

1 **ESB 5790 - H COMM AMD ADOPTED 4/12/01**

2 By Committee on Judiciary

3 Strike everything after the enacting clause and insert the
4 following:

5 "Sec. 1. RCW 46.61.522 and 1996 c 199 s 8 are each amended to
6 read as follows:

7 (1) A person is guilty of vehicular assault if he or she operates
8 or drives any vehicle:

9 (a) In a reckless manner(~~(7)~~) and (~~((this conduct is the proximate~~
10 ~~cause of serious))~~) causes substantial bodily (~~((injury))~~) harm to
11 another; or

12 (b) While under the influence of intoxicating liquor or any drug,
13 as defined by RCW 46.61.502, and (~~((this conduct is the proximate cause~~
14 ~~of serious))~~) causes substantial bodily (~~((injury))~~) harm to another; or

15 (c) With disregard for the safety of others and causes substantial
16 bodily harm to another.

17 (2) (~~("Serious bodily injury" means bodily injury which involves~~
18 ~~a substantial risk of death, serious permanent disfigurement, or~~
19 ~~protracted loss or impairment of the function of any part or organ of~~
20 ~~the body.~~

21 ~~(3))~~) Vehicular assault is a class B felony punishable under
22 chapter 9A.20 RCW.

23 (3) As used in this section, "substantial bodily harm" has the
24 same meaning as in RCW 9A.04.110.

25 **Sec. 2.** RCW 9.41.010 and 1997 c 338 s 46 are each amended to read
26 as follows:

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

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

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

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

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

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

16 (6) "Short-barreled shotgun" means a shotgun having one or more
17 barrels less than eighteen inches in length and any weapon made from a
18 shotgun by any means of modification if such modified weapon has an
19 overall length of less than twenty-six inches.

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

27 (8) "Antique firearm" means a firearm or replica of a firearm not
28 designed or redesigned for using rim fire or conventional center fire
29 ignition with fixed ammunition and manufactured in or before 1898,
30 including any matchlock, flintlock, percussion cap, or similar type of
31 ignition system and also any firearm using fixed ammunition
32 manufactured in or before 1898, for which ammunition is no longer
33 manufactured in the United States and is not readily available in the
34 ordinary channels of commercial trade.

35 (9) "Loaded" means:

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

37 (b) Cartridges are in a clip that is locked in place in the
38 firearm;

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

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

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

7 (10) "Dealer" means a person engaged in the business of selling
8 firearms at wholesale or retail who has, or is required to have, a
9 federal firearms license under 18 U.S.C. Sec. 923(a). A person who
10 does not have, and is not required to have, a federal firearms license
11 under 18 U.S.C. Sec. 923(a), is not a dealer if that person makes only
12 occasional sales, exchanges, or purchases of firearms for the
13 enhancement of a personal collection or for a hobby, or sells all or
14 part of his or her personal collection of firearms.

15 (11) "Crime of violence" means:

16 (a) Any of the following felonies, as now existing or hereafter
17 amended: Any felony defined under any law as a class A felony or an
18 attempt to commit a class A felony, criminal solicitation of or
19 criminal conspiracy to commit a class A felony, manslaughter in the
20 first degree, manslaughter in the second degree, indecent liberties if
21 committed by forcible compulsion, kidnapping in the second degree,
22 arson in the second degree, assault in the second degree, assault of a
23 child in the second degree, extortion in the first degree, burglary in
24 the second degree, residential burglary, and robbery in the second
25 degree;

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

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

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

35 (a) Any crime of violence;

