
HOUSE BILL 2921

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1998 Regular Session

By Representatives Cairnes, O'Brien, Carrell, Sullivan and Conway

Read first time 01/22/98. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to residential burglary; amending RCW 9A.52.025,
2 9.41.010, 9.94A.185, 9.94A.360, 9A.46.060, 10.99.020, 13.40.020, and
3 71.09.020; reenacting and amending RCW 9.94A.030, 9.94A.320, 10.95.020,
4 13.40.0357, and 13.40.0357; adding a new section to chapter 9A.52 RCW;
5 prescribing penalties; and providing an effective date.

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

7 **Sec. 1.** RCW 9A.52.025 and 1989 2nd ex.s. c 1 s 1 are each amended
8 to read as follows:

9 (1) A person is guilty of residential burglary in the first degree
10 if, with intent to commit a crime against a person or property therein,
11 the person enters or remains unlawfully in a dwelling other than a
12 vehicle when someone other than an accomplice is present.

13 (2) Residential burglary in the first degree is a class B felony.
14 (~~In establishing sentencing guidelines and disposition standards, the~~
15 ~~sentencing guidelines commission and the juvenile disposition standards~~
16 ~~commission shall consider residential burglary as a more serious~~
17 ~~offense than second degree burglary.~~)

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 9A.52 RCW
2 to read as follows:

3 (1) A person is guilty of residential burglary in the second degree
4 if, under circumstances not amounting to residential burglary in the
5 first degree and with intent to commit a crime against a person or
6 property therein, the person enters or remains unlawfully in a dwelling
7 other than a vehicle.

8 (2) Residential burglary in the second degree is a class B felony.
9 In establishing sentencing guidelines and disposition standards, the
10 sentencing guidelines commission and the juvenile disposition standards
11 commission shall consider residential burglary in the second degree as
12 a more serious offense than second degree burglary.

13 **Sec. 3.** RCW 9.41.010 and 1997 c 338 s 46 are each amended to read
14 as follows:

15 Unless the context clearly requires otherwise, the definitions in
16 this section apply throughout this chapter.

17 (1) "Firearm" means a weapon or device from which a projectile or
18 projectiles may be fired by an explosive such as gunpowder.

19 (2) "Pistol" means any firearm with a barrel less than sixteen
20 inches in length, or is designed to be held and fired by the use of a
21 single hand.

22 (3) "Rifle" means a weapon designed or redesigned, made or remade,
23 and intended to be fired from the shoulder and designed or redesigned,
24 made or remade, and intended to use the energy of the explosive in a
25 fixed metallic cartridge to fire only a single projectile through a
26 rifled bore for each single pull of the trigger.

27 (4) "Short-barreled rifle" means a rifle having one or more barrels
28 less than sixteen inches in length and any weapon made from a rifle by
29 any means of modification if such modified weapon has an overall length
30 of less than twenty-six inches.

31 (5) "Shotgun" means a weapon with one or more barrels, designed or
32 redesigned, made or remade, and intended to be fired from the shoulder
33 and designed or redesigned, made or remade, and intended to use the
34 energy of the explosive in a fixed shotgun shell to fire through a
35 smooth bore either a number of ball shot or a single projectile for
36 each single pull of the trigger.

37 (6) "Short-barreled shotgun" means a shotgun having one or more
38 barrels less than eighteen inches in length and any weapon made from a

1 shotgun by any means of modification if such modified weapon has an
2 overall length of less than twenty-six inches.

3 (7) "Machine gun" means any firearm known as a machine gun,
4 mechanical rifle, submachine gun, or any other mechanism or instrument
5 not requiring that the trigger be pressed for each shot and having a
6 reservoir clip, disc, drum, belt, or other separable mechanical device
7 for storing, carrying, or supplying ammunition which can be loaded into
8 the firearm, mechanism, or instrument, and fired therefrom at the rate
9 of five or more shots per second.

10 (8) "Antique firearm" means a firearm or replica of a firearm not
11 designed or redesigned for using rim fire or conventional center fire
12 ignition with fixed ammunition and manufactured in or before 1898,
13 including any matchlock, flintlock, percussion cap, or similar type of
14 ignition system and also any firearm using fixed ammunition
15 manufactured in or before 1898, for which ammunition is no longer
16 manufactured in the United States and is not readily available in the
17 ordinary channels of commercial trade.

18 (9) "Loaded" means:

19 (a) There is a cartridge in the chamber of the firearm;

20 (b) Cartridges are in a clip that is locked in place in the
21 firearm;

22 (c) There is a cartridge in the cylinder of the firearm, if the
23 firearm is a revolver;

24 (d) There is a cartridge in the tube or magazine that is inserted
25 in the action; or

26 (e) There is a ball in the barrel and the firearm is capped or
27 primed if the firearm is a muzzle loader.

28 (10) "Dealer" means a person engaged in the business of selling
29 firearms at wholesale or retail who has, or is required to have, a
30 federal firearms license under 18 U.S.C. Sec. 923(a). A person who
31 does not have, and is not required to have, a federal firearms license
32 under 18 U.S.C. Sec. 923(a), is not a dealer if that person makes only
33 occasional sales, exchanges, or purchases of firearms for the
34 enhancement of a personal collection or for a hobby, or sells all or
35 part of his or her personal collection of firearms.

36 (11) "Crime of violence" means:

37 (a) Any of the following felonies, as now existing or hereafter
38 amended: Any felony defined under any law as a class A felony or an
39 attempt to commit a class A felony, criminal solicitation of or

1 criminal conspiracy to commit a class A felony, manslaughter in the
2 first degree, manslaughter in the second degree, indecent liberties if
3 committed by forcible compulsion, kidnapping in the second degree,
4 arson in the second degree, assault in the second degree, assault of a
5 child in the second degree, extortion in the first degree, burglary in
6 the second degree, residential burglary in the first or second degree,
7 and robbery in the second degree;

8 (b) Any conviction for a felony offense in effect at any time prior
9 to June 6, 1996, which is comparable to a felony classified as a crime
10 of violence in (a) of this subsection; and

11 (c) Any federal or out-of-state conviction for an offense
12 comparable to a felony classified as a crime of violence under (a) or
13 (b) of this subsection.

14 (12) "Serious offense" means any of the following felonies or a
15 felony attempt to commit any of the following felonies, as now existing
16 or hereafter amended:

17 (a) Any crime of violence;

18 (b) Any felony violation of the uniform controlled substances act,
19 chapter 69.50 RCW, that is classified as a class B felony or that has
20 a maximum term of imprisonment of at least ten years;

21 (c) Child molestation in the second degree;

22 (d) Incest when committed against a child under age fourteen;

23 (e) Indecent liberties;

24 (f) Leading organized crime;

25 (g) Promoting prostitution in the first degree;

26 (h) Rape in the third degree;

27 (i) Drive-by shooting;

28 (j) Sexual exploitation;

29 (k) Vehicular assault;

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

34 (m) Any other class B felony offense with a finding of sexual
35 motivation, as "sexual motivation" is defined under RCW 9.94A.030;

36 (n) Any other felony with a deadly weapon verdict under RCW
37 9.94A.125; or

38 (o) Any felony offense in effect at any time prior to June 6, 1996,
39 that is comparable to a serious offense, or any federal or out-of-state

1 conviction for an offense that under the laws of this state would be a
2 felony classified as a serious offense.

3 (13) "Law enforcement officer" includes a general authority
4 Washington peace officer as defined in RCW 10.93.020, or a specially
5 commissioned Washington peace officer as defined in RCW 10.93.020.
6 "Law enforcement officer" also includes a limited authority Washington
7 peace officer as defined in RCW 10.93.020 if such officer is duly
8 authorized by his or her employer to carry a concealed pistol.

9 (14) "Felony" means any felony offense under the laws of this state
10 or any federal or out-of-state offense comparable to a felony offense
11 under the laws of this state.

12 (15) "Sell" refers to the actual approval of the delivery of a
13 firearm in consideration of payment or promise of payment of a certain
14 price in money.

15 (16) "Barrel length" means the distance from the bolt face of a
16 closed action down the length of the axis of the bore to the crown of
17 the muzzle, or in the case of a barrel with attachments to the end of
18 any legal device permanently attached to the end of the muzzle.

19 (17) "Family or household member" means "family" or "household
20 member" as used in RCW 10.99.020.

