

SENATE BILL 6268

State of Washington

56th Legislature

2000 Regular Session

By Senators Kohl-Welles, Long and Costa; by request of Sentencing Guidelines Commission

Read first time . Referred to Committee on .

1 AN ACT Relating to violation of foreign protection orders;
2 reenacting and amending RCW 9.94A.320 and 9.94A.440; prescribing
3 penalties; and providing an effective date.

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

5 **Sec. 1.** RCW 9.94A.320 and 1999 c 352 s 3, 1999 c 322 s 5, and 1999
6 c 45 s 4 are each reenacted and amended to read as follows:

7 TABLE 2

8 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

9 XVI	Aggravated Murder 1 (RCW 10.95.020)
10 XV	Homicide by abuse (RCW 9A.32.055)
11	Malicious explosion 1 (RCW 70.74.280(1))
12	Murder 1 (RCW 9A.32.030)
13 XIV	Murder 2 (RCW 9A.32.050)
14 XIII	Malicious explosion 2 (RCW 70.74.280(2))
15	Malicious placement of an explosive 1 (RCW
16	70.74.270(1))

1 XII Assault 1 (RCW 9A.36.011)
2 Assault of a Child 1 (RCW 9A.36.120)
3 Malicious placement of an imitation device
4 1 (RCW 70.74.272(1)(a))
5 Rape 1 (RCW 9A.44.040)
6 Rape of a Child 1 (RCW 9A.44.073)
7 XI Manslaughter 1 (RCW 9A.32.060)
8 Rape 2 (RCW 9A.44.050)
9 Rape of a Child 2 (RCW 9A.44.076)
10 X Child Molestation 1 (RCW 9A.44.083)
11 Indecent Liberties (with forcible
12 compulsion) (RCW 9A.44.100(1)(a))
13 Kidnapping 1 (RCW 9A.40.020)
14 Leading Organized Crime (RCW
15 9A.82.060(1)(a))
16 Malicious explosion 3 (RCW 70.74.280(3))
17 Manufacture of methamphetamine (RCW
18 69.50.401(a)(1)(ii))
19 Over 18 and deliver heroin,
20 methamphetamine, a narcotic from
21 Schedule I or II, or flunitrazepam
22 from Schedule IV to someone under 18
23 (RCW 69.50.406)
24 IX Assault of a Child 2 (RCW 9A.36.130)
25 Controlled Substance Homicide (RCW
26 69.50.415)
27 Explosive devices prohibited (RCW
28 70.74.180)
29 Homicide by Watercraft, by being under the
30 influence of intoxicating liquor or
31 any drug (RCW ((88.12.029))
32 79A.60.050)
33 Inciting Criminal Profiteering (RCW
34 9A.82.060(1)(b))
35 Malicious placement of an explosive 2 (RCW
36 70.74.270(2))

1 Over 18 and deliver narcotic from Schedule
2 III, IV, or V or a nonnarcotic, except
3 flunitrazepam or methamphetamine, from
4 Schedule I-V to someone under 18 and 3
5 years junior (RCW 69.50.406)
6 Robbery 1 (RCW 9A.56.200)
7 Sexual Exploitation (RCW 9.68A.040)
8 Vehicular Homicide, by being under the
9 influence of intoxicating liquor or
10 any drug (RCW 46.61.520)

11 VIII Arson 1 (RCW 9A.48.020)
12 Deliver or possess with intent to deliver
13 m e t h a m p h e t a m i n e (R C W
14 69.50.401(a)(1)(ii))
15 Homicide by Watercraft, by the operation of
16 any vessel in a reckless manner (RCW
17 ((~~88.12.029~~)) 79A.60.050)
18 Manslaughter 2 (RCW 9A.32.070)
19 Manufacture, deliver, or possess with
20 intent to deliver amphetamine (RCW
21 69.50.401(a)(1)(ii))
22 Manufacture, deliver, or possess with
23 intent to deliver heroin or cocaine
24 (RCW 69.50.401(a)(1)(i))
25 Possession of ephedrine or pseudoephedrine
26 with intent to manufacture
27 methamphetamine (RCW 69.50.440)
28 Promoting Prostitution 1 (RCW 9A.88.070)
29 Selling for profit (controlled or
30 counterfeit) any controlled substance
31 (RCW 69.50.410)
32 Vehicular Homicide, by the operation of any
33 vehicle in a reckless manner (RCW
34 46.61.520)