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

- 1 (c) Child molestation in the second degree;
- 2 (d) Incest when committed against a child under age fourteen;
- 3 (e) Indecent liberties;
- 4 (f) Leading organized crime;
- 5 (g) Promoting prostitution in the first degree;
- 6 (h) Rape in the third degree;
- 7 (i) Drive-by shooting;
- 8 (j) Sexual exploitation;
- 9 (k) Vehicular assault, when caused by the operation or driving of
10 a vehicle by a person while under the influence of intoxicating liquor
11 or any drug or by the operation or driving of a vehicle in a reckless
12 manner;
- 13 (l) Vehicular homicide, when proximately caused by the driving of
14 any vehicle by any person while under the influence of intoxicating
15 liquor or any drug as defined by RCW 46.61.502, or by the operation of
16 any vehicle in a reckless manner;
- 17 (m) Any other class B felony offense with a finding of sexual
18 motivation, as "sexual motivation" is defined under RCW 9.94A.030;
- 19 (n) Any other felony with a deadly weapon verdict under RCW
20 9.94A.125; or
- 21 (o) Any felony offense in effect at any time prior to June 6,
22 1996, that is comparable to a serious offense, or any federal or out-
23 of-state conviction for an offense that under the laws of this state
24 would be a felony classified as a serious offense.
- 25 (13) "Law enforcement officer" includes a general authority
26 Washington peace officer as defined in RCW 10.93.020, or a specially
27 commissioned Washington peace officer as defined in RCW 10.93.020.
28 "Law enforcement officer" also includes a limited authority Washington
29 peace officer as defined in RCW 10.93.020 if such officer is duly
30 authorized by his or her employer to carry a concealed pistol.
- 31 (14) "Felony" means any felony offense under the laws of this
32 state or any federal or out-of-state offense comparable to a felony
33 offense under the laws of this state.
- 34 (15) "Sell" refers to the actual approval of the delivery of a
35 firearm in consideration of payment or promise of payment of a certain
36 price in money.
- 37 (16) "Barrel length" means the distance from the bolt face of a
38 closed action down the length of the axis of the bore to the crown of

1 the muzzle, or in the case of a barrel with attachments to the end of
2 any legal device permanently attached to the end of the muzzle.

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

5 **Sec. 3.** RCW 9.94A.030 and 2000 c 28 s 2 are each amended to read
6 as follows:

7 Unless the context clearly requires otherwise, the definitions in
8 this section apply throughout this chapter.

9 (1) "Collect," or any derivative thereof, "collect and remit," or
10 "collect and deliver," when used with reference to the department,
11 means that the department, either directly or through a collection
12 agreement authorized by RCW 9.94A.145, is responsible for monitoring
13 and enforcing the offender's sentence with regard to the legal
14 financial obligation, receiving payment thereof from the offender, and,
15 consistent with current law, delivering daily the entire payment to the
16 superior court clerk without depositing it in a departmental account.

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

18 (3) "Community corrections officer" means an employee of the
19 department who is responsible for carrying out specific duties in
20 supervision of sentenced offenders and monitoring of sentence
21 conditions.

22 (4) "Community custody" means that portion of an offender's
23 sentence of confinement in lieu of earned release time or imposed
24 pursuant to RCW 9.94A.120(2)(b), 9.94A.650 through 9.94A.670,
25 9.94A.137, 9.94A.700 through 9.94A.715, or 9.94A.383, served in the
26 community subject to controls placed on the offender's movement and
27 activities by the department. For offenders placed on community
28 custody for crimes committed on or after July 1, 2000, the department
29 shall assess the offender's risk of reoffense and may establish and
30 modify conditions of community custody, in addition to those imposed by
31 the court, based upon the risk to community safety.

32 (5) "Community custody range" means the minimum and maximum period
33 of community custody included as part of a sentence under RCW
34 9.94A.715, as established by the commission or the legislature under
35 RCW 9.94A.040, for crimes committed on or after July 1, 2000.

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

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

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

9 (8) "Community supervision" means a period of time during which a
10 convicted offender is subject to crime-related prohibitions and other
11 sentence conditions imposed by a court pursuant to this chapter or RCW
12 16.52.200(6) or 46.61.524. Where the court finds that any offender has
13 a chemical dependency that has contributed to his or her offense, the
14 conditions of supervision may, subject to available resources, include
15 treatment. For purposes of the interstate compact for out-of-state
16 supervision of parolees and probationers, RCW 9.95.270, community
17 supervision is the functional equivalent of probation and should be
18 considered the same as probation by other states.

19 (9) "Confinement" means total or partial confinement.

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

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

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

36 (13) "Day fine" means a fine imposed by the sentencing court that
37 equals the difference between the offender's net daily income and the

1 reasonable obligations that the offender has for the support of the
2 offender and any dependents.

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

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

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

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

29 (18) "Drug offender sentencing alternative" is a sentencing option
30 available to persons convicted of a felony offense other than a violent
31 offense or a sex offense and who are eligible for the option under RCW
32 9.94A.660.

33 (19) "Drug offense" means:

34 (a) Any felony violation of chapter 69.50 RCW except possession of
35 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
36 controlled substance (RCW 69.50.403);

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

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

7 (20) "Earned release" means earned release from confinement as
8 provided in RCW 9.94A.150.