21 **Sec. 4.** RCW 9.94A.030 and 1997 c 365 s 1, 1997 c 340 s 4, 1997 c
22 339 s 1, 1997 c 338 s 2, 1997 c 144 s 1, and 1997 c 70 s 1 are each
23 reenacted and amended to read as follows:

24 Unless the context clearly requires otherwise, the definitions in
25 this section apply throughout this chapter.

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

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

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

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

6 (5) "Community placement" means that period during which the
7 offender is subject to the conditions of community custody and/or
8 postrelease supervision, which begins either upon completion of the
9 term of confinement (postrelease supervision) or at such time as the
10 offender is transferred to community custody in lieu of earned early
11 release. Community placement may consist of entirely community
12 custody, entirely postrelease supervision, or a combination of the two.

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

16 (7) "Community supervision" means a period of time during which a
17 convicted offender is subject to crime-related prohibitions and other
18 sentence conditions imposed by a court pursuant to this chapter or RCW
19 16.52.200(6) or 46.61.524. For first-time offenders, the supervision
20 may include crime-related prohibitions and other conditions imposed
21 pursuant to RCW 9.94A.120(5). For purposes of the interstate compact
22 for out-of-state supervision of parolees and probationers, RCW
23 9.95.270, community supervision is the functional equivalent of
24 probation and should be considered the same as probation by other
25 states.

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

28 (9) "Conviction" means an adjudication of guilt pursuant to Titles
29 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
30 acceptance of a plea of guilty.

31 (10) "Court-ordered legal financial obligation" means a sum of
32 money that is ordered by a superior court of the state of Washington
33 for legal financial obligations which may include restitution to the
34 victim, statutorily imposed crime victims' compensation fees as
35 assessed pursuant to RCW 7.68.035, court costs, county or interlocal
36 drug funds, court-appointed attorneys' fees, and costs of defense,
37 fines, and any other financial obligation that is assessed to the
38 offender as a result of a felony conviction. Upon conviction for
39 vehicular assault while under the influence of intoxicating liquor or

1 any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the
2 influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a),
3 legal financial obligations may also include payment to a public agency
4 of the expense of an emergency response to the incident resulting in
5 the conviction, subject to the provisions in RCW 38.52.430.

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

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

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

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

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

29 (16) "Determinate sentence" means a sentence that states with
30 exactitude the number of actual years, months, or days of total
31 confinement, of partial confinement, of community supervision, the
32 number of actual hours or days of community service work, or dollars or
33 terms of a legal financial obligation. The fact that an offender
34 through "earned early release" can reduce the actual period of
35 confinement shall not affect the classification of the sentence as a
36 determinate sentence.

37 (17) "Disposable earnings" means that part of the earnings of an
38 individual remaining after the deduction from those earnings of any
39 amount required by law to be withheld. For the purposes of this

1 definition, "earnings" means compensation paid or payable for personal
2 services, whether denominated as wages, salary, commission, bonuses, or
3 otherwise, and, notwithstanding any other provision of law making the
4 payments exempt from garnishment, attachment, or other process to
5 satisfy a court-ordered legal financial obligation, specifically
6 includes periodic payments pursuant to pension or retirement programs,
7 or insurance policies of any type, but does not include payments made
8 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
9 or Title 74 RCW.

10 (18) "Drug offense" means:

11 (a) Any felony violation of chapter 69.50 RCW except possession of
12 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
13 controlled substance (RCW 69.50.403);

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

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

20 (19) "Escape" means:

21 (a) Escape in the first degree (RCW 9A.76.110), escape in the
22 second degree (RCW 9A.76.120), willful failure to return from furlough
23 (RCW 72.66.060), willful failure to return from work release (RCW
24 72.65.070), or willful failure to be available for supervision by the
25 department while in community custody (RCW 72.09.310); 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 an escape
28 under (a) of this subsection.

29 (20) "Felony traffic offense" means:

30 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
31 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
32 and-run injury-accident (RCW 46.52.020(4)); or

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

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

38 (22) "First-time offender" means any person who is convicted of a
39 felony (a) not classified as a violent offense or a sex offense under

1 this chapter, or (b) that is not the manufacture, delivery, or
2 possession with intent to manufacture or deliver a controlled substance
3 classified in schedule I or II that is a narcotic drug, nor the
4 manufacture, delivery, or possession with intent to deliver
5 methamphetamine, its salts, isomers, and salts of its isomers as
6 defined in RCW 69.50.206(d)(2), nor the selling for profit of any
7 controlled substance or counterfeit substance classified in schedule I,
8 RCW 69.50.204, except leaves and flowering tops of marihuana, who
9 previously has never been convicted of a felony in this state, federal
10 court, or another state, and who has never participated in a program of
11 deferred prosecution for a felony offense.

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

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

18 (b) Assault in the second degree;

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

20 (d) Child molestation in the second degree;

21 (e) Controlled substance homicide;

22 (f) Extortion in the first degree;

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

24 (h) Indecent liberties;

25 (i) Kidnapping in the second degree;

26 (j) Leading organized crime;

27 (k) Manslaughter in the first degree;

28 (l) Manslaughter in the second degree;

29 (m) Promoting prostitution in the first degree;

30 (n) Rape in the third degree;

31 (o) Robbery in the second degree;

32 (p) Sexual exploitation;

33 (q) Vehicular assault;

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

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

1 (t) Any other felony with a deadly weapon verdict under RCW
2 9.94A.125;

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

8 (v)(i) A prior conviction for indecent liberties under RCW
9 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
10 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
11 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
12 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

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

21 (w) A second or subsequent conviction by the same offender of
22 either residential burglary in the first degree or residential burglary
23 in the second degree.

24 (24) "Nonviolent offense" means an offense which is not a violent
25 offense.

26 (25) "Offender" means a person who has committed a felony
27 established by state law and is eighteen years of age or older or is
28 less than eighteen years of age but whose case is under superior court
29 jurisdiction under RCW 13.04.030 or has been transferred by the
30 appropriate juvenile court to a criminal court pursuant to RCW
31 13.40.110. Throughout this chapter, the terms "offender" and
32 "defendant" are used interchangeably.

33 (26) "Partial confinement" means confinement for no more than one
34 year in a facility or institution operated or utilized under contract
35 by the state or any other unit of government, or, if home detention or
36 work crew has been ordered by the court, in an approved residence, for
37 a substantial portion of each day with the balance of the day spent in
38 the community. Partial confinement includes work release, home

1 detention, work crew, and a combination of work crew and home detention
2 as defined in this section.

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

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

6 (ii) Has, before the commission of the offense under (a) of this
7 subsection, been convicted as an offender on at least two separate
8 occasions, whether in this state or elsewhere, of felonies that under
9 the laws of this state would be considered most serious offenses and
10 would be included in the offender score under RCW 9.94A.360; provided
11 that of the two or more previous convictions, at least one conviction
12 must have occurred before the commission of any of the other most
13 serious offenses for which the offender was previously convicted; or

14 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
15 of a child in the first degree, child molestation in the first degree,
16 rape in the second degree, rape of a child in the second degree, or
17 indecent liberties by forcible compulsion; (B) murder in the first
18 degree, murder in the second degree, homicide by abuse, kidnapping in
19 the first degree, kidnapping in the second degree, assault in the first
20 degree, assault in the second degree, assault of a child in the first
21 degree, or burglary in the first degree, with a finding of sexual
22 motivation; or (C) an attempt to commit any crime listed in this
23 subsection (27)(b)(i); and

24 (ii) Has, before the commission of the offense under (b)(i) of this
25 subsection, been convicted as an offender on at least one occasion,
26 whether in this state or elsewhere, of an offense listed in (b)(i) of
27 this subsection. A conviction for rape of a child in the first degree
28 constitutes a conviction under subsection (27)(b)(i) only when the
29 offender was sixteen years of age or older when the offender committed
30 the offense. A conviction for rape of a child in the second degree
31 constitutes a conviction under subsection (27)(b)(i) only when the
32 offender was eighteen years of age or older when the offender committed
33 the offense.

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

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

1 (30) "Serious traffic offense" means:

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

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

10 (31) "Serious violent offense" is a subcategory of violent offense
11 and means:

12 (a) Murder in the first degree, homicide by abuse, murder in the
13 second degree, manslaughter in the first degree, assault in the first
14 degree, kidnapping in the first degree, or rape in the first degree,
15 assault of a child in the first degree, or an attempt, criminal
16 solicitation, or criminal conspiracy to commit one of these felonies;
17 or

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

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

23 (33) "Sex offense" means:

24 (a) A felony that is a violation of chapter 9A.44 RCW or RCW
25 9A.64.020 or 9.68A.090 or a felony that is, under chapter 9A.28 RCW, a
26 criminal attempt, criminal solicitation, or criminal conspiracy to
27 commit such crimes;

28 (b) A felony with a finding of sexual motivation under RCW
29 9.94A.127 or 13.40.135; or

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

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

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

1 (36) "Transition training" means written and verbal instructions
2 and assistance provided by the department to the offender during the
3 two weeks prior to the offender's successful completion of the work
4 ethic camp program. The transition training shall include instructions
5 in the offender's requirements and obligations during the offender's
6 period of community custody.

