

2 **ESSB 5305** - H COMM AMD **ADOPTED 3-3-98**

3 By Committee on Criminal Justice & Corrections

4

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

7 "Sec. 1. RCW 69.50.401 and 1997 c 71 s 2 are each amended to read  
8 as follows:

9 (a) Except as authorized by this chapter, it is unlawful for any  
10 person to manufacture, deliver, or possess with intent to manufacture  
11 or deliver, a controlled substance.

12 (1) Any person who violates this subsection with respect to:

13 (i) a controlled substance classified in Schedule I or II which is  
14 a narcotic drug or flunitrazepam classified in Schedule IV, is guilty  
15 of a crime and upon conviction may be imprisoned for not more than ten  
16 years, or (A) fined not more than twenty-five thousand dollars if the  
17 crime involved less than two kilograms of the drug, or both such  
18 imprisonment and fine; or (B) if the crime involved two or more  
19 kilograms of the drug, then fined not more than one hundred thousand  
20 dollars for the first two kilograms and not more than fifty dollars for  
21 each gram in excess of two kilograms, or both such imprisonment and  
22 fine;

23 (ii) methamphetamine, is guilty of a crime and upon conviction may  
24 be imprisoned for not more than ten years, or (A) fined not more than  
25 twenty-five thousand dollars if the crime involved less than two  
26 kilograms of the drug, or both such imprisonment and fine; or (B) if  
27 the crime involved two or more kilograms of the drug, then fined not  
28 more than one hundred thousand dollars for the first two kilograms and  
29 not more than fifty dollars for each gram in excess of two kilograms,  
30 or both such imprisonment and fine. Three thousand dollars of the fine  
31 may not be suspended. As collected, the first three thousand dollars  
32 of the fine must be deposited with the law enforcement agency having  
33 responsibility for cleanup of laboratories, sites, or substances used  
34 in the manufacture of the methamphetamine. The fine moneys deposited  
35 with that law enforcement agency must be used for such clean-up cost;

1 (iii) any other controlled substance classified in Schedule I, II,  
2 or III, is guilty of a crime and upon conviction may be imprisoned for  
3 not more than five years, fined not more than ten thousand dollars, or  
4 both;

5 (iv) a substance classified in Schedule IV, except flunitrazepam,  
6 is guilty of a crime and upon conviction may be imprisoned for not more  
7 than five years, fined not more than ten thousand dollars, or both;

8 (v) a substance classified in Schedule V, is guilty of a crime and  
9 upon conviction may be imprisoned for not more than five years, fined  
10 not more than ten thousand dollars, or both.

11 (b) Except as authorized by this chapter, it is unlawful for any  
12 person to create, deliver, or possess a counterfeit substance.

13 (1) Any person who violates this subsection with respect to:

14 (i) a counterfeit substance classified in Schedule I or II which is  
15 a narcotic drug, or flunitrazepam classified in Schedule IV, is guilty  
16 of a crime and upon conviction may be imprisoned for not more than ten  
17 years, fined not more than twenty-five thousand dollars, or both;

18 (ii) a counterfeit substance which is methamphetamine, is guilty of  
19 a crime and upon conviction may be imprisoned for not more than ten  
20 years, fined not more than twenty-five thousand dollars, or both;

21 (iii) any other counterfeit substance classified in Schedule I, II,  
22 or III, is guilty of a crime and upon conviction may be imprisoned for  
23 not more than five years, fined not more than ten thousand dollars, or  
24 both;

25 (iv) a counterfeit substance classified in Schedule IV, except  
26 flunitrazepam, is guilty of a crime and upon conviction may be  
27 imprisoned for not more than five years, fined not more than ten  
28 thousand dollars, or both;

29 (v) a counterfeit substance classified in Schedule V, is guilty of  
30 a crime and upon conviction may be imprisoned for not more than five  
31 years, fined not more than ten thousand dollars, or both.

32 (c) It is unlawful, except as authorized in this chapter and  
33 chapter 69.41 RCW, for any person to offer, arrange, or negotiate for  
34 the sale, gift, delivery, dispensing, distribution, or administration  
35 of a controlled substance to any person and then sell, give, deliver,  
36 dispense, distribute, or administer to that person any other liquid,  
37 substance, or material in lieu of such controlled substance. Any  
38 person who violates this subsection is guilty of a crime and upon

1 conviction may be imprisoned for not more than five years, fined not  
2 more than ten thousand dollars, or both.

3 (d) It is unlawful for any person to possess a controlled substance  
4 unless the substance was obtained directly from, or pursuant to, a  
5 valid prescription or order of a practitioner while acting in the  
6 course of his or her professional practice, or except as otherwise  
7 authorized by this chapter. Any person who violates this subsection is  
8 guilty of a crime, and upon conviction may be imprisoned for not more  
9 than five years, fined not more than ten thousand dollars, or both,  
10 except as provided for in subsection (e) of this section.

11 (e) Except as provided for in subsection (a)(1)(iii) of this  
12 section any person found guilty of possession of forty grams or less of  
13 marihuana shall be guilty of a misdemeanor.

14 (f) It is unlawful to compensate, threaten, solicit, or in any  
15 other manner involve a person under the age of eighteen years in a  
16 transaction unlawfully to manufacture, sell, or deliver a controlled  
17 substance. A violation of this subsection shall be punished as a class  
18 C felony punishable in accordance with RCW 9A.20.021.

19 This section shall not apply to offenses defined and punishable  
20 under the provisions of RCW 69.50.410.

21 **Sec. 2.** RCW 69.50.406 and 1996 c 205 s 7 are each amended to read  
22 as follows:

23 (a) Any person eighteen years of age or over who violates RCW  
24 69.50.401(a) by distributing a controlled substance listed in Schedules  
25 I or II which is a narcotic drug or methamphetamine, or flunitrazepam  
26 listed in Schedule IV, to a person under eighteen years of age is  
27 punishable by the fine authorized by RCW 69.50.401(a)(1) (i) or (ii),  
28 by a term of imprisonment of up to twice that authorized by RCW  
29 69.50.401(a)(1) (i) or (ii), or by both.