9 (21) "Escape" means:

10 (a) Escape in the first degree (RCW 9A.76.110), escape in the
11 second degree (RCW 9A.76.120), willful failure to return from furlough
12 (RCW 72.66.060), willful failure to return from work release (RCW
13 72.65.070), or willful failure to be available for supervision by the
14 department while in community custody (RCW 72.09.310); or

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

18 (22) "Felony traffic offense" means:

19 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
20 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
21 and-run injury-accident (RCW 46.52.020(4)); or

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

25 (23) "Fine" means a specific sum of money ordered by the
26 sentencing court to be paid by the offender to the court over a
27 specific period of time.

28 (24) "First-time offender" means any person who has no prior
29 convictions for a felony and is eligible for the first-time offender
30 waiver under RCW 9.94A.650.

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

34 (26) "Legal financial obligation" means a sum of money that is
35 ordered by a superior court of the state of Washington for legal
36 financial obligations which may include restitution to the victim,
37 statutorily imposed crime victims' compensation fees as assessed
38 pursuant to RCW 7.68.035, court costs, county or interlocal drug funds,

1 court-appointed attorneys' fees, and costs of defense, fines, and any
2 other financial obligation that is assessed to the offender as a result
3 of a felony conviction. Upon conviction for vehicular assault while
4 under the influence of intoxicating liquor or any drug, RCW
5 46.61.522(1)(b), or vehicular homicide while under the influence of
6 intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial
7 obligations may also include payment to a public agency of the expense
8 of an emergency response to the incident resulting in the conviction,
9 subject to RCW 38.52.430.

10 (27) "Most serious offense" means any of the following felonies or
11 a felony attempt to commit any of the following felonies:

12 (a) Any felony defined under any law as a class A felony or
13 criminal solicitation of or criminal conspiracy to commit a class A
14 felony;

15 (b) Assault in the second degree;

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

17 (d) Child molestation in the second degree;

18 (e) Controlled substance homicide;

19 (f) Extortion in the first degree;

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

21 (h) Indecent liberties;

22 (i) Kidnapping in the second degree;

23 (j) Leading organized crime;

24 (k) Manslaughter in the first degree;

25 (l) Manslaughter in the second degree;

26 (m) Promoting prostitution in the first degree;

27 (n) Rape in the third degree;

28 (o) Robbery in the second degree;

29 (p) Sexual exploitation;

30 (q) Vehicular assault, when caused by the operation or driving of
31 a vehicle by a person while under the influence of intoxicating liquor
32 or any drug or by the operation or driving of a vehicle in a reckless
33 manner;

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;

1 (s) Any other class B felony offense with a finding of sexual
2 motivation;

3 (t) Any other felony with a deadly weapon verdict under RCW
4 9.94A.125;

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

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

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

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

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

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

1 detention, work crew, and a combination of work crew and home
2 detention.

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

4 (a)(i) Has been convicted in this state of any felony considered
5 a 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 (31)(b)(i); and

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

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

36 (33) "Restitution" means a specific sum of money ordered by the
37 sentencing court to be paid by the offender to the court over a

1 specified period of time as payment of damages. The sum may include
2 both public and private costs.

3 (34) "Risk assessment" means the application of an objective
4 instrument supported by research and adopted by the department for the
5 purpose of assessing an offender's risk of reoffense, taking into
6 consideration the nature of the harm done by the offender, place and
7 circumstances of the offender related to risk, the offender's
8 relationship to any victim, and any information provided to the
9 department by victims. The results of a risk assessment shall not be
10 based on unconfirmed or unconfirmable allegations.