1 VII Burglary 1 (RCW 9A.52.020)
 2 Child Molestation 2 (RCW 9A.44.086)
 3 Dealing in depictions of minor engaged in
 4 sexually explicit conduct (RCW
 5 9.68A.050)
 6 Drive-by Shooting (RCW 9A.36.045)
 7 Homicide by Watercraft, by disregard for
 8 the safety of others (RCW
 9 ((88.12.029)) 79A.60.050)
 10 Indecent Liberties (without forcible
 11 compulsion) (RCW 9A.44.100(1) (b) and
 12 (c))
 13 Introducing Contraband 1 (RCW 9A.76.140)
 14 Involving a minor in drug dealing (RCW
 15 69.50.401(f))
 16 Malicious placement of an explosive 3 (RCW
 17 70.74.270(3))
 18 Sending, bringing into state depictions of
 19 minor engaged in sexually explicit
 20 conduct (RCW 9.68A.060)
 21 Unlawful Possession of a Firearm in the
 22 first degree (RCW 9.41.040(1)(a))
 23 Use of a Machine Gun in Commission of a
 24 Felony (RCW 9.41.225)
 25 Vehicular Homicide, by disregard for the
 26 safety of others (RCW 46.61.520)

27 VI Bail Jumping with Murder 1 (RCW
 28 9A.76.170(2)(a))
 29 Bribery (RCW 9A.68.010)
 30 Incest 1 (RCW 9A.64.020(1))
 31 Intimidating a Judge (RCW 9A.72.160)
 32 Intimidating a Juror/Witness (RCW
 33 9A.72.110, 9A.72.130)
 34 Malicious placement of an imitation device
 35 2 (RCW 70.74.272(1)(b))
 36 Manufacture, deliver, or possess with
 37 intent to deliver narcotics from
 38 Schedule I or II (except heroin or

1 cocaine) or flunitrazepam from
2 Schedule IV (RCW 69.50.401(a)(1)(i))
3 Rape of a Child 3 (RCW 9A.44.079)
4 Theft of a Firearm (RCW 9A.56.300)

5 V Abandonment of dependent person 1 (RCW
6 9A.42.060)
7 Advancing money or property for
8 extortionate extension of credit (RCW
9 9A.82.030)
10 Bail Jumping with class A Felony (RCW
11 9A.76.170(2)(b))
12 Child Molestation 3 (RCW 9A.44.089)
13 Criminal Mistreatment 1 (RCW 9A.42.020)
14 Custodial Sexual Misconduct 1 (RCW
15 9A.44.160)
16 Delivery of imitation controlled substance
17 by person eighteen or over to person
18 under eighteen (RCW 69.52.030(2))
19 Extortion 1 (RCW 9A.56.120)
20 Extortionate Extension of Credit (RCW
21 9A.82.020)
22 Extortionate Means to Collect Extensions of
23 Credit (RCW 9A.82.040)
24 Foreign Protection Order Violation (RCW
25 26.52.070 (3) and (4))
26 Incest 2 (RCW 9A.64.020(2))
27 Kidnapping 2 (RCW 9A.40.030)
28 On and after July 1, 2000: No-Contact
29 Order Violation: Domestic Violence
30 Pretrial Condition (RCW 10.99.040(4)
31 (b) and (c))
32 On and after July 1, 2000: No-Contact
33 Order Violation: Domestic Violence
34 Sentence Condition (RCW 10.99.050(2))
35 On and after July 1, 2000: Protection
36 Order Violation: Domestic Violence
37 Civil Action (RCW 26.50.110 (4) and
38 (5))

1 On and after July 1, 2000: Stalking (RCW
2 9A.46.110)
3 Perjury 1 (RCW 9A.72.020)
4 Persistent prison misbehavior (RCW
5 9.94.070)
6 Possession of a Stolen Firearm (RCW
7 9A.56.310)
8 Rape 3 (RCW 9A.44.060)
9 Rendering Criminal Assistance 1 (RCW
10 9A.76.070)
11 Sexual Misconduct with a Minor 1 (RCW
12 9A.44.093)
13 Sexually Violating Human Remains (RCW
14 9A.44.105)