30 (b) Any person eighteen years of age or over who violates RCW  
31 69.50.401(a) by distributing any other controlled substance listed in  
32 Schedules I, II, III, IV, and V to a person under eighteen years of age  
33 who is at least three years his junior is punishable by the fine  
34 authorized by RCW 69.50.401(a)(1) (iii), (iv), or (v), by a term of  
35 imprisonment up to twice that authorized by RCW 69.50.401(a)(1) (iii),  
36 (iv), or (v), or both.

1       **Sec. 3.** RCW 9.94A.030 and 1997 c 365 s 1, 1997, c 340 s 4, 1997 c  
2 339 s 1, 1997 c 338 s 2, 1997 c 144 s 1, and 1997 c 70 s 1 are each  
3 reenacted and amended to read as follows:

4       Unless the context clearly requires otherwise, the definitions in  
5 this section apply throughout this chapter.

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

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

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

18       (4) "Community custody" means that portion of an inmate's sentence  
19 of confinement in lieu of earned early release time or imposed pursuant  
20 to RCW 9.94A.120 (6), (8), or (10) served in the community subject to  
21 controls placed on the inmate's movement and activities by the  
22 department of corrections.

23       (5) "Community placement" means that period during which the  
24 offender is subject to the conditions of community custody and/or  
25 postrelease supervision, which begins either upon completion of the  
26 term of confinement (postrelease supervision) or at such time as the  
27 offender is transferred to community custody in lieu of earned early  
28 release. Community placement may consist of entirely community  
29 custody, entirely postrelease supervision, or a combination of the two.

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

33       (7) "Community supervision" means a period of time during which a  
34 convicted offender is subject to crime-related prohibitions and other  
35 sentence conditions imposed by a court pursuant to this chapter or RCW  
36 16.52.200(6) or 46.61.524. For first-time offenders, the supervision  
37 may include crime-related prohibitions and other conditions imposed  
38 pursuant to RCW 9.94A.120(5). For purposes of the interstate compact  
39 for out-of-state supervision of parolees and probationers, RCW

1 9.95.270, community supervision is the functional equivalent of  
2 probation and should be considered the same as probation by other  
3 states.

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

6 (9) "Conviction" means an adjudication of guilt pursuant to Titles  
7 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and  
8 acceptance of a plea of guilty.

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

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

30 (12) "Criminal history" means the list of a defendant's prior  
31 convictions and juvenile adjudications, whether in this state, in  
32 federal court, or elsewhere. The history shall include, where known,  
33 for each conviction (a) whether the defendant has been placed on  
34 probation and the length and terms thereof; and (b) whether the  
35 defendant has been incarcerated and the length of incarceration.

36 (13) "Day fine" means a fine imposed by the sentencing judge that  
37 equals the difference between the offender's net daily income and the  
38 reasonable obligations that the offender has for the support of the  
39 offender and any dependents.

1 (14) "Day reporting" means a program of enhanced supervision  
2 designed to monitor the defendant's daily activities and compliance  
3 with sentence conditions, and in which the defendant is required to  
4 report daily to a specific location designated by the department or the  
5 sentencing judge.

6 (15) "Department" means the department of corrections.

7 (16) "Determinate sentence" means a sentence that states with  
8 exactitude the number of actual years, months, or days of total  
9 confinement, of partial confinement, of community supervision, the  
10 number of actual hours or days of community service work, or dollars or  
11 terms of a legal financial obligation. The fact that an offender  
12 through "earned early release" can reduce the actual period of  
13 confinement shall not affect the classification of the sentence as a  
14 determinate sentence.

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

27 (18) "Drug offense" means:

28 (a) Any felony violation of chapter 69.50 RCW except possession of  
29 a controlled substance (RCW 69.50.401(d)) or forged prescription for a  
30 controlled substance (RCW 69.50.403);

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

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

37 (19) "Escape" means:

38 (a) Escape in the first degree (RCW 9A.76.110), escape in the  
39 second degree (RCW 9A.76.120), willful failure to return from furlough

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

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

7 (20) "Felony traffic offense" means:

8 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
9 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-  
10 and-run injury-accident (RCW 46.52.020(4)); or

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

14 (21) "Fines" means the requirement that the offender pay a specific  
15 sum of money over a specific period of time to the court.

16 (22) "First-time offender" means any person who is convicted of a  
17 felony (a) not classified as a violent offense or a sex offense under  
18 this chapter, or (b) that is not the manufacture, delivery, or  
19 possession with intent to manufacture or deliver a controlled substance  
20 classified in Schedule I or II that is a narcotic drug or flunitrazepam  
21 classified in Schedule IV, nor the manufacture, delivery, or possession  
22 with intent to deliver methamphetamine, its salts, isomers, and salts  
23 of its isomers as defined in RCW 69.50.206(d)(2), nor the selling for  
24 profit of any controlled substance or counterfeit substance classified  
25 in Schedule I, RCW 69.50.204, except leaves and flowering tops of  
26 marihuana, who previously has never been convicted of a felony in this  
27 state, federal court, or another state, and who has never participated  
28 in a program of deferred prosecution for a felony offense.

29 (23) "Most serious offense" means any of the following felonies or  
30 a felony attempt to commit any of the following felonies, as now  
31 existing or hereafter amended:

32 (a) Any felony defined under any law as a class A felony or  
33 criminal solicitation of or criminal conspiracy to commit a class A  
34 felony;

35 (b) Assault in the second degree;

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

37 (d) Child molestation in the second degree;

38 (e) Controlled substance homicide;

39 (f) Extortion in the first degree;

1 (g) Incest when committed against a child under age fourteen;  
2 (h) Indecent liberties;  
3 (i) Kidnapping in the second degree;  
4 (j) Leading organized crime;  
5 (k) Manslaughter in the first degree;  
6 (l) Manslaughter in the second degree;  
7 (m) Promoting prostitution in the first degree;  
8 (n) Rape in the third degree;  
9 (o) Robbery in the second degree;  
10 (p) Sexual exploitation;  
11 (q) Vehicular assault;  
12 (r) Vehicular homicide, when proximately caused by the driving of  
13 any vehicle by any person while under the influence of intoxicating  
14 liquor or any drug as defined by RCW 46.61.502, or by the operation of  
15 any vehicle in a reckless manner;  
16 (s) Any other class B felony offense with a finding of sexual  
17 motivation, as "sexual motivation" is defined under this section;  
18 (t) Any other felony with a deadly weapon verdict under RCW  
19 9.94A.125;  
20 (u) Any felony offense in effect at any time prior to December 2,  
21 1993, that is comparable to a most serious offense under this  
22 subsection, or any federal or out-of-state conviction for an offense  
23 that under the laws of this state would be a felony classified as a  
24 most serious offense under this subsection;  
25 (v)(i) A prior conviction for indecent liberties under RCW  
26 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.  
27 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as  
28 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)  
29 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;  
30 (ii) A prior conviction for indecent liberties under RCW  
31 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,  
32 if: (A) The crime was committed against a child under the age of  
33 fourteen; or (B) the relationship between the victim and perpetrator is  
34 included in the definition of indecent liberties under RCW  
35 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,  
36 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,  
37 through July 27, 1997.  
38 (24) "Nonviolent offense" means an offense which is not a violent  
39 offense.