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

10 (38) "Violent offense" means:

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

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

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

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

1 crew. Offenders sentenced for a sex offense as defined in subsection
2 (33) of this section are not eligible for the work crew program.

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

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

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

17 **Sec. 5.** RCW 9.94A.185 and 1995 c 108 s 2 are each amended to read
18 as follows:

19 Home detention may not be imposed for offenders convicted of a
20 violent offense, any sex offense, any drug offense, reckless burning in
21 the first or second degree as defined in RCW 9A.48.040 or 9A.48.050,
22 assault in the third degree as defined in RCW 9A.36.031, assault of a
23 child in the third degree, unlawful imprisonment as defined in RCW
24 9A.40.040, or harassment as defined in RCW 9A.46.020. Home detention
25 may be imposed for offenders convicted of possession of a controlled
26 substance under RCW 69.50.401(d) or forged prescription for a
27 controlled substance under RCW 69.50.403 if the offender fulfills the
28 participation conditions set forth in this (~~subsection~~[section])
29 section and is monitored for drug use by a treatment alternatives to
30 street crime program or a comparable court or agency-referred program.

31 (1) Home detention may be imposed for offenders convicted of
32 burglary in the second degree as defined in RCW 9A.52.030 or
33 residential burglary in either the first or second degree conditioned
34 upon the offender: (a) Successfully completing twenty-one days in a
35 work release program, (b) having no convictions for burglary in the
36 second degree or residential burglary in either the first or second
37 degree during the preceding two years and not more than two prior
38 convictions for burglary or residential burglary in either the first or

1 second degree, (c) having no convictions for a violent felony offense
2 during the preceding two years and not more than two prior convictions
3 for a violent felony offense, (d) having no prior charges of escape,
4 and (e) fulfilling the other conditions of the home detention program.

5 (2) Participation in a home detention program shall be conditioned
6 upon: (a) The offender obtaining or maintaining current employment or
7 attending a regular course of school study at regularly defined hours,
8 or the offender performing parental duties to offspring or minors
9 normally in the custody of the offender, (b) abiding by the rules of
10 the home detention program, and (c) compliance with court-ordered legal
11 financial obligations. The home detention program may also be made
12 available to offenders whose charges and convictions do not otherwise
13 disqualify them if medical or health-related conditions, concerns or
14 treatment would be better addressed under the home detention program,
15 or where the health and welfare of the offender, other inmates, or
16 staff would be jeopardized by the offender's incarceration.
17 Participation in the home detention program for medical or health-
18 related reasons is conditioned on the offender abiding by the rules of
19 the home detention program and complying with court-ordered
20 restitution.

21 **Sec. 6.** RCW 9.94A.320 and 1997 c 365 s 4, 1997 c 346 s 3, 1997 c
22 340 s 1, 1997 c 338 s 51, 1997 c 266 s 15, and 1997 c 120 s 5 are each
23 reenacted and amended to read as follows:

24 TABLE 2

25 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

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

1 Rape 1 (RCW 9A.44.040)
2 Rape of a Child 1 (RCW 9A.44.073)
3 Malicious placement of an imitation device
4 1 (RCW 70.74.272(1)(a))
5 XI Rape 2 (RCW 9A.44.050)
6 Rape of a Child 2 (RCW 9A.44.076)
7 Manslaughter 1 (RCW 9A.32.060)
8 X Kidnapping 1 (RCW 9A.40.020)
9 Child Molestation 1 (RCW 9A.44.083)
10 Malicious explosion 3 (RCW 70.74.280(3))
11 Over 18 and deliver heroin or narcotic from
12 Schedule I or II to someone under 18
13 (RCW 69.50.406)
14 Leading Organized Crime (RCW
15 9A.82.060(1)(a))
16 Indecent Liberties (with forcible
17 compulsion) (RCW 9A.44.100(1)(a))
18 IX Assault of a Child 2 (RCW 9A.36.130)
19 Robbery 1 (RCW 9A.56.200)
20 Explosive devices prohibited (RCW
21 70.74.180)
22 Malicious placement of an explosive 2 (RCW
23 70.74.270(2))
24 Over 18 and deliver narcotic from Schedule
25 III, IV, or V or a nonnarcotic from
26 Schedule I-V to someone under 18 and 3
27 years junior (RCW 69.50.406)
28 Controlled Substance Homicide (RCW
29 69.50.415)
30 Sexual Exploitation (RCW 9.68A.040)
31 Inciting Criminal Profiteering (RCW
32 9A.82.060(1)(b))
33 Vehicular Homicide, by being under the
34 influence of intoxicating liquor or
35 any drug (RCW 46.61.520)

1 VIII Arson 1 (RCW 9A.48.020)
2 Promoting Prostitution 1 (RCW 9A.88.070)
3 Selling for profit (controlled or
4 counterfeit) any controlled substance
5 (RCW 69.50.410)
6 Manufacture, deliver, or possess with
7 intent to deliver heroin or cocaine
8 (RCW 69.50.401(a)(1)(i))
9 Manufacture, deliver, or possess with
10 intent to deliver methamphetamine (RCW
11 69.50.401(a)(1)(ii))
12 Possession of ephedrine or pseudoephedrine
13 with intent to manufacture
14 methamphetamine (RCW 69.50.440)
15 Vehicular Homicide, by the operation of any
16 vehicle in a reckless manner (RCW
17 46.61.520)
18 Manslaughter 2 (RCW 9A.32.070)

19 VII Burglary 1 (RCW 9A.52.020)
20 Vehicular Homicide, by disregard for the
21 safety of others (RCW 46.61.520)
22 Introducing Contraband 1 (RCW 9A.76.140)
23 Indecent Liberties (without forcible
24 compulsion) (RCW 9A.44.100(1) (b) and
25 (c))
26 Child Molestation 2 (RCW 9A.44.086)
27 Dealing in depictions of minor engaged in
28 sexually explicit conduct (RCW
29 9.68A.050)
30 Sending, bringing into state depictions of
31 minor engaged in sexually explicit
32 conduct (RCW 9.68A.060)
33 Involving a minor in drug dealing (RCW
34 69.50.401(f))
35 Drive-by Shooting (RCW 9A.36.045)
36 Unlawful Possession of a Firearm in the
37 first degree (RCW 9.41.040(1)(a))

1 Malicious placement of an explosive 3 (RCW
2 70.74.270(3))

3 VI Bribery (RCW 9A.68.010)
4 Rape of a Child 3 (RCW 9A.44.079)
5 Intimidating a Juror/Witness (RCW
6 9A.72.110, 9A.72.130)
7 Malicious placement of an imitation device
8 2 (RCW 70.74.272(1)(b))
9 Incest 1 (RCW 9A.64.020(1))
10 Manufacture, deliver, or possess with
11 intent to deliver narcotics from
12 Schedule I or II (except heroin or
13 cocaine) (RCW 69.50.401(a)(1)(i))
14 Intimidating a Judge (RCW 9A.72.160)
15 Bail Jumping with Murder 1 (RCW
16 9A.76.170(2)(a))
17 Theft of a Firearm (RCW 9A.56.300)

18 V Persistent prison misbehavior (RCW
19 9.94.070)
20 Criminal Mistreatment 1 (RCW 9A.42.020)
21 Abandonment of dependent person 1 (RCW
22 9A.42.060)
23 Rape 3 (RCW 9A.44.060)
24 Sexual Misconduct with a Minor 1 (RCW
25 9A.44.093)
26 Child Molestation 3 (RCW 9A.44.089)
27 Kidnapping 2 (RCW 9A.40.030)
28 Extortion 1 (RCW 9A.56.120)
29 Incest 2 (RCW 9A.64.020(2))
30 Perjury 1 (RCW 9A.72.020)
31 Extortionate Extension of Credit (RCW
32 9A.82.020)
33 Advancing money or property for
34 extortionate extension of credit (RCW
35 9A.82.030)
36 Extortionate Means to Collect Extensions of
37 Credit (RCW 9A.82.040)