11 (35) "Serious traffic offense" means:

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

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

20 (36) "Serious violent offense" is a subcategory of violent offense
21 and means:

22 (a)(i) Murder in the first degree;

23 (ii) Homicide by abuse;

24 (iii) Murder in the second degree;

25 (iv) Manslaughter in the first degree;

26 (v) Assault in the first degree;

27 (vi) Kidnapping in the first degree;

28 (vii) Rape in the first degree;

29 (viii) Assault of a child in the first degree; or

30 (ix) An attempt, criminal solicitation, or criminal conspiracy to
31 commit one of these felonies; or

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

35 (37) "Sex offense" means:

36 (a) A felony that is a violation of:

37 (i) Chapter 9A.44 RCW other than RCW 9A.44.130(11);

38 (ii) RCW 9A.64.020;

1 (iii) RCW 9.68A.090; or

2 (iv) A felony that is, under chapter 9A.28 RCW, a criminal
3 attempt, criminal solicitation, or criminal conspiracy to commit such
4 crimes;

5 (b) Any conviction for a felony offense in effect at any time
6 prior to July 1, 1976, that is comparable to a felony classified as a
7 sex offense in (a) of this subsection;

8 (c) A felony with a finding of sexual motivation under RCW
9 9.94A.127 or 13.40.135; or

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

13 (38) "Sexual motivation" means that one of the purposes for which
14 the defendant committed the crime was for the purpose of his or her
15 sexual gratification.

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

18 (40) "Statutory maximum sentence" means the maximum length of time
19 for which an offender may be confined as punishment for a crime as
20 prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the
21 crime, or other statute defining the maximum penalty for a crime.

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

26 (42) "Transition training" means written and verbal instructions
27 and assistance provided by the department to the offender during the
28 two weeks prior to the offender's successful completion of the work
29 ethic camp program. The transition training shall include instructions
30 in the offender's requirements and obligations during the offender's
31 period of community custody.

32 (43) "Victim" means any person who has sustained emotional,
33 psychological, physical, or financial injury to person or property as
34 a direct result of the crime charged.

35 (44) "Violent offense" means:

36 (a) Any of the following felonies:

37 (i) Any felony defined under any law as a class A felony or an
38 attempt to commit a class A felony;

1 (ii) Criminal solicitation of or criminal conspiracy to commit a
2 class A felony;

3 (iii) Manslaughter in the first degree;

4 (iv) Manslaughter in the second degree;

5 (v) Indecent liberties if committed by forcible compulsion;

6 (vi) Kidnapping in the second degree;

7 (vii) Arson in the second degree;

8 (viii) Assault in the second degree;

9 (ix) Assault of a child in the second degree;

10 (x) Extortion in the first degree;

11 (xi) Robbery in the second degree;

12 (xii) Drive-by shooting;

13 (xiii) Vehicular assault, when caused by the operation or driving
14 of a vehicle by a person while under the influence of intoxicating
15 liquor or any drug or by the operation or driving of a vehicle in a
16 reckless manner; and

17 (xiv) Vehicular homicide, when proximately caused by the driving
18 of any vehicle by any person while under the influence of intoxicating
19 liquor or any drug as defined by RCW 46.61.502, or by the operation of
20 any vehicle in a reckless manner;

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

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

27 (45) "Work crew" means a program of partial confinement consisting
28 of civic improvement tasks for the benefit of the community that
29 complies with RCW 9.94A.135.

30 (46) "Work ethic camp" means an alternative incarceration program
31 as provided in RCW 9.94A.137 designed to reduce recidivism and lower
32 the cost of corrections by requiring offenders to complete a
33 comprehensive array of real-world job and vocational experiences,
34 character-building work ethics training, life management skills
35 development, substance abuse rehabilitation, counseling, literacy
36 training, and basic adult education.

1 (47) "Work release" means a program of partial confinement
2 available to offenders who are employed or engaged as a student in a
3 regular course of study at school.

4 **Sec. 4.** RCW 9.94A.320 and 2000 c 225 s 5, 2000 c 119 s 17, and
5 2000 c 66 s 2 are each reenacted and amended to read as follows:

6 TABLE 2

7 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

8	XVI	Aggravated Murder 1 (RCW 10.95.020)
9	XV	Homicide by abuse (RCW 9A.32.055)
10		Malicious explosion 1 (RCW 70.74.280(1))
11		Murder 1 (RCW 9A.32.030)
12	XIV	Murder 2 (RCW 9A.32.050)
13	XIII	Malicious explosion 2 (RCW 70.74.280(2))
14		Malicious placement of an explosive 1 (RCW
15		70.74.270(1))
16	XII	Assault 1 (RCW 9A.36.011)
17		Assault of a Child 1 (RCW 9A.36.120)
18		Malicious placement of an imitation device
19		1 (RCW 70.74.272(1)(a))
20		Rape 1 (RCW 9A.44.040)
21		Rape of a Child 1 (RCW 9A.44.073)
22	XI	Manslaughter 1 (RCW 9A.32.060)
23		Rape 2 (RCW 9A.44.050)
24		Rape of a Child 2 (RCW 9A.44.076)
25	X	Child Molestation 1 (RCW 9A.44.083)
26		Indecent Liberties (with forcible
27		compulsion) (RCW 9A.44.100(1)(a))
28		Kidnapping 1 (RCW 9A.40.020)
29		Leading Organized Crime (RCW
30		9A.82.060(1)(a))
31		Malicious explosion 3 (RCW 70.74.280(3))

