 attempt, criminal solicitation, or criminal conspiracy to commit such
22 crimes;

23 (b) A felony with a finding of sexual motivation under RCW
24 9.94A.127; or

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

28 (32) "Sexual motivation" means that one of the purposes for which
29 the defendant committed the crime was for the purpose of his or her
30 sexual gratification.

31 (33) "Total confinement" means confinement inside the physical
32 boundaries of a facility or institution operated or utilized under
33 contract by the state or any other unit of government for twenty-four
34 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

35 (34) "Transition training" means written and verbal instructions
36 and assistance provided by the department to the offender during the
37 two weeks prior to the offender's successful completion of the work
38 ethic camp program. The transition training shall include instructions

1 in the offender's requirements and obligations during the offender's
2 period of community custody.

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

6 (36) "Violent offense" means:

7 (a) Any of the following felonies, as now existing or hereafter
8 amended: Any felony defined under any law as a class A felony or an
9 attempt to commit a class A felony, criminal solicitation of or
10 criminal conspiracy to commit a class A felony, manslaughter in the
11 first degree, manslaughter in the second degree, indecent liberties if
12 committed by forcible compulsion, kidnapping in the second degree,
13 arson in the second degree, assault in the second degree, assault of a
14 child in the second degree, extortion in the first degree, robbery in
15 the second degree, vehicular assault, and vehicular homicide, when
16 proximately caused by the driving of any vehicle by any person while
17 under the influence of intoxicating liquor or any drug as defined by
18 RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

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

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

25 (37) "Work crew" means a program of partial confinement consisting
26 of civic improvement tasks for the benefit of the community of not less
27 than thirty-five hours per week that complies with RCW 9.94A.135. The
28 civic improvement tasks shall have minimal negative impact on existing
29 private industries or the labor force in the county where the service
30 or labor is performed. The civic improvement tasks shall not affect
31 employment opportunities for people with developmental disabilities
32 contracted through sheltered workshops as defined in RCW 82.04.385.
33 Only those offenders sentenced to a facility operated or utilized under
34 contract by a county or the state are eligible to participate on a work
35 crew. Offenders sentenced for a sex offense as defined in subsection
36 (31) of this section are not eligible for the work crew program.

37 (38) "Work ethic camp" means an alternative incarceration program
38 designed to reduce recidivism and lower the cost of corrections by
39 requiring offenders to complete a comprehensive array of real-world job

1 and vocational experiences, character-building work ethics training,
2 life management skills development, substance abuse rehabilitation,
3 counseling, literacy training, and basic adult education.

4 (39) "Work release" means a program of partial confinement
5 available to offenders who are employed or engaged as a student in a
6 regular course of study at school. Participation in work release shall
7 be conditioned upon the offender attending work or school at regularly
8 defined hours and abiding by the rules of the work release facility.

9 (40) "Home detention" means a program of partial confinement
10 available to offenders wherein the offender is confined in a private
11 residence subject to electronic surveillance. Home detention may not
12 be imposed for offenders convicted of a violent offense, any sex
13 offense, any drug offense, reckless burning in the first or second
14 degree as defined in RCW 9A.48.040 or 9A.48.050, assault in the third
15 degree as defined in RCW 9A.36.031, assault of a child in the third
16 degree, unlawful imprisonment as defined in RCW 9A.40.040, or
17 harassment as defined in RCW 9A.46.020. Home detention may be imposed
18 for offenders convicted of possession of a controlled substance (RCW
19 69.50.401(d)) or forged prescription for a controlled substance (RCW
20 69.50.403) if the offender fulfills the participation conditions set
21 forth in this subsection and is monitored for drug use by treatment
22 alternatives to street crime (TASC) or a comparable court or agency-
23 referred program.

24 (a) Home detention may be imposed for offenders convicted of
25 burglary in the second degree as defined in RCW 9A.52.030 or
26 residential burglary conditioned upon the offender: (i) Successfully
27 completing twenty-one days in a work release program, (ii) having no
28 convictions for burglary in the second degree or residential burglary
29 during the preceding two years and not more than two prior convictions
30 for burglary or residential burglary, (iii) having no convictions for
31 a violent felony offense during the preceding two years and not more
32 than two prior convictions for a violent felony offense, (iv) having no
33 prior charges of escape, and (v) fulfilling the other conditions of the
34 home detention program.