1 Rendering Criminal Assistance 1 (RCW
2 9A.76.070)
3 Bail Jumping with class A Felony (RCW
4 9A.76.170(2)(b))
5 Sexually Violating Human Remains (RCW
6 9A.44.105)
7 Delivery of imitation controlled substance
8 by person eighteen or over to person
9 under eighteen (RCW 69.52.030(2))
10 Possession of a Stolen Firearm (RCW
11 9A.56.310)
12 Residential Burglary 1 (RCW 9A.52.025)
13 IV Residential Burglary 2 (~~((RCW 9A.52.025))~~)
14 section 2 of this act)
15 Theft of Livestock 1 (RCW 9A.56.080)
16 Robbery 2 (RCW 9A.56.210)
17 Assault 2 (RCW 9A.36.021)
18 Escape 1 (RCW 9A.76.110)
19 Arson 2 (RCW 9A.48.030)
20 Commercial Bribery (RCW 9A.68.060)
21 Bribing a Witness/Bribe Received by Witness
22 (RCW 9A.72.090, 9A.72.100)
23 Malicious Harassment (RCW 9A.36.080)
24 Threats to Bomb (RCW 9.61.160)
25 Willful Failure to Return from Furlough
26 (RCW 72.66.060)
27 Hit and Run--Injury Accident (RCW
28 46.52.020(4))
29 Hit and Run with Vessel--Injury Accident
30 (RCW 88.12.155(3))
31 Vehicular Assault (RCW 46.61.522)
32 Manufacture, deliver, or possess with
33 intent to deliver narcotics from
34 Schedule III, IV, or V or nonnarcotics
35 from Schedule I-V (except marijuana or
36 methamphetamines) (RCW 69.50.401
37 (a)(1) (iii) through (v))
38 Influencing Outcome of Sporting Event (RCW
39 9A.82.070)

1 Use of Proceeds of Criminal Profiteering
2 (RCW 9A.82.080 (1) and (2))
3 Knowingly Trafficking in Stolen Property
4 (RCW 9A.82.050(2))
5 III Criminal Gang Intimidation (RCW 9A.46.120)
6 Criminal Mistreatment 2 (RCW 9A.42.030)
7 Abandonment of dependent person 2 (RCW
8 9A.42.070)
9 Extortion 2 (RCW 9A.56.130)
10 Unlawful Imprisonment (RCW 9A.40.040)
11 Assault 3 (RCW 9A.36.031)
12 Assault of a Child 3 (RCW 9A.36.140)
13 Custodial Assault (RCW 9A.36.100)
14 Unlawful possession of firearm in the
15 second degree (RCW 9.41.040(1)(b))
16 Harassment (RCW 9A.46.020)
17 Promoting Prostitution 2 (RCW 9A.88.080)
18 Willful Failure to Return from Work Release
19 (RCW 72.65.070)
20 Burglary 2 (RCW 9A.52.030)
21 Introducing Contraband 2 (RCW 9A.76.150)
22 Communication with a Minor for Immoral
23 Purposes (RCW 9.68A.090)
24 Patronizing a Juvenile Prostitute (RCW
25 9.68A.100)
26 Escape 2 (RCW 9A.76.120)
27 Perjury 2 (RCW 9A.72.030)
28 Bail Jumping with class B or C Felony (RCW
29 9A.76.170(2)(c))
30 Intimidating a Public Servant (RCW
31 9A.76.180)
32 Tampering with a Witness (RCW 9A.72.120)
33 Manufacture, deliver, or possess with
34 intent to deliver marijuana (RCW
35 69.50.401(a)(1)(iii))
36 Delivery of a material in lieu of a
37 controlled substance (RCW
38 69.50.401(c))

1 Manufacture, distribute, or possess with
2 intent to distribute an imitation
3 controlled substance (RCW
4 69.52.030(1))
5 Recklessly Trafficking in Stolen Property
6 (RCW 9A.82.050(1))
7 Theft of livestock 2 (RCW 9A.56.080)
8 Securities Act violation (RCW 21.20.400)

9 II Unlawful Practice of Law (RCW 2.48.180)
10 Malicious Mischief 1 (RCW 9A.48.070)
11 Possession of Stolen Property 1 (RCW
12 9A.56.150)
13 Theft 1 (RCW 9A.56.030)
14 Class B Felony Theft of Rental, Leased, or
15 Lease-purchased Property (RCW
16 9A.56.096(4))
17 Trafficking in Insurance Claims (RCW
18 48.30A.015)
19 Unlicensed Practice of a Profession or
20 Business (RCW 18.130.190(7))
21 Health Care False Claims (RCW 48.80.030)
22 Possession of controlled substance that is
23 either heroin or narcotics from
24 Schedule I or II (RCW 69.50.401(d))
25 Possession of phencyclidine (PCP) (RCW
26 69.50.401(d))
27 Create, deliver, or possess a counterfeit
28 controlled substance (RCW
29 69.50.401(b))
30 Computer Trespass 1 (RCW 9A.52.110)
31 Escape from Community Custody (RCW
32 72.09.310)

33 I Theft 2 (RCW 9A.56.040)
34 Class C Felony Theft of Rental, Leased, or
35 Lease-purchased Property (RCW
36 9A.56.096(4))
37 Possession of Stolen Property 2 (RCW
38 9A.56.160)

1 Forgery (RCW 9A.60.020)
2 Taking Motor Vehicle Without Permission
3 (RCW 9A.56.070)
4 Vehicle Prowl 1 (RCW 9A.52.095)
5 Attempting to Elude a Pursuing Police
6 Vehicle (RCW 46.61.024)
7 Malicious Mischief 2 (RCW 9A.48.080)
8 Reckless Burning 1 (RCW 9A.48.040)
9 Unlawful Issuance of Checks or Drafts (RCW
10 9A.56.060)
11 Unlawful Use of Food Stamps (RCW 9.91.140
12 (2) and (3))
13 False Verification for Welfare (RCW
14 74.08.055)
15 Forged Prescription (RCW 69.41.020)
16 Forged Prescription for a Controlled
17 Substance (RCW 69.50.403)
18 Possess Controlled Substance that is a
19 Narcotic from Schedule III, IV, or V
20 or Non-narcotic from Schedule I-V
21 (except phencyclidine) (RCW
22 69.50.401(d))

23 **Sec. 7.** RCW 9.94A.360 and 1997 c 338 s 5 are each amended to read
24 as follows:

25 The offender score is measured on the horizontal axis of the
26 sentencing grid. The offender score rules are as follows:

27 The offender score is the sum of points accrued under this section
28 rounded down to the nearest whole number.

29 (1) A prior conviction is a conviction which exists before the date
30 of sentencing for the offense for which the offender score is being
31 computed. Convictions entered or sentenced on the same date as the
32 conviction for which the offender score is being computed shall be
33 deemed "other current offenses" within the meaning of RCW 9.94A.400.

34 (2) Class A and sex prior felony convictions shall always be
35 included in the offender score. Class B prior felony convictions other
36 than sex offenses shall not be included in the offender score, if since
37 the last date of release from confinement (including full-time
38 residential treatment) pursuant to a felony conviction, if any, or

1 entry of judgment and sentence, the offender had spent ten consecutive
2 years in the community without committing any crime that subsequently
3 results in a conviction. Class C prior felony convictions other than
4 sex offenses shall not be included in the offender score if, since the
5 last date of release from confinement (including full-time residential
6 treatment) pursuant to a felony conviction, if any, or entry of
7 judgment and sentence, the offender had spent five consecutive years in
8 the community without committing any crime that subsequently results in
9 a conviction. Serious traffic convictions shall not be included in the
10 offender score if, since the last date of release from confinement
11 (including full-time residential treatment) pursuant to a felony
12 conviction, if any, or entry of judgment and sentence, the offender
13 spent five years in the community without committing any crime that
14 subsequently results in a conviction. This subsection applies to both
15 adult and juvenile prior convictions.

16 (3) Out-of-state convictions for offenses shall be classified
17 according to the comparable offense definitions and sentences provided
18 by Washington law. Federal convictions for offenses shall be
19 classified according to the comparable offense definitions and
20 sentences provided by Washington law. If there is no clearly
21 comparable offense under Washington law or the offense is one that is
22 usually considered subject to exclusive federal jurisdiction, the
23 offense shall be scored as a class C felony equivalent if it was a
24 felony under the relevant federal statute.

25 (4) Score prior convictions for felony anticipatory offenses
26 (attempts, criminal solicitations, and criminal conspiracies) the same
27 as if they were convictions for completed offenses.