15 IV Arson 2 (RCW 9A.48.030)
16 Assault 2 (RCW 9A.36.021)
17 Assault by Watercraft (RCW ((~~88.12.032~~))
18 79A.60.060)
19 Bribing a Witness/Bribe Received by Witness
20 (RCW 9A.72.090, 9A.72.100)
21 Commercial Bribery (RCW 9A.68.060)
22 Counterfeiting (RCW 9.16.035(4))
23 Escape 1 (RCW 9A.76.110)
24 Hit and Run--Injury Accident (RCW
25 46.52.020(4))
26 Hit and Run with Vessel--Injury Accident
27 (RCW ((~~88.12.155~~)) 79A.60.200(3))
28 Indecent Exposure to Person Under Age
29 Fourteen (subsequent sex offense) (RCW
30 9A.88.010)
31 Influencing Outcome of Sporting Event (RCW
32 9A.82.070)
33 Knowingly Trafficking in Stolen Property
34 (RCW 9A.82.050(2))

1 Malicious Harassment (RCW 9A.36.080)
2 Manufacture, deliver, or possess with
3 intent to deliver narcotics from
4 Schedule III, IV, or V or nonnarcotics
5 from Schedule I-V (except marijuana,
6 amphetamine, methamphetamines, or
7 flunitrazepam) (RCW 69.50.401(a)(1)
8 (iii) through (v))
9 Residential Burglary (RCW 9A.52.025)
10 Robbery 2 (RCW 9A.56.210)
11 Theft of Livestock 1 (RCW 9A.56.080)
12 Threats to Bomb (RCW 9.61.160)
13 Use of Proceeds of Criminal Profiteering
14 (RCW 9A.82.080 (1) and (2))
15 Vehicular Assault (RCW 46.61.522)
16 Willful Failure to Return from Furlough
17 (RCW 72.66.060)

18 III Abandonment of dependent person 2 (RCW
19 9A.42.070)
20 Assault 3 (RCW 9A.36.031)
21 Assault of a Child 3 (RCW 9A.36.140)
22 Bail Jumping with class B or C Felony (RCW
23 9A.76.170(2)(c))
24 Burglary 2 (RCW 9A.52.030)
25 Communication with a Minor for Immoral
26 Purposes (RCW 9.68A.090)
27 Criminal Gang Intimidation (RCW 9A.46.120)
28 Criminal Mistreatment 2 (RCW 9A.42.030)
29 Custodial Assault (RCW 9A.36.100)
30 Delivery of a material in lieu of a
31 controlled substance (RCW
32 69.50.401(c))
33 Escape 2 (RCW 9A.76.120)
34 Extortion 2 (RCW 9A.56.130)
35 Harassment (RCW 9A.46.020)
36 Intimidating a Public Servant (RCW
37 9A.76.180)
38 Introducing Contraband 2 (RCW 9A.76.150)

1 Maintaining a Dwelling or Place for
2 Controlled Substances (RCW
3 69.50.402(a)(6))
4 Malicious Injury to Railroad Property (RCW
5 81.60.070)
6 Manufacture, deliver, or possess with
7 intent to deliver marijuana (RCW
8 69.50.401(a)(1)(iii))
9 Manufacture, distribute, or possess with
10 intent to distribute an imitation
11 controlled substance (RCW
12 69.52.030(1))
13 Patronizing a Juvenile Prostitute (RCW
14 9.68A.100)
15 Perjury 2 (RCW 9A.72.030)
16 Possession of Incendiary Device (RCW
17 9.40.120)
18 Possession of Machine Gun or Short-Barreled
19 Shotgun or Rifle (RCW 9.41.190)
20 Promoting Prostitution 2 (RCW 9A.88.080)
21 Recklessly Trafficking in Stolen Property
22 (RCW 9A.82.050(1))
23 Securities Act violation (RCW 21.20.400)
24 Tampering with a Witness (RCW 9A.72.120)
25 Telephone Harassment (subsequent conviction
26 or threat of death) (RCW 9.61.230)
27 Theft of Livestock 2 (RCW 9A.56.080)
28 Unlawful Imprisonment (RCW 9A.40.040)
29 Unlawful possession of firearm in the
30 second degree (RCW 9.41.040(1)(b))
31 Unlawful Use of Building for Drug Purposes
32 (RCW 69.53.010)
33 Willful Failure to Return from Work Release
34 (RCW 72.65.070)