1 (25) "Offender" means a person who has committed a felony  
2 established by state law and is eighteen years of age or older or is  
3 less than eighteen years of age but whose case is under superior court  
4 jurisdiction under RCW 13.04.030 or has been transferred by the  
5 appropriate juvenile court to a criminal court pursuant to RCW  
6 13.40.110. Throughout this chapter, the terms "offender" and  
7 "defendant" are used interchangeably.

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

16 (27) "Persistent offender" is an offender who:

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

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

27 (b)(i) Has been convicted of: (A) Rape in the first degree, rape  
28 of a child in the first degree, child molestation in the first degree,  
29 rape in the second degree, rape of a child in the second degree, or  
30 indecent liberties by forcible compulsion; (B) murder in the first  
31 degree, murder in the second degree, homicide by abuse, kidnapping in  
32 the first degree, kidnapping in the second degree, assault in the first  
33 degree, assault in the second degree, assault of a child in the first  
34 degree, or burglary in the first degree, with a finding of sexual  
35 motivation; or (C) an attempt to commit any crime listed in this  
36 subsection (27)(b)(i); and

37 (ii) Has, before the commission of the offense under (b)(i) of this  
38 subsection, been convicted as an offender on at least one occasion,  
39 whether in this state or elsewhere, of an offense listed in (b)(i) of

1 this subsection. A conviction for rape of a child in the first degree  
2 constitutes a conviction under subsection (27)(b)(i) only when the  
3 offender was sixteen years of age or older when the offender committed  
4 the offense. A conviction for rape of a child in the second degree  
5 constitutes a conviction under subsection (27)(b)(i) only when the  
6 offender was eighteen years of age or older when the offender committed  
7 the offense.

8 (28) "Postrelease supervision" is that portion of an offender's  
9 community placement that is not community custody.

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

14 (30) "Serious traffic offense" means:

15 (a) Driving while under the influence of intoxicating liquor or any  
16 drug (RCW 46.61.502), actual physical control while under the influence  
17 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving  
18 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));  
19 or

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

23 (31) "Serious violent offense" is a subcategory of violent offense  
24 and means:

25 (a) Murder in the first degree, homicide by abuse, murder in the  
26 second degree, manslaughter in the first degree, assault in the first  
27 degree, kidnapping in the first degree, or rape in the first degree,  
28 assault of a child in the first degree, or an attempt, criminal  
29 solicitation, or criminal conspiracy to commit one of these felonies;  
30 or

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

34 (32) "Sentence range" means the sentencing court's discretionary  
35 range in imposing a nonappealable sentence.

36 (33) "Sex offense" means:

37 (a) A felony that is a violation of chapter 9A.44 RCW or RCW  
38 9A.64.020 or 9.68A.090 or a felony that is, under chapter 9A.28 RCW, a

1 criminal attempt, criminal solicitation, or criminal conspiracy to  
2 commit such crimes;

3 (b) A felony with a finding of sexual motivation under RCW  
4 9.94A.127 or 13.40.135; or

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

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

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

15 (36) "Transition training" means written and verbal instructions  
16 and assistance provided by the department to the offender during the  
17 two weeks prior to the offender's successful completion of the work  
18 ethic camp program. The transition training shall include instructions  
19 in the offender's requirements and obligations during the offender's  
20 period of community custody.

21 (37) "Victim" means any person who has sustained emotional,  
22 psychological, physical, or financial injury to person or property as  
23 a direct result of the crime charged.

24 (38) "Violent offense" means:

25 (a) Any of the following felonies, as now existing or hereafter  
26 amended: Any felony defined under any law as a class A felony or an  
27 attempt to commit a class A felony, criminal solicitation of or  
28 criminal conspiracy to commit a class A felony, manslaughter in the  
29 first degree, manslaughter in the second degree, indecent liberties if  
30 committed by forcible compulsion, kidnapping in the second degree,  
31 arson in the second degree, assault in the second degree, assault of a  
32 child in the second degree, extortion in the first degree, robbery in  
33 the second degree, drive-by shooting, vehicular assault, and vehicular  
34 homicide, when proximately caused by the driving of any vehicle by any  
35 person while under the influence of intoxicating liquor or any drug as  
36 defined by RCW 46.61.502, or by the operation of any vehicle in a  
37 reckless manner;

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

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

7 (39) "Work crew" means a program of partial confinement consisting  
8 of civic improvement tasks for the benefit of the community of not less  
9 than thirty-five hours per week that complies with RCW 9.94A.135. The  
10 civic improvement tasks shall have minimal negative impact on existing  
11 private industries or the labor force in the county where the service  
12 or labor is performed. The civic improvement tasks shall not affect  
13 employment opportunities for people with developmental disabilities  
14 contracted through sheltered workshops as defined in RCW 82.04.385.  
15 Only those offenders sentenced to a facility operated or utilized under  
16 contract by a county or the state are eligible to participate on a work  
17 crew. Offenders sentenced for a sex offense as defined in subsection  
18 (33) of this section are not eligible for the work crew program.

19 (40) "Work ethic camp" means an alternative incarceration program  
20 designed to reduce recidivism and lower the cost of corrections by  
21 requiring offenders to complete a comprehensive array of real-world job  
22 and vocational experiences, character-building work ethics training,  
23 life management skills development, substance abuse rehabilitation,  
24 counseling, literacy training, and basic adult education.