28 (5)(a) In the case of multiple prior convictions, for the purpose
29 of computing the offender score, count all convictions separately,
30 except:

31 (i) Prior offenses which were found, under RCW 9.94A.400(1)(a), to
32 encompass the same criminal conduct, shall be counted as one offense,
33 the offense that yields the highest offender score. The current
34 sentencing court shall determine with respect to other prior adult
35 offenses for which sentences were served concurrently or prior juvenile
36 offenses for which sentences were served consecutively, whether those
37 offenses shall be counted as one offense or as separate offenses using
38 the "same criminal conduct" analysis found in RCW 9.94A.400(1)(a), and
39 if the court finds that they shall be counted as one offense, then the

1 offense that yields the highest offender score shall be used. The
2 current sentencing court may presume that such other prior offenses
3 were not the same criminal conduct from sentences imposed on separate
4 dates, or in separate counties or jurisdictions, or in separate
5 complaints, indictments, or informations;

6 (ii) In the case of multiple prior convictions for offenses
7 committed before July 1, 1986, for the purpose of computing the
8 offender score, count all adult convictions served concurrently as one
9 offense, and count all juvenile convictions entered on the same date as
10 one offense. Use the conviction for the offense that yields the
11 highest offender score.

12 (b) As used in this subsection (5), "served concurrently" means
13 that: (i) The latter sentence was imposed with specific reference to
14 the former; (ii) the concurrent relationship of the sentences was
15 judicially imposed; and (iii) the concurrent timing of the sentences
16 was not the result of a probation or parole revocation on the former
17 offense.

18 (6) If the present conviction is one of the anticipatory offenses
19 of criminal attempt, solicitation, or conspiracy, count each prior
20 conviction as if the present conviction were for a completed offense.

21 (7) If the present conviction is for a nonviolent offense and not
22 covered by subsection (11) or (12) of this section, count one point for
23 each adult prior felony conviction and one point for each juvenile
24 prior violent felony conviction and « point for each juvenile prior
25 nonviolent felony conviction.

26 (8) If the present conviction is for a violent offense and not
27 covered in subsection (9), (10), (11), or (12) of this section, count
28 two points for each prior adult and juvenile violent felony conviction,
29 one point for each prior adult nonviolent felony conviction, and «
30 point for each prior juvenile nonviolent felony conviction.

31 (9) If the present conviction is for Murder 1 or 2, Assault 1,
32 Assault of a Child 1, Kidnapping 1, Homicide by Abuse, or Rape 1, count
33 three points for prior adult and juvenile convictions for crimes in
34 these categories, two points for each prior adult and juvenile violent
35 conviction (not already counted), one point for each prior adult
36 nonviolent felony conviction, and « point for each prior juvenile
37 nonviolent felony conviction.

38 (10) If the present conviction is for Burglary 1, count prior
39 convictions as in subsection (8) of this section; however count two

1 points for each prior adult Burglary 2 ((~~or~~)), Residential Burglary 1,
2 or Residential Burglary 2 conviction, and one point for each prior
3 juvenile Burglary 2 ((~~or~~)), Residential Burglary 1, or Residential
4 Burglary 2 conviction.

5 (11) If the present conviction is for a felony traffic offense
6 count two points for each adult or juvenile prior conviction for
7 Vehicular Homicide or Vehicular Assault; for each felony offense or
8 serious traffic offense, count one point for each adult and « point for
9 each juvenile prior conviction.

10 (12) If the present conviction is for a drug offense count three
11 points for each adult prior felony drug offense conviction and two
12 points for each juvenile drug offense. All other adult and juvenile
13 felonies are scored as in subsection (8) of this section if the current
14 drug offense is violent, or as in subsection (7) of this section if the
15 current drug offense is nonviolent.

16 (13) If the present conviction is for Willful Failure to Return
17 from Furlough, RCW 72.66.060, Willful Failure to Return from Work
18 Release, RCW 72.65.070, or Escape from Community Custody, RCW
19 72.09.310, count only prior escape convictions in the offender score.
20 Count adult prior escape convictions as one point and juvenile prior
21 escape convictions as « point.

22 (14) If the present conviction is for Escape 1, RCW 9A.76.110, or
23 Escape 2, RCW 9A.76.120, count adult prior convictions as one point and
24 juvenile prior convictions as « point.

25 (15) If the present conviction is for Burglary 2 ((~~or~~)),
26 Residential Burglary 1, or Residential Burglary 2, count priors as in
27 subsection (7) of this section; however, count two points for each
28 adult and juvenile prior Burglary 1 conviction, two points for each
29 adult prior Burglary 2 ((~~or~~)), Residential Burglary 1, or Residential
30 Burglary 2 conviction, and one point for each juvenile prior Burglary
31 2 ((~~or~~)), Residential Burglary 1, or Residential Burglary 2 conviction.

32 (16) If the present conviction is for a sex offense, count priors
33 as in subsections (7) through (15) of this section; however count three
34 points for each adult and juvenile prior sex offense conviction.

35 (17) If the present conviction is for an offense committed while
36 the offender was under community placement, add one point.

37 **Sec. 8.** RCW 9A.46.060 and 1997 c 338 s 52 are each amended to read
38 as follows:

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

- 3 (1) Harassment (RCW 9A.46.020);
- 4 (2) Malicious harassment (RCW 9A.36.080);
- 5 (3) Telephone harassment (RCW 9.61.230);
- 6 (4) Assault in the first degree (RCW 9A.36.011);
- 7 (5) Assault of a child in the first degree (RCW 9A.36.120);
- 8 (6) Assault in the second degree (RCW 9A.36.021);
- 9 (7) Assault of a child in the second degree (RCW 9A.36.130);
- 10 (8) Assault in the fourth degree (RCW 9A.36.041);
- 11 (9) Reckless endangerment (RCW 9A.36.050);
- 12 (10) Extortion in the first degree (RCW 9A.56.120);
- 13 (11) Extortion in the second degree (RCW 9A.56.130);
- 14 (12) Coercion (RCW 9A.36.070);
- 15 (13) Burglary in the first degree (RCW 9A.52.020);
- 16 (14) Burglary in the second degree (RCW 9A.52.030);
- 17 (15) Criminal trespass in the first degree (RCW 9A.52.070);
- 18 (16) Criminal trespass in the second degree (RCW 9A.52.080);
- 19 (17) Malicious mischief in the first degree (RCW 9A.48.070);
- 20 (18) Malicious mischief in the second degree (RCW 9A.48.080);
- 21 (19) Malicious mischief in the third degree (RCW 9A.48.090);
- 22 (20) Kidnapping in the first degree (RCW 9A.40.020);
- 23 (21) Kidnapping in the second degree (RCW 9A.40.030);
- 24 (22) Unlawful imprisonment (RCW 9A.40.040);
- 25 (23) Rape in the first degree (RCW 9A.44.040);
- 26 (24) Rape in the second degree (RCW 9A.44.050);
- 27 (25) Rape in the third degree (RCW 9A.44.060);
- 28 (26) Indecent liberties (RCW 9A.44.100);
- 29 (27) Rape of a child in the first degree (RCW 9A.44.073);
- 30 (28) Rape of a child in the second degree (RCW 9A.44.076);
- 31 (29) Rape of a child in the third degree (RCW 9A.44.079);
- 32 (30) Child molestation in the first degree (RCW 9A.44.083);
- 33 (31) Child molestation in the second degree (RCW 9A.44.086);
- 34 (32) Child molestation in the third degree (RCW 9A.44.089);
- 35 (33) Stalking (RCW 9A.46.110);
- 36 (34) Residential burglary in the first degree (RCW 9A.52.025);

37 ((and))

38 (35) Residential burglary in the second degree (section 2 of this
39 act); and

1 (36) Violation of a temporary or permanent protective order issued
2 pursuant to chapter 9A.46, 10.14, 10.99, 26.09, or 26.50 RCW.

3 **Sec. 9.** RCW 10.95.020 and 1995 c 129 s 17 and 1994 c 121 s 3 are
4 each reenacted and amended to read as follows:

5 A person is guilty of aggravated first degree murder if he or she
6 commits first degree murder as defined by RCW 9A.32.030(1)(a), as now
7 or hereafter amended, and one or more of the following aggravating
8 circumstances exist:

9 (1) The victim was a law enforcement officer, corrections officer,
10 or fire fighter who was performing his or her official duties at the
11 time of the act resulting in death and the victim was known or
12 reasonably should have been known by the person to be such at the time
13 of the killing;

14 (2) At the time of the act resulting in the death, the person was
15 serving a term of imprisonment, had escaped, or was on authorized or
16 unauthorized leave in or from a state facility or program for the
17 incarceration or treatment of persons adjudicated guilty of crimes;

18 (3) At the time of the act resulting in death, the person was in
19 custody in a county or county-city jail as a consequence of having been
20 adjudicated guilty of a felony;

21 (4) The person committed the murder pursuant to an agreement that
22 he or she would receive money or any other thing of value for
23 committing the murder;

24 (5) The person solicited another person to commit the murder and
25 had paid or had agreed to pay money or any other thing of value for
26 committing the murder;

27 (6) The person committed the murder to obtain or maintain his or
28 her membership or to advance his or her position in the hierarchy of an
29 organization, association, or identifiable group;