1 II Computer Trespass 1 (RCW 9A.52.110)
2 Counterfeiting (RCW 9.16.035(3))
3 Create, deliver, or possess a counterfeit
4 controlled substance (RCW
5 69.50.401(b))
6 Escape from Community Custody (RCW
7 72.09.310)
8 Health Care False Claims (RCW 48.80.030)
9 Malicious Mischief 1 (RCW 9A.48.070)
10 Possession of controlled substance that is
11 either heroin or narcotics from
12 Schedule I or II or flunitrazepam from
13 Schedule IV (RCW 69.50.401(d))
14 Possession of phencyclidine (PCP) (RCW
15 69.50.401(d))
16 Possession of Stolen Property 1 (RCW
17 9A.56.150)
18 Theft 1 (RCW 9A.56.030)
19 Theft of Rental, Leased, or Lease-purchased
20 Property (valued at one thousand five
21 hundred dollars or more) (RCW
22 9A.56.096(4))
23 Trafficking in Insurance Claims (RCW
24 48.30A.015)
25 Unlawful Practice of Law (RCW 2.48.180)
26 Unlicensed Practice of a Profession or
27 Business (RCW 18.130.190(7))
28 I Attempting to Elude a Pursuing Police
29 Vehicle (RCW 46.61.024)
30 False Verification for Welfare (RCW
31 74.08.055)
32 Forged Prescription (RCW 69.41.020)
33 Forged Prescription for a Controlled
34 Substance (RCW 69.50.403)
35 Forgery (RCW 9A.60.020)
36 Malicious Mischief 2 (RCW 9A.48.080)
37 Possess Controlled Substance that is a
38 Narcotic from Schedule III, IV, or V
39 or Non-narcotic from Schedule I-V

1 (except phencyclidine or
2 flunitrazepam) (RCW 69.50.401(d))
3 Possession of Stolen Property 2 (RCW
4 9A.56.160)
5 Reckless Burning 1 (RCW 9A.48.040)
6 Taking Motor Vehicle Without Permission
7 (RCW 9A.56.070)
8 Theft 2 (RCW 9A.56.040)
9 Theft of Rental, Leased, or Lease-purchased
10 Property (valued at two hundred fifty
11 dollars or more but less than one
12 thousand five hundred dollars) (RCW
13 9A.56.096(4))
14 Unlawful Issuance of Checks or Drafts (RCW
15 9A.56.060)
16 Unlawful Use of Food Stamps (RCW 9.91.140
17 (2) and (3))
18 Vehicle Prowl 1 (RCW 9A.52.095)

19 **Sec. 2.** RCW 9.94A.440 and 1999 c 322 s 6 and 1999 c 196 s 11 are
20 each reenacted and amended to read as follows:

21 (1) Decision not to prosecute.

22 STANDARD: A prosecuting attorney may decline to prosecute, even
23 though technically sufficient evidence to prosecute exists, in
24 situations where prosecution would serve no public purpose, would
25 defeat the underlying purpose of the law in question or would result in
26 decreased respect for the law.

27 GUIDELINE/COMMENTARY:

28 Examples

29 The following are examples of reasons not to prosecute which could
30 satisfy the standard.

31 (a) Contrary to Legislative Intent - It may be proper to decline to
32 charge where the application of criminal sanctions would be clearly
33 contrary to the intent of the legislature in enacting the particular
34 statute.

35 (b) Antiquated Statute - It may be proper to decline to charge
36 where the statute in question is antiquated in that:

37 (i) It has not been enforced for many years; and

1 (ii) Most members of society act as if it were no longer in
2 existence; and
3 (iii) It serves no deterrent or protective purpose in today's
4 society; and
5 (iv) The statute has not been recently reconsidered by the
6 legislature.

7 This reason is not to be construed as the basis for declining cases
8 because the law in question is unpopular or because it is difficult to
9 enforce.

10 (c) De Minimus Violation - It may be proper to decline to charge
11 where the violation of law is only technical or insubstantial and where
12 no public interest or deterrent purpose would be served by prosecution.

13 (d) Confinement on Other Charges - It may be proper to decline to
14 charge because the accused has been sentenced on another charge to a
15 lengthy period of confinement; and

16 (i) Conviction of the new offense would not merit any additional
17 direct or collateral punishment;

18 (ii) The new offense is either a misdemeanor or a felony which is
19 not particularly aggravated; and

20 (iii) Conviction of the new offense would not serve any significant
21 deterrent purpose.

22 (e) Pending Conviction on Another Charge - It may be proper to
23 decline to charge because the accused is facing a pending prosecution
24 in the same or another county; and

25 (i) Conviction of the new offense would not merit any additional
26 direct or collateral punishment;

27 (ii) Conviction in the pending prosecution is imminent;

28 (iii) The new offense is either a misdemeanor or a felony which is
29 not particularly aggravated; and

30 (iv) Conviction of the new offense would not serve any significant
31 deterrent purpose.