25 (41) "Work release" means a program of partial confinement  
26 available to offenders who are employed or engaged as a student in a  
27 regular course of study at school. Participation in work release shall  
28 be conditioned upon the offender attending work or school at regularly  
29 defined hours and abiding by the rules of the work release facility.

30 (42) "Home detention" means a program of partial confinement  
31 available to offenders wherein the offender is confined in a private  
32 residence subject to electronic surveillance.

33 **Sec. 4.** RCW 9.94A.320 and 1997 c 365 s 4, 1997 c 346 s 3, 1997 c  
34 340 s 1, 1997 c 338 s 51, 1997 c 266 s 15, and 1997 c 120 s 5 are each  
35 reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

1		
2		
3	XV	Aggravated Murder 1 (RCW 10.95.020)
4	XIV	Murder 1 (RCW 9A.32.030)
5		Homicide by abuse (RCW 9A.32.055)
6		Malicious explosion 1 (RCW 70.74.280(1))
7	XIII	Murder 2 (RCW 9A.32.050)
8		Malicious explosion 2 (RCW 70.74.280(2))
9		Malicious placement of an explosive 1 (RCW
10		70.74.270(1))
11	XII	Assault 1 (RCW 9A.36.011)
12		Assault of a Child 1 (RCW 9A.36.120)
13		Rape 1 (RCW 9A.44.040)
14		Rape of a Child 1 (RCW 9A.44.073)
15		Malicious placement of an imitation device
16		1 (RCW 70.74.272(1)(a))
17	XI	Rape 2 (RCW 9A.44.050)
18		Rape of a Child 2 (RCW 9A.44.076)
19		Manslaughter 1 (RCW 9A.32.060)
20	X	Kidnapping 1 (RCW 9A.40.020)
21		Child Molestation 1 (RCW 9A.44.083)
22		Malicious explosion 3 (RCW 70.74.280(3))
23		Over 18 and deliver heroin ( <del>(or)</del> ), <u>a</u>
24		narcotic from Schedule I or II, <u>or</u>
25		<u>flunitrazepam from Schedule IV</u> to
26		someone under 18 (RCW 69.50.406)
27		Leading Organized Crime (RCW
28		9A.82.060(1)(a))
29		Indecent Liberties (with forcible
30		compulsion) (RCW 9A.44.100(1)(a))
31	IX	Assault of a Child 2 (RCW 9A.36.130)
32		Robbery 1 (RCW 9A.56.200)
33		Explosive devices prohibited (RCW
34		70.74.180)

1 Malicious placement of an explosive 2 (RCW  
2 70.74.270(2))  
3 Over 18 and deliver narcotic from Schedule  
4 III, IV, or V or a nonnarcotic, except  
5 flunitrazepam, from Schedule I-V to  
6 someone under 18 and 3 years junior  
7 (RCW 69.50.406)  
8 Controlled Substance Homicide (RCW  
9 69.50.415)  
10 Sexual Exploitation (RCW 9.68A.040)  
11 Inciting Criminal Profiteering (RCW  
12 9A.82.060(1)(b))  
13 Vehicular Homicide, by being under the  
14 influence of intoxicating liquor or  
15 any drug (RCW 46.61.520)  
16 VIII Arson 1 (RCW 9A.48.020)  
17 Promoting Prostitution 1 (RCW 9A.88.070)  
18 Selling for profit (controlled or  
19 counterfeit) any controlled substance  
20 (RCW 69.50.410)  
21 Manufacture, deliver, or possess with  
22 intent to deliver heroin or cocaine  
23 (RCW 69.50.401(a)(1)(i))  
24 Manufacture, deliver, or possess with  
25 intent to deliver methamphetamine (RCW  
26 69.50.401(a)(1)(ii))  
27 Possession of ephedrine or pseudoephedrine  
28 with intent to manufacture  
29 methamphetamine (RCW 69.50.440)  
30 Vehicular Homicide, by the operation of any  
31 vehicle in a reckless manner (RCW  
32 46.61.520)  
33 Manslaughter 2 (RCW 9A.32.070)  
34 VII Burglary 1 (RCW 9A.52.020)  
35 Vehicular Homicide, by disregard for the  
36 safety of others (RCW 46.61.520)  
37 Introducing Contraband 1 (RCW 9A.76.140)

1 Indecent Liberties (without forcible  
2 compulsion) (RCW 9A.44.100(1) (b) and  
3 (c))  
4 Child Molestation 2 (RCW 9A.44.086)  
5 Dealing in depictions of minor engaged in  
6 sexually explicit conduct (RCW  
7 9.68A.050)  
8 Sending, bringing into state depictions of  
9 minor engaged in sexually explicit  
10 conduct (RCW 9.68A.060)  
11 Involving a minor in drug dealing (RCW  
12 69.50.401(f))  
13 Drive-by Shooting (RCW 9A.36.045)  
14 Unlawful Possession of a Firearm in the  
15 first degree (RCW 9.41.040(1)(a))  
16 Malicious placement of an explosive 3 (RCW  
17 70.74.270(3))  
18 VI Bribery (RCW 9A.68.010)  
19 Rape of a Child 3 (RCW 9A.44.079)  
20 Intimidating a Juror/Witness (RCW  
21 9A.72.110, 9A.72.130)  
22 Malicious placement of an imitation device  
23 2 (RCW 70.74.272(1)(b))  
24 Incest 1 (RCW 9A.64.020(1))  
25 Manufacture, deliver, or possess with  
26 intent to deliver narcotics from  
27 Schedule I or II (except heroin or  
28 cocaine) or flunitrazepam from  
29 Schedule IV (RCW 69.50.401(a)(1)(i))  
30 Intimidating a Judge (RCW 9A.72.160)  
31 Bail Jumping with Murder 1 (RCW  
32 9A.76.170(2)(a))  
33 Theft of a Firearm (RCW 9A.56.300)  
34 V Persistent prison misbehavior (RCW  
35 9.94.070)  
36 Criminal Mistreatment 1 (RCW 9A.42.020)  
37 Abandonment of dependent person 1 (RCW  
38 9A.42.060)