30 (7) The murder was committed during the course of or as a result of
31 a shooting where the discharge of the firearm, as defined in RCW
32 9.41.010, is either from a motor vehicle or from the immediate area of
33 a motor vehicle that was used to transport the shooter or the firearm,
34 or both, to the scene of the discharge;

35 (8) The victim was:

36 (a) A judge; juror or former juror; prospective, current, or former
37 witness in an adjudicative proceeding; prosecuting attorney; deputy

1 prosecuting attorney; defense attorney; a member of the indeterminate
2 sentence review board; or a probation or parole officer; and

3 (b) The murder was related to the exercise of official duties
4 performed or to be performed by the victim;

5 (9) The person committed the murder to conceal the commission of a
6 crime or to protect or conceal the identity of any person committing a
7 crime, including, but specifically not limited to, any attempt to avoid
8 prosecution as a persistent offender as defined in RCW 9.94A.030;

9 (10) There was more than one victim and the murders were part of a
10 common scheme or plan or the result of a single act of the person;

11 (11) The murder was committed in the course of, in furtherance of,
12 or in immediate flight from one of the following crimes:

13 (a) Robbery in the first or second degree;

14 (b) Rape in the first or second degree;

15 (c) Burglary in the first or second degree or residential burglary
16 in the first or second degree;

17 (d) Kidnapping in the first degree; or

18 (e) Arson in the first degree;

19 (12) The victim was regularly employed or self-employed as a
20 newsreporter and the murder was committed to obstruct or hinder the
21 investigative, research, or reporting activities of the victim.

22 **Sec. 10.** RCW 10.99.020 and 1997 c 338 s 53 are each amended to
23 read as follows:

24 Unless the context clearly requires otherwise, the definitions in
25 this section apply throughout this chapter.

26 (1) "Family or household members" means spouses, former spouses,
27 persons who have a child in common regardless of whether they have been
28 married or have lived together at any time, adult persons related by
29 blood or marriage, adult persons who are presently residing together or
30 who have resided together in the past, persons sixteen years of age or
31 older who are presently residing together or who have resided together
32 in the past and who have or have had a dating relationship, persons
33 sixteen years of age or older with whom a person sixteen years of age
34 or older has or has had a dating relationship, and persons who have a
35 biological or legal parent-child relationship, including stepparents
36 and stepchildren and grandparents and grandchildren.

37 (2) "Dating relationship" has the same meaning as in RCW 26.50.010.

1 (3) "Domestic violence" includes but is not limited to any of the
2 following crimes when committed by one family or household member
3 against another:

4 (a) Assault in the first degree (RCW 9A.36.011);

5 (b) Assault in the second degree (RCW 9A.36.021);

6 (c) Assault in the third degree (RCW 9A.36.031);

7 (d) Assault in the fourth degree (RCW 9A.36.041);

8 (e) Drive-by shooting (RCW 9A.36.045);

9 (f) Reckless endangerment (RCW 9A.36.050);

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

11 (h) Burglary in the first degree (RCW 9A.52.020);

12 (i) Burglary in the second degree (RCW 9A.52.030);

13 (j) Criminal trespass in the first degree (RCW 9A.52.070);

14 (k) Criminal trespass in the second degree (RCW 9A.52.080);

15 (l) Malicious mischief in the first degree (RCW 9A.48.070);

16 (m) Malicious mischief in the second degree (RCW 9A.48.080);

17 (n) Malicious mischief in the third degree (RCW 9A.48.090);

18 (o) Kidnapping in the first degree (RCW 9A.40.020);

19 (p) Kidnapping in the second degree (RCW 9A.40.030);

20 (q) Unlawful imprisonment (RCW 9A.40.040);

21 (r) Violation of the provisions of a restraining order restraining
22 the person or restraining the person from going onto the grounds of or
23 entering a residence, workplace, school, or day care (RCW 26.09.300,
24 26.10.220, or 26.26.138);

25 (s) Violation of the provisions of a protection order or no-contact
26 order restraining the person or restraining the person from going onto
27 the grounds of or entering a residence, workplace, school, or day care
28 (RCW 26.50.060, 26.50.070, 26.50.130, 10.99.040, or 10.99.050);

29 (t) Rape in the first degree (RCW 9A.44.040);

30 (u) Rape in the second degree (RCW 9A.44.050);

31 (v) Residential burglary in the first degree (RCW 9A.52.025);

32 (w) Residential burglary in the second degree (section 2 of this
33 act);

34 (x) Stalking (RCW 9A.46.110); and

35 (~~(x)~~) (y) Interference with the reporting of domestic violence
36 (RCW 9A.36.150).

37 (4) "Victim" means a family or household member who has been
38 subjected to domestic violence.

1 **Sec. 11.** RCW 13.40.020 and 1997 c 338 s 9 are each amended to read
2 as follows:

3 For the purposes of this chapter:

4 (1) "Community-based rehabilitation" means one or more of the
5 following: Employment; attendance of information classes; literacy
6 classes; counseling, outpatient substance abuse treatment programs,
7 outpatient mental health programs, anger management classes, education
8 or outpatient treatment programs to prevent animal cruelty, or other
9 services; or attendance at school or other educational programs
10 appropriate for the juvenile as determined by the school district.
11 Placement in community-based rehabilitation programs is subject to
12 available funds;

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

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

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

18 (3) "Community service" means compulsory service, without
19 compensation, performed for the benefit of the community by the
20 offender as punishment for committing an offense. Community service
21 may be performed through public or private organizations or through
22 work crews;

23 (4) "Community supervision" means an order of disposition by the
24 court of an adjudicated youth not committed to the department or an
25 order granting a deferred disposition. A community supervision order
26 for a single offense may be for a period of up to two years for a sex
27 offense as defined by RCW 9.94A.030 and up to one year for other
28 offenses. As a mandatory condition of any term of community
29 supervision, the court shall order the juvenile to refrain from
30 committing new offenses. As a mandatory condition of community
31 supervision, the court shall order the juvenile to comply with the
32 mandatory school attendance provisions of chapter 28A.225 RCW and to
33 inform the school of the existence of this requirement. Community
34 supervision is an individualized program comprised of one or more of
35 the following:

36 (a) Community-based sanctions;

37 (b) Community-based rehabilitation;

38 (c) Monitoring and reporting requirements;

39 (d) Posting of a probation bond;

1 (5) "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;

11 (6) "Court," when used without further qualification, means the
12 juvenile court judge(s) or commissioner(s);

13 (7) "Criminal history" includes all criminal complaints against the
14 respondent for which, prior to the commission of a current offense:

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

19 (b) The criminal complaint was diverted by a prosecutor pursuant to
20 the provisions of this chapter on agreement of the respondent and after
21 an advisement to the respondent that the criminal complaint would be
22 considered as part of the respondent's criminal history. A
23 successfully completed deferred adjudication that was entered before
24 July 1, 1997, or a deferred disposition shall not be considered part of
25 the respondent's criminal history;

26 (8) "Department" means the department of social and health
27 services;

28 (9) "Detention facility" means a county facility, paid for by the
29 county, for the physical confinement of a juvenile alleged to have
30 committed an offense or an adjudicated offender subject to a
31 disposition or modification order. "Detention facility" includes
32 county group homes, inpatient substance abuse programs, juvenile basic
33 training camps, and electronic monitoring;

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

1 board, or other entity specially funded by the legislature to arrange
2 and supervise diversion agreements in accordance with the requirements
3 of this chapter. For purposes of this subsection, "community
4 accountability board" means a board comprised of members of the local
5 community in which the juvenile offender resides. The superior court
6 shall appoint the members. The boards shall consist of at least three
7 and not more than seven members. If possible, the board should include
8 a variety of representatives from the community, such as a law
9 enforcement officer, teacher or school administrator, high school
10 student, parent, and business owner, and should represent the cultural
11 diversity of the local community;

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

15 (12) "Institution" means a juvenile facility established pursuant
16 to chapters 72.05 and 72.16 through 72.20 RCW;

17 (13) "Intensive supervision program" means a parole program that
18 requires intensive supervision and monitoring, offers an array of
19 individualized treatment and transitional services, and emphasizes
20 community involvement and support in order to reduce the likelihood a
21 juvenile offender will commit further offenses;

22 (14) "Juvenile," "youth," and "child" mean any individual who is
23 under the chronological age of eighteen years and who has not been
24 previously transferred to adult court pursuant to RCW 13.40.110 or who
25 is otherwise under adult court jurisdiction;

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

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

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

35 (18) "Minor or first offender" means a person whose current
36 offense(s) and criminal history fall entirely within one of the
37 following categories:

38 (a) Four misdemeanors;

39 (b) Two misdemeanors and one gross misdemeanor;

1 (c) One misdemeanor and two gross misdemeanors; and

2 (d) Three gross misdemeanors.