35 (b) Participation in a home detention program shall be conditioned
36 upon: (i) The offender obtaining or maintaining current employment or
37 attending a regular course of school study at regularly defined hours,
38 or the offender performing parental duties to offspring or minors
39 normally in the custody of the offender, (ii) abiding by the rules of

1 the home detention program, and (iii) compliance with court-ordered
2 legal financial obligations. The home detention program may also be
3 made available to offenders whose charges and convictions do not
4 otherwise disqualify them if medical or health-related conditions,
5 concerns or treatment would be better addressed under the home
6 detention program, or where the health and welfare of the offender,
7 other inmates, or staff would be jeopardized by the offender's
8 incarceration. Participation in the home detention program for medical
9 or health-related reasons is conditioned on the offender abiding by the
10 rules of the home detention program and complying with court-ordered
11 restitution.

12 **Sec. 17.** RCW 9A.48.080 and 1979 c 145 s 2 are each amended to read
13 as follows:

14 (1) A person is guilty of malicious mischief in the second degree
15 if he or she knowingly and maliciously:

16 (a) Causes physical damage to the property of another in an amount
17 exceeding two hundred fifty dollars; or

18 (b) Creates a substantial risk of interruption or impairment of
19 service rendered to the public, by physically damaging or tampering
20 with an emergency vehicle or property of the state, a political
21 subdivision thereof, or a public utility or mode of public
22 transportation, power, or communication(~~(i~~ or

23 ~~(c) Notwithstanding RCW 16.52.070, causes physical damage,~~
24 ~~destruction, or injury by amputation, mutilation, castration, or other~~
25 ~~malicious act to a horse, mule, cow, heifer, bull, steer, swine, goat,~~
26 ~~or sheep which is the property of another)).~~

27 (2) Malicious mischief in the second degree is a class C felony.

28 **Sec. 18.** RCW 13.40.020 and 1993 c 373 s 1 are each amended to read
29 as follows:

30 For the purposes of this chapter:

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

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

34 (b) Manslaughter in the first degree; or

35 (c) Assault in the second degree, extortion in the first degree,
36 child molestation in the second degree, kidnapping in the second
37 degree, robbery in the second degree, residential burglary, or burglary

1 in the second degree, where such offenses include the infliction of
2 bodily harm upon another or where during the commission of or immediate
3 withdrawal from such an offense the perpetrator is armed with a deadly
4 weapon or firearm as defined in RCW 9A.04.110;

5 (2) "Community service" means compulsory service, without
6 compensation, performed for the benefit of the community by the
7 offender as punishment for committing an offense. Community service
8 may be performed through public or private organizations or through
9 work crews;

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

16 (a) Community-based sanctions;

17 (b) Community-based rehabilitation;

18 (c) Monitoring and reporting requirements;

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

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

22 (b) Community service not to exceed one hundred fifty hours of
23 service;

24 (5) "Community-based rehabilitation" means one or more of the
25 following: Attendance of information classes; counseling, outpatient
26 substance abuse treatment programs, outpatient mental health programs,
27 anger management classes, education or outpatient treatment programs to
28 prevent animal cruelty, or other services; or attendance at school or
29 other educational programs appropriate for the juvenile as determined
30 by the school district. Placement in community-based rehabilitation
31 programs is subject to available funds;

32 (6) "Monitoring and reporting requirements" means one or more of
33 the following: Curfews; requirements to remain at home, school, work,
34 or court-ordered treatment programs during specified hours;
35 restrictions from leaving or entering specified geographical areas;
36 requirements to report to the probation officer as directed and to
37 remain under the probation officer's supervision; and other conditions
38 or limitations as the court may require which may not include
39 confinement;

1 (7) "Confinement" means physical custody by the department of
2 social and health services in a facility operated by or pursuant to a
3 contract with the state, or physical custody in a detention facility
4 operated by or pursuant to a contract with any county. The county may
5 operate or contract with vendors to operate county detention
6 facilities. The department may operate or contract to operate
7 detention facilities for juveniles committed to the department.
8 Pretrial confinement or confinement of less than thirty-one days
9 imposed as part of a disposition or modification order may be served
10 consecutively or intermittently, in the discretion of the court and may
11 be served in a detention group home, detention foster home, or with
12 electronic monitoring. Detention group homes and detention foster
13 homes used for confinement shall not also be used for the placement of
14 dependent children. Confinement in detention group homes and detention
15 foster homes and electronic monitoring are subject to available funds;

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

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

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

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

28 (10) "Department" means the department of social and health
29 services;