1 Rape 3 (RCW 9A.44.060)  
2 Sexual Misconduct with a Minor 1 (RCW  
3 9A.44.093)  
4 Child Molestation 3 (RCW 9A.44.089)  
5 Kidnapping 2 (RCW 9A.40.030)  
6 Extortion 1 (RCW 9A.56.120)  
7 Incest 2 (RCW 9A.64.020(2))  
8 Perjury 1 (RCW 9A.72.020)  
9 Extortionate Extension of Credit (RCW  
10 9A.82.020)  
11 Advancing money or property for  
12 extortionate extension of credit (RCW  
13 9A.82.030)  
14 Extortionate Means to Collect Extensions of  
15 Credit (RCW 9A.82.040)  
16 Rendering Criminal Assistance 1 (RCW  
17 9A.76.070)  
18 Bail Jumping with class A Felony (RCW  
19 9A.76.170(2)(b))  
20 Sexually Violating Human Remains (RCW  
21 9A.44.105)  
22 Delivery of imitation controlled substance  
23 by person eighteen or over to person  
24 under eighteen (RCW 69.52.030(2))  
25 Possession of a Stolen Firearm (RCW  
26 9A.56.310)

27 IV Residential Burglary (RCW 9A.52.025)  
28 Theft of Livestock 1 (RCW 9A.56.080)  
29 Robbery 2 (RCW 9A.56.210)  
30 Assault 2 (RCW 9A.36.021)  
31 Escape 1 (RCW 9A.76.110)  
32 Arson 2 (RCW 9A.48.030)  
33 Commercial Bribery (RCW 9A.68.060)  
34 Bribing a Witness/Bribe Received by Witness  
35 (RCW 9A.72.090, 9A.72.100)  
36 Malicious Harassment (RCW 9A.36.080)  
37 Threats to Bomb (RCW 9.61.160)  
38 Willful Failure to Return from Furlough  
39 (RCW 72.66.060)



1 Hit and Run--Injury Accident (RCW  
2 46.52.020(4))  
3 Hit and Run with Vessel--Injury Accident  
4 (RCW 88.12.155(3))  
5 Vehicular Assault (RCW 46.61.522)  
6 Manufacture, deliver, or possess with  
7 intent to deliver narcotics from  
8 Schedule III, IV, or V or nonnarcotics  
9 from Schedule I-V (except marijuana  
10 ((or)), methamphetamines, or  
11 flunitrazepam) (RCW 69.50.401 (a)(1)  
12 (iii) through (v))  
13 Influencing Outcome of Sporting Event (RCW  
14 9A.82.070)  
15 Use of Proceeds of Criminal Profiteering  
16 (RCW 9A.82.080 (1) and (2))  
17 Knowingly Trafficking in Stolen Property  
18 (RCW 9A.82.050(2))  
19 III Criminal Gang Intimidation (RCW 9A.46.120)  
20 Criminal Mistreatment 2 (RCW 9A.42.030)  
21 Abandonment of dependent person 2 (RCW  
22 9A.42.070)  
23 Extortion 2 (RCW 9A.56.130)  
24 Unlawful Imprisonment (RCW 9A.40.040)  
25 Assault 3 (RCW 9A.36.031)  
26 Assault of a Child 3 (RCW 9A.36.140)  
27 Custodial Assault (RCW 9A.36.100)  
28 Unlawful possession of firearm in the  
29 second degree (RCW 9.41.040(1)(b))  
30 Harassment (RCW 9A.46.020)  
31 Promoting Prostitution 2 (RCW 9A.88.080)  
32 Willful Failure to Return from Work Release  
33 (RCW 72.65.070)  
34 Burglary 2 (RCW 9A.52.030)  
35 Introducing Contraband 2 (RCW 9A.76.150)  
36 Communication with a Minor for Immoral  
37 Purposes (RCW 9.68A.090)  
38 Patronizing a Juvenile Prostitute (RCW  
39 9.68A.100)

1 Escape 2 (RCW 9A.76.120)  
2 Perjury 2 (RCW 9A.72.030)  
3 Bail Jumping with class B or C Felony (RCW  
4 9A.76.170(2)(c))  
5 Intimidating a Public Servant (RCW  
6 9A.76.180)  
7 Tampering with a Witness (RCW 9A.72.120)  
8 Manufacture, deliver, or possess with  
9 intent to deliver marijuana (RCW  
10 69.50.401(a)(1)(iii))  
11 Delivery of a material in lieu of a  
12 controlled substance (RCW  
13 69.50.401(c))  
14 Manufacture, distribute, or possess with  
15 intent to distribute an imitation  
16 controlled substance (RCW  
17 69.52.030(1))  
18 Recklessly Trafficking in Stolen Property  
19 (RCW 9A.82.050(1))  
20 Theft of livestock 2 (RCW 9A.56.080)  
21 Securities Act violation (RCW 21.20.400)  
22 II Unlawful Practice of Law (RCW 2.48.180)  
23 Malicious Mischief 1 (RCW 9A.48.070)  
24 Possession of Stolen Property 1 (RCW  
25 9A.56.150)  
26 Theft 1 (RCW 9A.56.030)  
27 Class B Felony Theft of Rental, Leased, or  
28 Lease-purchased Property (RCW  
29 9A.56.096(4))  
30 Trafficking in Insurance Claims (RCW  
31 48.30A.015)  
32 Unlicensed Practice of a Profession or  
33 Business (RCW 18.130.190(7))  
34 Health Care False Claims (RCW 48.80.030)  
35 Possession of controlled substance that is  
36 either heroin or narcotics from  
37 Schedule I or II or flunitrazepam from  
38 Schedule IV (RCW 69.50.401(d))

1 Possession of phencyclidine (PCP) (RCW  
2 69.50.401(d))  
3 Create, deliver, or possess a counterfeit  
4 controlled substance (RCW  
5 69.50.401(b))  
6 Computer Trespass 1 (RCW 9A.52.110)  
7 Escape from Community Custody (RCW  
8 72.09.310)