1 Manufacture of methamphetamine (RCW
2 69.50.401(a)(1)(ii))
3 Over 18 and deliver heroin,
4 methamphetamine, a narcotic from
5 Schedule I or II, or flunitrazepam
6 from Schedule IV to someone under 18
7 (RCW 69.50.406)

8 IX Assault of a Child 2 (RCW 9A.36.130)
9 Controlled Substance Homicide (RCW
10 69.50.415)
11 Explosive devices prohibited (RCW
12 70.74.180)
13 Homicide by Watercraft, by being under the
14 influence of intoxicating liquor or
15 any drug (RCW 79A.60.050)
16 Inciting Criminal Profiteering (RCW
17 9A.82.060(1)(b))
18 Malicious placement of an explosive 2 (RCW
19 70.74.270(2))
20 Over 18 and deliver narcotic from Schedule
21 III, IV, or V or a nonnarcotic, except
22 flunitrazepam or methamphetamine, from
23 Schedule I-V to someone under 18 and 3
24 years junior (RCW 69.50.406)
25 Robbery 1 (RCW 9A.56.200)
26 Sexual Exploitation (RCW 9.68A.040)
27 Vehicular Homicide, by being under the
28 influence of intoxicating liquor or
29 any drug (RCW 46.61.520)

30 VIII Arson 1 (RCW 9A.48.020)
31 Deliver or possess with intent to deliver
32 m e t h a m p h e t a m i n e (R C W
33 69.50.401(a)(1)(ii))
34 Hit and Run--Death (RCW 46.52.020(4)(a))
35 Homicide by Watercraft, by the operation of
36 any vessel in a reckless manner (RCW
37 79A.60.050)

1 Manslaughter 2 (RCW 9A.32.070)
2 Manufacture, deliver, or possess with
3 intent to deliver amphetamine (RCW
4 69.50.401(a)(1)(ii))
5 Manufacture, deliver, or possess with
6 intent to deliver heroin or cocaine
7 (RCW 69.50.401(a)(1)(i))
8 Possession of Ephedrine, Pseudoephedrine,
9 or Anhydrous Ammonia with intent to
10 manufacture methamphetamine (RCW
11 69.50.440)
12 Promoting Prostitution 1 (RCW 9A.88.070)
13 Selling for profit (controlled or
14 counterfeit) any controlled substance
15 (RCW 69.50.410)
16 Theft of Anhydrous Ammonia (RCW 69.55.010)
17 Vehicular Homicide, by the operation of any
18 vehicle in a reckless manner (RCW
19 46.61.520)
20 VII Burglary 1 (RCW 9A.52.020)
21 Child Molestation 2 (RCW 9A.44.086)
22 Dealing in depictions of minor engaged in
23 sexually explicit conduct (RCW
24 9.68A.050)
25 Drive-by Shooting (RCW 9A.36.045)
26 Homicide by Watercraft, by disregard for
27 the safety of others (RCW 79A.60.050)
28 Indecent Liberties (without forcible
29 compulsion) (RCW 9A.44.100(1) (b) and
30 (c))
31 Introducing Contraband 1 (RCW 9A.76.140)
32 Involving a minor in drug dealing (RCW
33 69.50.401(f))
34 Malicious placement of an explosive 3 (RCW
35 70.74.270(3))

1 Sending, bringing into state depictions of
2 minor engaged in sexually explicit
3 conduct (RCW 9.68A.060)
4 Unlawful Possession of a Firearm in the
5 first degree (RCW 9.41.040(1)(a))
6 Use of a Machine Gun in Commission of a
7 Felony (RCW 9.41.225)
8 Vehicular Homicide, by disregard for the
9 safety of others (RCW 46.61.520)