3 For purposes of this definition, current violations shall be
4 counted as misdemeanors;

5 (19) "Monitoring and reporting requirements" means one or more of
6 the following: Curfews; requirements to remain at home, school, work,
7 or court-ordered treatment programs during specified hours;
8 restrictions from leaving or entering specified geographical areas;
9 requirements to report to the probation officer as directed and to
10 remain under the probation officer's supervision; and other conditions
11 or limitations as the court may require which may not include
12 confinement;

13 (20) "Offense" means an act designated a violation or a crime if
14 committed by an adult under the law of this state, under any ordinance
15 of any city or county of this state, under any federal law, or under
16 the law of another state if the act occurred in that state;

17 (21) "Probation bond" means a bond, posted with sufficient security
18 by a surety justified and approved by the court, to secure the
19 offender's appearance at required court proceedings and compliance with
20 court-ordered community supervision or conditions of release ordered
21 pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of
22 cash or posting of other collateral in lieu of a bond if approved by
23 the court;

24 (22) "Respondent" means a juvenile who is alleged or proven to have
25 committed an offense;

26 (23) "Restitution" means financial reimbursement by the offender to
27 the victim, and shall be limited to easily ascertainable damages for
28 injury to or loss of property, actual expenses incurred for medical
29 treatment for physical injury to persons, lost wages resulting from
30 physical injury, and costs of the victim's counseling reasonably
31 related to the offense if the offense is a sex offense. Restitution
32 shall not include reimbursement for damages for mental anguish, pain
33 and suffering, or other intangible losses. Nothing in this chapter
34 shall limit or replace civil remedies or defenses available to the
35 victim or offender;

36 (24) "Secretary" means the secretary of the department of social
37 and health services. "Assistant secretary" means the assistant
38 secretary for juvenile rehabilitation for the department;

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

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

5 (b) Manslaughter in the first degree; or

6 (c) Assault in the second degree, extortion in the first degree,
7 child molestation in the second degree, kidnapping in the second
8 degree, robbery in the second degree, residential burglary in the first
9 or second degree, or burglary in the second degree, where such offenses
10 include the infliction of bodily harm upon another or where during the
11 commission of or immediate withdrawal from such an offense the
12 perpetrator is armed with a deadly weapon;

13 (26) "Services" means 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 (27) "Sex offense" means an offense defined as a sex offense in RCW
18 9.94A.030;

19 (28) "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 (29) "Surety" means an entity licensed under state insurance laws
23 or by the state department of licensing, to write corporate, property,
24 or probation bonds within the state, and justified and approved by the
25 superior court of the county having jurisdiction of the case;

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

29 (31) "Violent offense" means a violent offense as defined in RCW
30 9.94A.030.

31 This section expires July 1, 1998.

32 **Sec. 12.** RCW 13.40.0357 and 1997 c 338 s 11 and 1997 c 66 s 6 are
33 each reenacted and amended to read as follows:

SCHEDULE A

DESCRIPTION AND OFFENSE CATEGORY

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

1		Counterfeit Substances	
2		(69.50.401(b)(1)(i) or (ii))	B
3	C	Violation of Uniform Controlled	
4		Substances Act - Nonnarcotic	
5		Counterfeit Substances	
6		(69.50.401(b)(1) (iii), (iv), (v))	C
7	C	Violation of Uniform Controlled	
8		Substances Act - Possession of a	
9		Controlled Substance	
10		(69.50.401(d))	C
11	C	Violation of Uniform Controlled	
12		Substances Act - Possession of a	
13		Controlled Substance	
14		(69.50.401(c))	C
15		Firearms and Weapons	
16	B	Theft of Firearm (9A.56.300)	C
17	B	Possession of Stolen Firearm	
18		(9A.56.310)	C
19	E	Carrying Loaded Pistol Without	
20		Permit (9.41.050)	E
21	C	Possession of Firearms by Minor (<18)	
22		(9.41.040(1) (b) (iii))	C
23	D+	Possession of Dangerous Weapon	
24		(9.41.250)	E
25	D	Intimidating Another Person by use	
26		of Weapon (9.41.270)	E
27		Homicide	
28	A+	Murder 1 (9A.32.030)	A
29	A+	Murder 2 (9A.32.050)	B+
30	B+	Manslaughter 1 (9A.32.060)	C+
31	C+	Manslaughter 2 (9A.32.070)	D+
32	B+	Vehicular Homicide (46.61.520)	C+
33		Kidnapping	
34	A	Kidnap 1 (9A.40.020)	B+
35	B+	Kidnap 2 (9A.40.030)	C+
36	C+	Unlawful Imprisonment	
37		(9A.40.040)	D+

1		Obstructing Governmental Operation	
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		Public Disturbance	
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		Sex Crimes	
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		Theft, Robbery, Extortion, and Forgery	
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		Motor Vehicle Related Crimes	
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		Other	
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 **SCHEDULE B**

29 **PRIOR OFFENSE INCREASE FACTOR**

30 For use with all CURRENT OFFENSES occurring on or after July 1,
31 1989.

TIME SPAN

OFFENSE CATEGORY	0-12 Months	13-24 Months	25 Months or More
A+	.9	.9	.9
A	.9	.8	.6
A-	.9	.8	.5
B+	.9	.7	.4
B	.9	.6	.3
C+	.6	.3	.2
C	.5	.2	.2
D+	.3	.2	.1
D	.2	.1	.1
E	.1	.1	.1

Prior history - Any offense in which a diversion agreement or counsel and release form was signed, or any offense which has been adjudicated by court to be correct prior to the commission of the current offense(s).

SCHEDULE C

CURRENT OFFENSE POINTS

For use with all CURRENT OFFENSES occurring on or after July 1, 1989.

AGE

OFFENSE CATEGORY	12 & Under	13	14	15	16	17
A+ STANDARD RANGE 180-224 WEEKS						
A	250	300	350	375	375	375
A-	150	150	150	200	200	200
B+	110	110	120	130	140	150
B	45	45	50	50	57	57
C+	44	44	49	49	55	55
C	40	40	45	45	50	50
D+	16	18	20	22	24	26

1	D	14	16	18	20	22	24
2	E	4	4	4	6	8	10

3 **JUVENILE SENTENCING STANDARDS**
4 **SCHEDULE D-1**

5 This schedule may only be used for minor/first offenders. After the
6 determination is made that a youth is a minor/first offender, the court
7 has the discretion to select sentencing option A, B, or C.

8 **MINOR/FIRST OFFENDER**

9 **OPTION A**

10 **STANDARD RANGE**

11			Community		
12			Community	Service	
13	Points	Supervision	Hours		Fine
14				
15	1-9	0-3 months	and/or 0-8		and/or 0-\$10
16	10-19	0-3 months	and/or 0-8		and/or 0-\$10
17	20-29	0-3 months	and/or 0-16		and/or 0-\$10
18	30-39	0-3 months	and/or 8-24		and/or 0-\$25
19	40-49	3-6 months	and/or 16-32		and/or 0-\$25
20	50-59	3-6 months	and/or 24-40		and/or 0-\$25
21	60-69	6-9 months	and/or 32-48		and/or 0-\$50
22	70-79	6-9 months	and/or 40-56		and/or 0-\$50
23	80-89	9-12 months	and/or 48-64		and/or 10-\$100
24	90-109	9-12 months	and/or 56-72		and/or 10-\$100

25 **OR**

26 **OPTION B**

27 **STATUTORY OPTION**

- 28 0-12 Months Community Supervision
- 29 0-150 Hours Community Service
- 30 0-100 Fine
- 31 Posting of a Probation Bond

1 A term of community supervision with a maximum of 150 hours, \$100.00
2 fine, and 12 months supervision.

3 OR

4 OPTION C

5 MANIFEST INJUSTICE

6 When a term of community supervision would effectuate a manifest
7 injustice, another disposition may be imposed. When a judge imposes a
8 sentence of confinement exceeding 30 days, the court shall sentence the
9 juvenile to a maximum term and the provisions of RCW 13.40.030(2) shall
10 be used to determine the range.

11 JUVENILE SENTENCING STANDARDS

12 SCHEDULE D-2

13 This schedule may only be used for middle offenders. After the
14 determination is made that a youth is a middle offender, the court has
15 the discretion to select sentencing option A, B, or C.