9 I Theft 2 (RCW 9A.56.040)  
10 Class C Felony Theft of Rental, Leased, or  
11 Lease-purchased Property (RCW  
12 9A.56.096(4))  
13 Possession of Stolen Property 2 (RCW  
14 9A.56.160)  
15 Forgery (RCW 9A.60.020)  
16 Taking Motor Vehicle Without Permission  
17 (RCW 9A.56.070)  
18 Vehicle Prowl 1 (RCW 9A.52.095)  
19 Attempting to Elude a Pursuing Police  
20 Vehicle (RCW 46.61.024)  
21 Malicious Mischief 2 (RCW 9A.48.080)  
22 Reckless Burning 1 (RCW 9A.48.040)  
23 Unlawful Issuance of Checks or Drafts (RCW  
24 9A.56.060)  
25 Unlawful Use of Food Stamps (RCW 9.91.140  
26 (2) and (3))  
27 False Verification for Welfare (RCW  
28 74.08.055)  
29 Forged Prescription (RCW 69.41.020)  
30 Forged Prescription for a Controlled  
31 Substance (RCW 69.50.403)  
32 Possess Controlled Substance that is a  
33 Narcotic from Schedule III, IV, or V  
34 or Non-narcotic from Schedule I-V  
35 (except phencyclidine or  
36 flunitrazepam) (RCW 69.50.401(d))

37 **Sec. 5.** RCW 13.40.0357 and 1997 c 338 s 12 and 1997 c 66 s 6 are  
38 each reenacted and amended to read as follows:

**DESCRIPTION AND OFFENSE CATEGORY**

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JUVENILE DISPOSITION	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)

.....

**Arson and Malicious Mischief**

A	Arson 1 (9A.48.020)	B+
B	Arson 2 (9A.48.030)	C
C	Reckless Burning 1 (9A.48.040)	D
D	Reckless Burning 2 (9A.48.050)	E
B	Malicious Mischief 1 (9A.48.070)	C
C	Malicious Mischief 2 (9A.48.080)	D
D	Malicious Mischief 3 (<\$50 is	
	E class) (9A.48.090)	E
E	Tampering with Fire Alarm	
	Apparatus (9.40.100)	E
A	Possession of Incendiary Device	
	(9.40.120)	B+

**Assault and Other Crimes**

**Involving Physical Harm**

A	Assault 1 (9A.36.011)	B+
B+	Assault 2 (9A.36.021)	C+
C+	Assault 3 (9A.36.031)	D+
D+	Assault 4 (9A.36.041)	E
B+	Drive-By Shooting	
	(9A.36.045)	C+
D+	Reckless Endangerment	
	(9A.36.050)	E
C+	Promoting Suicide Attempt	
	(9A.36.060)	D+
D+	Coercion (9A.36.070)	E
C+	Custodial Assault (9A.36.100)	D+

**Burglary and Trespass**

B+	Burglary 1 (9A.52.020)	C+
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1	B	Residential Burglary	
2		(9A.52.025)	C
3	B	Burglary 2 (9A.52.030)	C
4	D	Burglary Tools (Possession of)	
5		(9A.52.060)	E
6	D	Criminal Trespass 1 (9A.52.070)	E
7	E	Criminal Trespass 2 (9A.52.080)	E
8	C	Vehicle Prowling 1 (9A.52.095)	D
9	D	Vehicle Prowling 2 (9A.52.100)	E
10		<b>Drugs</b>	
11	E	Possession/Consumption of Alcohol	
12		(66.44.270)	E
13	C	Illegally Obtaining Legend Drug	
14		(69.41.020)	D
15	C+	Sale, Delivery, Possession of Legend	
16		Drug with Intent to Sell	
17		(69.41.030)	D+
18	E	Possession of Legend Drug	
19		(69.41.030)	E
20	B+	Violation of Uniform Controlled	
21		Substances Act - Narcotic (( <del>o</del> )),	
22		<u>Methamphetamine, or Flunitrazepam</u>	
23		Sale (69.50.401(a)(1)(i) or (ii))	B+
24	C	Violation of Uniform Controlled	
25		Substances Act - Nonnarcotic Sale	
26		(69.50.401(a)(1)(iii))	C
27	E	Possession of Marihuana <40 grams	
28		(69.50.401(e))	E
29	C	Fraudulently Obtaining Controlled	
30		Substance (69.50.403)	C
31	C+	Sale of Controlled Substance	
32		for Profit (69.50.410)	C+
33	E	Unlawful Inhalation (9.47A.020)	E
34	B	Violation of Uniform Controlled	
35		Substances Act - Narcotic (( <del>o</del> )),	
36		<u>Methamphetamine, or Flunitrazepam</u>	
37		Counterfeit Substances	
38		(69.50.401(b)(1)(i) or (ii))	B

1	C	Violation of Uniform Controlled	
2		Substances Act - Nonnarcotic	
3		Counterfeit Substances	
4		(69.50.401(b)(1) (iii), (iv), (v))	C
5	C	Violation of Uniform Controlled	
6		Substances Act - Possession of a	
7		Controlled Substance	
8		(69.50.401(d))	C
9	C	Violation of Uniform Controlled	
10		Substances Act - Possession of a	
11		Controlled Substance	
12		(69.50.401(c))	C
13		<b>Firearms and Weapons</b>	
14	B	Theft of Firearm (9A.56.300)	C
15	B	Possession of Stolen Firearm	
16		(9A.56.310)	C
17	E	Carrying Loaded Pistol Without	
18		Permit (9.41.050)	E
19	C	Possession of Firearms by Minor (<18)	
20		(9.41.040(1) (b) (iii))	C
21	D+	Possession of Dangerous Weapon	
22		(9.41.250)	E
23	D	Intimidating Another Person by use	
24		of Weapon (9.41.270)	E
25		<b>Homicide</b>	
26	A+	Murder 1 (9A.32.030)	A
27	A+	Murder 2 (9A.32.050)	B+
28	B+	Manslaughter 1 (9A.32.060)	C+
29	C+	Manslaughter 2 (9A.32.070)	D+
30	B+	Vehicular Homicide (46.61.520)	C+
31		<b>Kidnapping</b>	
32	A	Kidnap 1 (9A.40.020)	B+
33	B+	Kidnap 2 (9A.40.030)	C+
34	C+	Unlawful Imprisonment	
35		(9A.40.040)	D+