10 VI Bail Jumping with Murder 1 (RCW
11 9A.76.170(2)(a))
12 Bribery (RCW 9A.68.010)
13 Incest 1 (RCW 9A.64.020(1))
14 Intimidating a Judge (RCW 9A.72.160)
15 Intimidating a Juror/Witness (RCW
16 9A.72.110, 9A.72.130)
17 Malicious placement of an imitation device
18 2 (RCW 70.74.272(1)(b))
19 Manufacture, deliver, or possess with
20 intent to deliver narcotics from
21 Schedule I or II (except heroin or
22 cocaine) or flunitrazepam from
23 Schedule IV (RCW 69.50.401(a)(1)(i))
24 Rape of a Child 3 (RCW 9A.44.079)
25 Theft of a Firearm (RCW 9A.56.300)
26 Unlawful Storage of Anhydrous Ammonia (RCW
27 69.55.020)

28 V Abandonment of dependent person 1 (RCW
29 9A.42.060)
30 Advancing money or property for
31 extortionate extension of credit (RCW
32 9A.82.030)
33 Bail Jumping with class A Felony (RCW
34 9A.76.170(2)(b))
35 Child Molestation 3 (RCW 9A.44.089)
36 Criminal Mistreatment 1 (RCW 9A.42.020)

1 Custodial Sexual Misconduct 1 (RCW
2 9A.44.160)
3 Delivery of imitation controlled substance
4 by person eighteen or over to person
5 under eighteen (RCW 69.52.030(2))
6 Domestic Violence Court Order Violation
7 (RCW 10.99.040, 10.99.050, 26.09.300,
8 26.10.220, 26.26.138, 26.50.110,
9 26.52.070, or 74.34.145)
10 Extortion 1 (RCW 9A.56.120)
11 Extortionate Extension of Credit (RCW
12 9A.82.020)
13 Extortionate Means to Collect Extensions of
14 Credit (RCW 9A.82.040)
15 Incest 2 (RCW 9A.64.020(2))
16 Kidnapping 2 (RCW 9A.40.030)
17 Perjury 1 (RCW 9A.72.020)
18 Persistent prison misbehavior (RCW
19 9.94.070)
20 Possession of a Stolen Firearm (RCW
21 9A.56.310)
22 Rape 3 (RCW 9A.44.060)
23 Rendering Criminal Assistance 1 (RCW
24 9A.76.070)
25 Sexual Misconduct with a Minor 1 (RCW
26 9A.44.093)
27 Sexually Violating Human Remains (RCW
28 9A.44.105)
29 Stalking (RCW 9A.46.110)
30 IV Arson 2 (RCW 9A.48.030)
31 Assault 2 (RCW 9A.36.021)
32 Assault by Watercraft (RCW 79A.60.060)
33 Bribing a Witness/Bribe Received by Witness
34 (RCW 9A.72.090, 9A.72.100)
35 Commercial Bribery (RCW 9A.68.060)
36 Counterfeiting (RCW 9.16.035(4))
37 Escape 1 (RCW 9A.76.110)

1 Hit and Run--Injury (RCW 46.52.020(4)(b))
2 Hit and Run with Vessel--Injury Accident
3 (RCW 79A.60.200(3))
4 Indecent Exposure to Person Under Age
5 Fourteen (subsequent sex offense) (RCW
6 9A.88.010)
7 Influencing Outcome of Sporting Event (RCW
8 9A.82.070)
9 Knowingly Trafficking in Stolen Property
10 (RCW 9A.82.050(2))
11 Malicious Harassment (RCW 9A.36.080)
12 Manufacture, deliver, or possess with
13 intent to deliver narcotics from
14 Schedule III, IV, or V or nonnarcotics
15 from Schedule I-V (except marijuana,
16 amphetamine, methamphetamines, or
17 flunitrazepam) (RCW 69.50.401(a)(1)
18 (iii) through (v))
19 Residential Burglary (RCW 9A.52.025)
20 Robbery 2 (RCW 9A.56.210)
21 Theft of Livestock 1 (RCW 9A.56.080)
22 Threats to Bomb (RCW 9.61.160)
23 Use of Proceeds of Criminal Profiteering
24 (RCW 9A.82.080 (1) and (2))
25 Vehicular Assault, by being under the
26 influence of intoxicating liquor or
27 any drug, or by the operation or
28 driving of a vehicle in a reckless
29 manner (RCW 46.61.522)
30 Willful Failure to Return from Furlough
31 (RCW 72.66.060)
32 III Abandonment of dependent person 2 (RCW
33 9A.42.070)
34 Assault 3 (RCW 9A.36.031)
35 Assault of a Child 3 (RCW 9A.36.140)
36 Bail Jumping with class B or C Felony (RCW
37 9A.76.170(2)(c))