16 MIDDLE OFFENDER

17 OPTION A

18 STANDARD RANGE

19	Community				20
20	Community	Service			Confinement
21	Points	Supervision	Hours	Fine	Days Weeks
22
23	1-9	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
24	10-19	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
25	20-29	0-3 months	and/or 0-16	and/or 0-\$10	and/or 0
26	30-39	0-3 months	and/or 8-24	and/or 0-\$25	and/or 2-4
27	40-49	3-6 months	and/or 16-32	and/or 0-\$25	and/or 2-4
28	50-59	3-6 months	and/or 24-40	and/or 0-\$25	and/or 5-10
29	60-69	6-9 months	and/or 32-48	and/or 0-\$50	and/or 5-10
30	70-79	6-9 months	and/or 40-56	and/or 0-\$50	and/or 10-20
31	80-89	9-12 months	and/or 48-64	and/or 0-\$100	and/or 10-20
32	90-109	9-12 months	and/or 56-72	and/or 0-\$100	and/or 15-30
33	110-129				8-12
34	130-149				13-16
35	150-199				21-28
36	200-249				30-40
37	250-299				52-65

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300-374
375+

80-100
103-129

3 Middle offenders with 110 points or more do not have to be committed.
4 They may be assigned community supervision under option B.
5 All A+ offenses 180-224 weeks

6
7
8

OR
OPTION B
STATUTORY OPTION

- 9 0-12 Months Community Supervision
- 10 0-150 Hours Community Service
- 11 0-100 Fine
- 12 Posting of a Probation Bond

13 If the offender has less than 110 points, the court may impose a
14 determinate disposition of community supervision and/or up to 30 days
15 confinement; in which case, if confinement has been imposed, the court
16 shall state either aggravating or mitigating factors as set forth in
17 RCW 13.40.150.

18 If the middle offender has 110 points or more, the court may impose
19 a disposition under option A and may suspend the disposition on the
20 condition that the offender serve up to thirty days of confinement and
21 follow all conditions of community supervision. If the offender fails
22 to comply with the terms of community supervision, the court may impose
23 sanctions pursuant to RCW 13.40.200 or may revoke the suspended
24 disposition and order execution of the disposition. If the court
25 imposes confinement for offenders with 110 points or more, the court
26 shall state either aggravating or mitigating factors set forth in RCW
27 13.40.150.

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OR
OPTION C
MANIFEST INJUSTICE

31 If the court determines that a disposition under option A or B would
32 effectuate a manifest injustice, the court shall sentence the juvenile
33 to a maximum term and the provisions of RCW 13.40.030(2) shall be used
34 to determine the range.

1 **JUVENILE SENTENCING STANDARDS**

2 **SCHEDULE D-3**

3 This schedule may only be used for serious offenders. After the
4 determination is made that a youth is a serious offender, the court has
5 the discretion to select sentencing option A or B.

6 **SERIOUS OFFENDER**

7 **OPTION A**

8 **STANDARD RANGE**

9 Points Institution Time

10

11	0-129	8-12 weeks
12	130-149	13-16 weeks
13	150-199	21-28 weeks
14	200-249	30-40 weeks
15	250-299	52-65 weeks
16	300-374	80-100 weeks
17	375+	103-129 weeks
18	All A+ Offenses	180-224 weeks

19 **OR**

20 **OPTION B**

21 **MANIFEST INJUSTICE**

22 A disposition outside the standard range shall be determined and shall
23 be comprised of confinement or community supervision including posting
24 a probation bond or a combination thereof. When a judge finds a
25 manifest injustice and imposes a sentence of confinement exceeding 30
26 days, the court shall sentence the juvenile to a maximum term, and the
27 provisions of RCW 13.40.030(2) shall be used to determine the range.

28 This section expires July 1, 1998.

29 **Sec. 13.** RCW 13.40.0357 and 1997 c 338 s 12 and 1997 c 66 s 6 are
30 each reenacted and amended to read as follows:

DESCRIPTION AND OFFENSE CATEGORY

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

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+
B	Residential Burglary 1	
	(9A.52.025)	C
B	Burglary 2 (9A.52.030)	C

1	B	<u>Residential Burglary 2</u>	
2		<u>(section 2 of this act)</u>	C
3	D	Burglary Tools (Possession of)	
4		(9A.52.060)	E
5	D	Criminal Trespass 1 (9A.52.070)	E
6	E	Criminal Trespass 2 (9A.52.080)	E
7	C	Vehicle Prowling 1 (9A.52.095)	D
8	D	Vehicle Prowling 2 (9A.52.100)	E
9		Drugs	
10	E	Possession/Consumption of Alcohol	
11		(66.44.270)	E
12	C	Illegally Obtaining Legend Drug	
13		(69.41.020)	D
14	C+	Sale, Delivery, Possession of Legend	
15		Drug with Intent to Sell	
16		(69.41.030)	D+
17	E	Possession of Legend Drug	
18		(69.41.030)	E
19	B+	Violation of Uniform Controlled	
20		Substances Act - Narcotic or	
21		Methamphetamine Sale	
22		(69.50.401(a)(1)(i) or (ii))	B+
23	C	Violation of Uniform Controlled	
24		Substances Act - Nonnarcotic Sale	
25		(69.50.401(a)(1)(iii))	C
26	E	Possession of Marihuana <40 grams	
27		(69.50.401(e))	E
28	C	Fraudulently Obtaining Controlled	
29		Substance (69.50.403)	C
30	C+	Sale of Controlled Substance	
31		for Profit (69.50.410)	C+
32	E	Unlawful Inhalation (9.47A.020)	E
33	B	Violation of Uniform Controlled	
34		Substances Act - Narcotic or	
35		Methamphetamine	
36		Counterfeit Substances	
37		(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		Firearms and Weapons	
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		Homicide	
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		Kidnapping	
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		Obstructing Governmental Operation	
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		Public Disturbance	
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		Sex Crimes	
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		Theft, Robbery, Extortion, and Forgery	
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		Motor Vehicle Related Crimes	
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		Other	
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. 14.** RCW 71.09.020 and 1995 c 216 s 1 are each amended to
25 read as follows:

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

28 (1) "Sexually violent predator" means any person who has been
29 convicted of or charged with a crime of sexual violence and who suffers
30 from a mental abnormality or personality disorder which makes the
31 person likely to engage in predatory acts of sexual violence if not
32 confined in a secure facility.

33 (2) "Mental abnormality" means a congenital or acquired condition
34 affecting the emotional or volitional capacity which predisposes the

1 person to the commission of criminal sexual acts in a degree
2 constituting such person a menace to the health and safety of others.

3 (3) "Likely to engage in predatory acts of sexual violence" means
4 that the person more probably than not will engage in such acts. Such
5 likelihood must be evidenced by a recent overt act if the person is not
6 totally confined at the time the petition is filed under RCW 71.09.030.

7 (4) "Predatory" means acts directed towards strangers or
8 individuals with whom a relationship has been established or promoted
9 for the primary purpose of victimization.

10 (5) "Recent overt act" means any act that has either caused harm
11 of a sexually violent nature or creates a reasonable apprehension of
12 such harm.

13 (6) "Sexually violent offense" means an act committed on, before,
14 or after July 1, 1990, that is: (a) An act defined in Title 9A RCW as
15 rape in the first degree, rape in the second degree by forcible
16 compulsion, rape of a child in the first or second degree, statutory
17 rape in the first or second degree, indecent liberties by forcible
18 compulsion, indecent liberties against a child under age fourteen,
19 incest against a child under age fourteen, or child molestation in the
20 first or second degree; (b) a felony offense in effect at any time
21 prior to July 1, 1990, that is comparable to a sexually violent offense
22 as defined in (a) of this subsection, or any federal or out-of-state
23 conviction for a felony offense that under the laws of this state would
24 be a sexually violent offense as defined in this subsection; (c) an act
25 of murder in the first or second degree, assault in the first or second
26 degree, assault of a child in the first or second degree, kidnapping in
27 the first or second degree, burglary in the first degree, residential
28 burglary in the first degree, or unlawful imprisonment, which act,
29 either at the time of sentencing for the offense or subsequently during
30 civil commitment proceedings pursuant to chapter 71.09 RCW, has been
31 determined beyond a reasonable doubt to have been sexually motivated,
32 as that term is defined in RCW 9.94A.030; or (d) an act as described in
33 chapter 9A.28 RCW, that is an attempt, criminal solicitation, or
34 criminal conspiracy to commit one of the felonies designated in (a),
35 (b), or (c) of this subsection.

36 (7) "Less restrictive alternative" means court-ordered treatment
37 in a setting less restrictive than total confinement.

38 (8) "Secretary" means the secretary of social and health services
39 or his or her designee.

1 NEW SECTION. **Sec. 15.** Section 13 of this act takes effect July
2 1, 1998.

--- END ---