32 (f) High Disproportionate Cost of Prosecution - It may be proper to
33 decline to charge where the cost of locating or transporting, or the
34 burden on, prosecution witnesses is highly disproportionate to the
35 importance of prosecuting the offense in question. This reason should
36 be limited to minor cases and should not be relied upon in serious
37 cases.

38 (g) Improper Motives of Complainant - It may be proper to decline
39 charges because the motives of the complainant are improper and

1 prosecution would serve no public purpose, would defeat the underlying
2 purpose of the law in question or would result in decreased respect for
3 the law.

4 (h) Immunity - It may be proper to decline to charge where immunity
5 is to be given to an accused in order to prosecute another where the
6 accused's information or testimony will reasonably lead to the
7 conviction of others who are responsible for more serious criminal
8 conduct or who represent a greater danger to the public interest.

9 (i) Victim Request - It may be proper to decline to charge because
10 the victim requests that no criminal charges be filed and the case
11 involves the following crimes or situations:

12 (i) Assault cases where the victim has suffered little or no
13 injury;

14 (ii) Crimes against property, not involving violence, where no
15 major loss was suffered;

16 (iii) Where doing so would not jeopardize the safety of society.

17 Care should be taken to insure that the victim's request is freely
18 made and is not the product of threats or pressure by the accused.

19 The presence of these factors may also justify the decision to
20 dismiss a prosecution which has been commenced.

21 Notification

22 The prosecutor is encouraged to notify the victim, when practical,
23 and the law enforcement personnel, of the decision not to prosecute.

24 (2) Decision to prosecute.

25 (a) STANDARD:

26 Crimes against persons will be filed if sufficient admissible
27 evidence exists, which, when considered with the most plausible,
28 reasonably foreseeable defense that could be raised under the evidence,
29 would justify conviction by a reasonable and objective fact-finder.
30 With regard to offenses prohibited by RCW 9A.44.040, 9A.44.050,
31 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, 9A.44.089, and
32 9A.64.020 the prosecutor should avoid prefiling agreements or
33 diversions intended to place the accused in a program of treatment or
34 counseling, so that treatment, if determined to be beneficial, can be
35 provided pursuant to RCW 9.94A.120(8).

36 Crimes against property/other crimes will be filed if the
37 admissible evidence is of such convincing force as to make it probable
38 that a reasonable and objective fact-finder would convict after hearing

1 all the admissible evidence and the most plausible defense that could
2 be raised.

3 See table below for the crimes within these categories.

4 CATEGORIZATION OF CRIMES FOR PROSECUTING STANDARDS

5 CRIMES AGAINST PERSONS

6 Aggravated Murder
7 1st Degree Murder
8 2nd Degree Murder
9 1st Degree Kidnaping
10 1st Degree Assault
11 1st Degree Assault of a Child
12 1st Degree Rape
13 1st Degree Robbery
14 1st Degree Rape of a Child
15 1st Degree Arson
16 2nd Degree Kidnaping
17 2nd Degree Assault
18 2nd Degree Assault of a Child
19 2nd Degree Rape
20 2nd Degree Robbery
21 1st Degree Burglary
22 1st Degree Manslaughter
23 2nd Degree Manslaughter
24 1st Degree Extortion
25 Indecent Liberties
26 Incest
27 2nd Degree Rape of a Child
28 Vehicular Homicide
29 Vehicular Assault
30 3rd Degree Rape
31 3rd Degree Rape of a Child
32 1st Degree Child Molestation
33 2nd Degree Child Molestation
34 3rd Degree Child Molestation
35 2nd Degree Extortion
36 1st Degree Promoting Prostitution
37 Intimidating a Juror
38 Communication with a Minor

1 Intimidating a Witness
2 Intimidating a Public Servant
3 Bomb Threat (if against person)
4 3rd Degree Assault
5 3rd Degree Assault of a Child
6 Unlawful Imprisonment
7 Promoting a Suicide Attempt
8 Riot (if against person)
9 Stalking
10 Custodial Assault
11 No-Contact Order-Domestic Violence Pretrial (RCW 10.99.040(4) (b)
12 and (c))
13 No-Contact Order-Domestic Violence Sentence (RCW 10.99.050(2))
14 Protection Order-Domestic Violence Civil (RCW 26.50.110 (4) and
15 (5))
16 Foreign Protection Order Violation (RCW 26.52.070 (3) and (4))
17 Counterfeiting (if a violation of RCW 9.16.035(4))