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

33 (12) "Diversion unit" means any probation counselor who enters into
34 a diversion agreement with an alleged youthful offender, or any other
35 person or entity except a law enforcement official or entity, with whom
36 the juvenile court administrator has contracted to arrange and
37 supervise such agreements pursuant to RCW 13.40.080, or any person or
38 entity specially funded by the legislature to arrange and supervise

1 diversion agreements in accordance with the requirements of this
2 chapter;

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

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

8 (15) "Juvenile offender" means any juvenile who has been found by
9 the juvenile court to have committed an offense, including a person
10 eighteen years of age or older over whom jurisdiction has been extended
11 under RCW 13.40.300;

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

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

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

20 (a) Four misdemeanors;

21 (b) Two misdemeanors and one gross misdemeanor;

22 (c) One misdemeanor and two gross misdemeanors;

23 (d) Three gross misdemeanors;

24 (e) One class C felony except manslaughter in the second degree and
25 one misdemeanor or gross misdemeanor;

26 (f) One class B felony except: Any felony which constitutes an
27 attempt to commit a class A felony; manslaughter in the first degree;
28 assault in the second degree; extortion in the first degree; indecent
29 liberties; kidnapping in the second degree; robbery in the second
30 degree; burglary in the second degree; residential burglary; vehicular
31 homicide; or arson in the second degree.

32 For purposes of this definition, current violations shall be
33 counted as misdemeanors;

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

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

1 (21) "Restitution" means financial reimbursement by the offender to
2 the victim, and shall be limited to easily ascertainable damages for
3 injury to or loss of property, actual expenses incurred for medical
4 treatment for physical injury to persons, lost wages resulting from
5 physical injury, and costs of the victim's counseling reasonably
6 related to the offense if the offense is a sex offense. Restitution
7 shall not include reimbursement for damages for mental anguish, pain
8 and suffering, or other intangible losses. Nothing in this chapter
9 shall limit or replace civil remedies or defenses available to the
10 victim or offender;

11 (22) "Secretary" means the secretary of the department of social
12 and health services;

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

17 (24) "Sex offense" means an offense defined as a sex offense in RCW
18 9.94A.030;

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

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

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

28 **Sec. 19.** RCW 81.56.120 and 1961 c 14 s 81.56.120 are each amended
29 to read as follows:

30 Railroad companies in carrying or transporting animals shall not
31 permit them to be confined in cars for a longer period than forty-eight
32 consecutive hours without unloading them for rest, water and feeding
33 for a period of at least two consecutive hours, unless prevented from
34 so unloading them by unavoidable accident. In estimating such
35 confinement, the time during which the animals have been confined
36 without such rest on connecting roads from which they are received
37 shall be included. Animals so unloaded shall, during such rest, be
38 properly fed, watered by the owner or person having the custody of

1 them, or in case of his default in so doing, then by the railroad
2 company transporting them, at the expense of said owner or person in
3 custody thereof, and said company shall in such case have a lien upon
4 such animals for food, care and custody furnished, and shall not be
5 liable for such detention of such animals. If animals are transported
6 where they can and do have proper food, water, space and opportunity
7 for rest, the foregoing provision in regard to their being unloaded
8 shall not apply. Violators of this section shall be punished by fine
9 not exceeding one (~~hundred~~) thousand dollars per animal.

10 NEW SECTION. **Sec. 20.** The following acts or parts of acts are
11 each repealed:

- 12 (1) RCW 16.52.010 and 1901 c 146 s 17;
- 13 (2) RCW 16.52.030 and 1982 c 114 s 2 & 1901 c 146 s 2;
- 14 (3) RCW 16.52.040 and 1901 c 146 s 14;
- 15 (4) RCW 16.52.050 and 1901 c 146 s 10;
- 16 (5) RCW 16.52.055 and 1901 c 146 s 3;
- 17 (6) RCW 16.52.060 and 1987 c 202 s 182 & 1893 c 27 s 9;
- 18 (7) RCW 16.52.065 and 1982 c 114 s 3 & 1893 c 27 s 8;
- 19 (8) RCW 16.52.070 and 1982 c 114 s 4, 1979 c 145 s 4, & 1901 c 146
20 s 4;
- 21 (9) RCW 16.52.113 and 1982 c 114 s 8;
- 22 (10) RCW 16.52.120 and 1982 c 114 s 11 & 1901 c 146 s 7;
- 23 (11) RCW 16.52.130 and 1982 c 114 s 12 & 1901 c 146 s 8;
- 24 (12) RCW 16.52.140 and 1901 c 146 s 11; and
- 25 (13) RCW 16.52.160 and 1901 c 146 s 9.

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