1		<b>Obstructing Governmental Operation</b>	
2	D	Obstructing a Law Enforcement	
3		Officer (9A.76.020)	E
4	E	Resisting Arrest (9A.76.040)	E
5	B	Introducing Contraband 1	
6		(9A.76.140)	C
7	C	Introducing Contraband 2	
8		(9A.76.150)	D
9	E	Introducing Contraband 3	
10		(9A.76.160)	E
11	B+	Intimidating a Public Servant	
12		(9A.76.180)	C+
13	B+	Intimidating a Witness	
14		(9A.72.110)	C+
15		<b>Public Disturbance</b>	
16	C+	Riot with Weapon (9A.84.010)	D+
17	D+	Riot Without Weapon	
18		(9A.84.010)	E
19	E	Failure to Disperse (9A.84.020)	E
20	E	Disorderly Conduct (9A.84.030)	E
21		<b>Sex Crimes</b>	
22	A	Rape 1 (9A.44.040)	B+
23	A-	Rape 2 (9A.44.050)	B+
24	C+	Rape 3 (9A.44.060)	D+
25	A-	Rape of a Child 1 (9A.44.073)	B+
26	B+	Rape of a Child 2 (9A.44.076)	C+
27	B	Incest 1 (9A.64.020(1))	C
28	C	Incest 2 (9A.64.020(2))	D
29	D+	Indecent Exposure	
30		(Victim <14) (9A.88.010)	E
31	E	Indecent Exposure	
32		(Victim 14 or over) (9A.88.010)	E
33	B+	Promoting Prostitution 1	
34		(9A.88.070)	C+
35	C+	Promoting Prostitution 2	
36		(9A.88.080)	D+
37	E	O & A (Prostitution) (9A.88.030)	E
38	B+	Indecent Liberties (9A.44.100)	C+

1	A-	Child Molestation 1 (9A.44.083)	B+
2	B	Child Molestation 2 (9A.44.086)	C+
3		<b>Theft, Robbery, Extortion, and Forgery</b>	
4	B	Theft 1 (9A.56.030)	C
5	C	Theft 2 (9A.56.040)	D
6	D	Theft 3 (9A.56.050)	E
7	B	Theft of Livestock (9A.56.080)	C
8	C	Forgery (9A.60.020)	D
9	A	Robbery 1 (9A.56.200)	B+
10	B+	Robbery 2 (9A.56.210)	C+
11	B+	Extortion 1 (9A.56.120)	C+
12	C+	Extortion 2 (9A.56.130)	D+
13	B	Possession of Stolen Property 1	
14		(9A.56.150)	C
15	C	Possession of Stolen Property 2	
16		(9A.56.160)	D
17	D	Possession of Stolen Property 3	
18		(9A.56.170)	E
19	C	Taking Motor Vehicle Without	
20		Owner's Permission (9A.56.070)	D
21		<b>Motor Vehicle Related Crimes</b>	
22	E	Driving Without a License	
23		(46.20.005)	E
24	C	Hit and Run - Injury	
25		(46.52.020(4))	D
26	D	Hit and Run-Attended	
27		(46.52.020(5))	E
28	E	Hit and Run-Unattended	
29		(46.52.010)	E
30	C	Vehicular Assault (46.61.522)	D
31	C	Attempting to Elude Pursuing	
32		Police Vehicle (46.61.024)	D
33	E	Reckless Driving (46.61.500)	E
34	D	Driving While Under the Influence	
35		(46.61.502 and 46.61.504)	E
36		<b>Other</b>	
37	B	Bomb Threat (9.61.160)	C
38	C	Escape 1 (9A.76.110)	C



1	C	Escape 2 (9A.76.120)	C
2	D	Escape 3 (9A.76.130)	E
3	E	Obscene, Harassing, Etc.,	
4		Phone Calls (9.61.230)	E
5	A	Other Offense Equivalent to an	
6		Adult Class A Felony	B+
7	B	Other Offense Equivalent to an	
8		Adult Class B Felony	C
9	C	Other Offense Equivalent to an	
10		Adult Class C Felony	D
11	D	Other Offense Equivalent to an	
12		Adult Gross Misdemeanor	E
13	E	Other Offense Equivalent to an	
14		Adult Misdemeanor	E
15	V	Violation of Order of Restitution,	
16		Community Supervision, or	
17		Confinement (13.40.200)	V

18 Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses  
19 and the standard range is established as follows:

- 20 1st escape or attempted escape during 12-month period - 4 weeks
- 21 confinement
- 22 2nd escape or attempted escape during 12-month period - 8 weeks
- 23 confinement
- 24 3rd and subsequent escape or attempted escape during 12-month
- 25 period - 12 weeks confinement

26 If the court finds that a respondent has violated terms of an order,  
27 it may impose a penalty of up to 30 days of confinement.

28 **JUVENILE SENTENCING STANDARDS**

29 This schedule must be used for juvenile offenders. The court may  
30 select sentencing option A, B, or C.

**OPTION A**  
**JUVENILE OFFENDER SENTENCING GRID**  
**STANDARD RANGE**

4	<hr/>					
5	A+	180 WEEKS TO AGE 21 YEARS				
6	<hr/>					
7	A	103 WEEKS TO 129 WEEKS				
8	<hr/>					
9	A-	15-36	52-65	80-100	103-129	
10		WEEKS	WEEKS	WEEKS	WEEKS	
11		EXCEPT				
12		30-40				
13		WEEKS FOR				
14		15-17				
15		YEAR OLDS				
16	<hr/>					
17	Current	B+	15-36	52-65	80-100	103-129
18	Offense		WEEKS	WEEKS	WEEKS	WEEKS
19	Category	<hr/>				
20		B	LOCAL		52-65	
21			SANCTIONS (LS)	15-36 WEEKS	WEEKS	
22	<hr/>					
23		C+	LS			
24				15-36 WEEKS		
25	<hr/>					
26		C	LS	15-36 WEEKS		
27			Local Sanctions:			
28			0 to 30 Days			
29		D+	LS	0 to 12 Months Community Supervision		
30				0 to 150 Hours Community Service		
31		D	LS	\$0 to \$500 Fine		
32		E	LS			
33	<hr/>					
34			0	1	2	3
35						4 or more
			PRIOR ADJUDICATIONS			

36 NOTE: References in the grid to days or weeks mean periods of  
37 confinement.

38 (1) The vertical axis of the grid is the current offense category.  
39 The current offense category is determined by the offense of  
40 adjudication.