18 CRIMES AGAINST PROPERTY/OTHER CRIMES
19 2nd Degree Arson
20 1st Degree Escape
21 2nd Degree Burglary
22 1st Degree Theft
23 1st Degree Perjury
24 1st Degree Introducing Contraband
25 1st Degree Possession of Stolen Property
26 Bribery
27 Bribing a Witness
28 Bribe received by a Witness
29 Bomb Threat (if against property)
30 1st Degree Malicious Mischief
31 2nd Degree Theft
32 2nd Degree Escape
33 2nd Degree Introducing Contraband
34 2nd Degree Possession of Stolen Property
35 2nd Degree Malicious Mischief
36 1st Degree Reckless Burning
37 Taking a Motor Vehicle without Authorization
38 Forgery
39 2nd Degree Perjury

1 2nd Degree Promoting Prostitution
2 Tampering with a Witness
3 Trading in Public Office
4 Trading in Special Influence
5 Receiving/Granting Unlawful Compensation
6 Bigamy
7 Eluding a Pursuing Police Vehicle
8 Willful Failure to Return from Furlough
9 Escape from Community Custody
10 Riot (if against property)
11 Thefts of Livestock

12 ALL OTHER UNCLASSIFIED FELONIES

13 Selection of Charges/Degree of Charge

14 (i) The prosecutor should file charges which adequately describe
15 the nature of defendant's conduct. Other offenses may be charged only
16 if they are necessary to ensure that the charges:

17 (A) Will significantly enhance the strength of the state's case at
18 trial; or

19 (B) Will result in restitution to all victims.

20 (ii) The prosecutor should not overcharge to obtain a guilty plea.
21 Overcharging includes:

22 (A) Charging a higher degree;

23 (B) Charging additional counts.

24 This standard is intended to direct prosecutors to charge those
25 crimes which demonstrate the nature and seriousness of a defendant's
26 criminal conduct, but to decline to charge crimes which are not
27 necessary to such an indication. Crimes which do not merge as a matter
28 of law, but which arise from the same course of conduct, do not all
29 have to be charged.

30 (b) GUIDELINES/COMMENTARY:

31 (i) Police Investigation

32 A prosecuting attorney is dependent upon law enforcement agencies
33 to conduct the necessary factual investigation which must precede the
34 decision to prosecute. The prosecuting attorney shall ensure that a
35 thorough factual investigation has been conducted before a decision to
36 prosecute is made. In ordinary circumstances the investigation should
37 include the following:

1 (A) The interviewing of all material witnesses, together with the
2 obtaining of written statements whenever possible;

3 (B) The completion of necessary laboratory tests; and

4 (C) The obtaining, in accordance with constitutional requirements,
5 of the suspect's version of the events.

6 If the initial investigation is incomplete, a prosecuting attorney
7 should insist upon further investigation before a decision to prosecute
8 is made, and specify what the investigation needs to include.

9 (ii) Exceptions

10 In certain situations, a prosecuting attorney may authorize filing
11 of a criminal complaint before the investigation is complete if:

12 (A) Probable cause exists to believe the suspect is guilty; and

13 (B) The suspect presents a danger to the community or is likely to
14 flee if not apprehended; or

15 (C) The arrest of the suspect is necessary to complete the
16 investigation of the crime.

17 In the event that the exception to the standard is applied, the
18 prosecuting attorney shall obtain a commitment from the law enforcement
19 agency involved to complete the investigation in a timely manner. If
20 the subsequent investigation does not produce sufficient evidence to
21 meet the normal charging standard, the complaint should be dismissed.

22 (iii) Investigation Techniques

23 The prosecutor should be fully advised of the investigatory
24 techniques that were used in the case investigation including:

25 (A) Polygraph testing;

26 (B) Hypnosis;

27 (C) Electronic surveillance;

28 (D) Use of informants.

29 (iv) Pre-Filing Discussions with Defendant

30 Discussions with the defendant or his/her representative regarding
31 the selection or disposition of charges may occur prior to the filing
32 of charges, and potential agreements can be reached.

33 (v) Pre-Filing Discussions with Victim(s)

34 Discussions with the victim(s) or victims' representatives
35 regarding the selection or disposition of charges may occur before the
36 filing of charges. The discussions may be considered by the prosecutor
37 in charging and disposition decisions, and should be considered before
38 reaching any agreement with the defendant regarding these decisions.

1 NEW SECTION. **Sec. 3.** This act takes effect July 1, 2000, and
2 applies to offenses committed on or after July 1, 2000.

--- END ---