41 (2) The horizontal axis of the grid is the number of prior  
42 adjudications included in the juvenile's criminal history. Each prior  
43 felony adjudication shall count as one point. Each prior violation,

1 misdemeanor, and gross misdemeanor adjudication shall count as 1/4  
2 point. Fractional points shall be rounded down.

3 (3) The standard range disposition for each offense is determined  
4 by the intersection of the column defined by the prior adjudications  
5 and the row defined by the current offense category.

6 (4) RCW 13.40.180 applies if the offender is being sentenced for  
7 more than one offense.

8 (5) A current offense that is a violation is equivalent to an  
9 offense category of E. However, a disposition for a violation shall  
10 not include confinement.

11 OR

12 OPTION B

13 CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE

14 If the juvenile offender is subject to a standard range  
15 disposition of local sanctions or 15 to 36 weeks of confinement and has  
16 not committed an A- or B+ offense, the court may impose a disposition  
17 under RCW 13.40.160(5) and 13.40.165.

18 OR

19 OPTION C

20 MANIFEST INJUSTICE

21 If the court determines that a disposition under option A or B would  
22 effectuate a manifest injustice, the court shall impose a disposition  
23 outside the standard range under RCW 13.40.160(2).

24 **Sec. 6.** RCW 9A.44.050 and 1997 c 392 s 514 are each amended to  
25 read as follows:

26 (1) A person is guilty of rape in the second degree when, under  
27 circumstances not constituting rape in the first degree, the person  
28 engages in sexual intercourse with another person:

29 (a) By forcible compulsion;

30 (b) When the victim is incapable of consent by reason of being  
31 physically helpless or mentally incapacitated, including physical  
32 helplessness or mental incapacity induced by any controlled substance,  
33 and the perpetrator knows of the helplessness or incapacity;

1 (c) When the victim is developmentally disabled and the  
2 perpetrator is a person who is not married to the victim and who has  
3 supervisory authority over the victim;

4 (d) When the perpetrator is a health care provider, the victim is  
5 a client or patient, and the sexual intercourse occurs during a  
6 treatment session, consultation, interview, or examination. It is an  
7 affirmative defense that the defendant must prove by a preponderance of  
8 the evidence that the client or patient consented to the sexual  
9 intercourse with the knowledge that the sexual intercourse was not for  
10 the purpose of treatment;

11 (e) When the victim is a resident of a facility for mentally  
12 disordered or chemically dependent persons and the perpetrator is a  
13 person who is not married to the victim and has supervisory authority  
14 over the victim; or

15 (f) When the victim is a frail elder or vulnerable adult and the  
16 perpetrator is a person who is not married to the victim and who has a  
17 significant relationship with the victim.

18 (2) Rape in the second degree is a class A felony.

19 **Sec. 7.** RCW 9A.44.100 and 1997 c 392 s 515 are each amended to  
20 read as follows:

21 (1) A person is guilty of indecent liberties when he knowingly  
22 causes another person who is not his spouse to have sexual contact with  
23 him or another:

24 (a) By forcible compulsion;

25 (b) When the other person is incapable of consent by reason of  
26 being mentally defective, mentally incapacitated, or physically  
27 helpless, including mental incapacity or physical helplessness induced  
28 by any controlled substance, and the perpetrator knows of the defect,  
29 incapacity, or helplessness;

30 (c) When the victim is developmentally disabled and the  
31 perpetrator is a person who is not married to the victim and who has  
32 supervisory authority over the victim;

33 (d) When the perpetrator is a health care provider, the victim is  
34 a client or patient, and the sexual contact occurs during a treatment  
35 session, consultation, interview, or examination. It is an affirmative  
36 defense that the defendant must prove by a preponderance of the  
37 evidence that the client or patient consented to the sexual contact

1 with the knowledge that the sexual contact was not for the purpose of  
2 treatment;

3 (e) When the victim is a resident of a facility for mentally  
4 disordered or chemically dependent persons and the perpetrator is a  
5 person who is not married to the victim and has supervisory authority  
6 over the victim; or

7 (f) When the victim is a frail elder or vulnerable adult and the  
8 perpetrator is a person who is not married to the victim and who has a  
9 significant relationship with the victim.

10 (2) Indecent liberties is a class B felony.

11 NEW SECTION. **Sec. 8.** A new section is added to chapter 9A.44 RCW  
12 to read as follows:

13 Rape crisis centers, law enforcement, and hospital emergency rooms  
14 shall provide to all personnel investigating cases of sexual assault  
15 training on how to recognize the presence of sedating substances, how  
16 to test for the substances, and the appropriate chain of custody  
17 procedures to follow so that the evidence may be used in a court of  
18 law. The training required by this section may be incorporated into  
19 existing training programs.

20 NEW SECTION. **Sec. 9.** This act applies to crimes committed on or  
21 after July 1, 1998.

22 NEW SECTION. **Sec. 10.** This act takes effect July 1, 1998.

23 NEW SECTION. **Sec. 11.** If any provision of this act or its  
24 application to any person or circumstance is held invalid, the  
25 remainder of the act or the application of the provision to other  
26 persons or circumstances is not affected."

27 Correct the title.

28 EFFECT: Strikes original bill in its entirety, removing the so-  
29 called "chemical castration" provisions.

30 **Sections 1-5.** Removes language relating to "chemical castration"  
31 and make technical corrections by inserting new text in the current,  
32 rather than the previous version of, the statutes.

1           **Section 6.** Changes definition of crime of second degree rape to  
2 include helplessness or incapacity when the perpetrator has knowledge  
3 of victim's physical helplessness or mental incapacity.  
4           **Section 7.** Changes definition of crime of indecent liberties to  
5 include incapacity or helplessness induced by controlled substance when  
6 perpetrator has knowledge of victim's mental defect, mental incapacity,  
7 or physical helplessness.  
8           **Section 8.** Corresponds to Sec. 9 of original bill, and provides  
9 for training on recognition of sedating substances in sex crime  
10 investigations and evidence handling procedure.  
11           **Section 9.** Makes bill effective for crimes committed on or after  
12 July 1, 1998.  
13           **Section 11.** Adds severability clause.

--- END ---