1 Burglary 2 (RCW 9A.52.030)
2 Communication with a Minor for Immoral
3 Purposes (RCW 9.68A.090)
4 Criminal Gang Intimidation (RCW 9A.46.120)
5 Criminal Mistreatment 2 (RCW 9A.42.030)
6 Custodial Assault (RCW 9A.36.100)
7 Delivery of a material in lieu of a
8 controlled substance (RCW
9 69.50.401(c))
10 Escape 2 (RCW 9A.76.120)
11 Extortion 2 (RCW 9A.56.130)
12 Harassment (RCW 9A.46.020)
13 Intimidating a Public Servant (RCW
14 9A.76.180)
15 Introducing Contraband 2 (RCW 9A.76.150)
16 Maintaining a Dwelling or Place for
17 Controlled Substances (RCW
18 69.50.402(a)(6))
19 Malicious Injury to Railroad Property (RCW
20 81.60.070)
21 Manufacture, deliver, or possess with
22 intent to deliver marijuana (RCW
23 69.50.401(a)(1)(iii))
24 Manufacture, distribute, or possess with
25 intent to distribute an imitation
26 controlled substance (RCW
27 69.52.030(1))
28 Patronizing a Juvenile Prostitute (RCW
29 9.68A.100)
30 Perjury 2 (RCW 9A.72.030)
31 Possession of Incendiary Device (RCW
32 9.40.120)
33 Possession of Machine Gun or Short-Barreled
34 Shotgun or Rifle (RCW 9.41.190)
35 Promoting Prostitution 2 (RCW 9A.88.080)
36 Recklessly Trafficking in Stolen Property
37 (RCW 9A.82.050(1))
38 Securities Act violation (RCW 21.20.400)

1 Tampering with a Witness (RCW 9A.72.120)
2 Telephone Harassment (subsequent conviction
3 or threat of death) (RCW 9.61.230)
4 Theft of Livestock 2 (RCW 9A.56.080)
5 Unlawful Imprisonment (RCW 9A.40.040)
6 Unlawful possession of firearm in the
7 second degree (RCW 9.41.040(1)(b))
8 Unlawful Use of Building for Drug Purposes
9 (RCW 69.53.010)
10 Vehicular Assault, by the operation or
11 driving of a vehicle with disregard
12 for the safety of others (RCW
13 46.61.522)
14 Willful Failure to Return from Work Release
15 (RCW 72.65.070)
16 II Computer Trespass 1 (RCW 9A.52.110)
17 Counterfeiting (RCW 9.16.035(3))
18 Create, deliver, or possess a counterfeit
19 controlled substance (RCW
20 69.50.401(b))
21 Escape from Community Custody (RCW
22 72.09.310)
23 Health Care False Claims (RCW 48.80.030)
24 Malicious Mischief 1 (RCW 9A.48.070)
25 Possession of controlled substance that is
26 either heroin or narcotics from
27 Schedule I or II or flunitrazepam from
28 Schedule IV (RCW 69.50.401(d))
29 Possession of phencyclidine (PCP) (RCW
30 69.50.401(d))
31 Possession of Stolen Property 1 (RCW
32 9A.56.150)
33 Theft 1 (RCW 9A.56.030)
34 Theft of Rental, Leased, or Lease-purchased
35 Property (valued at one thousand five
36 hundred dollars or more) (RCW
37 9A.56.096(4))

1 Trafficking in Insurance Claims (RCW
2 48.30A.015)
3 Unlawful Practice of Law (RCW 2.48.180)
4 Unlicensed Practice of a Profession or
5 Business (RCW 18.130.190(7))
6 I Attempting to Elude a Pursuing Police
7 Vehicle (RCW 46.61.024)
8 False Verification for Welfare (RCW
9 74.08.055)
10 Forged Prescription (RCW 69.41.020)
11 Forged Prescription for a Controlled
12 Substance (RCW 69.50.403)
13 Forgery (RCW 9A.60.020)
14 Malicious Mischief 2 (RCW 9A.48.080)
15 Possess Controlled Substance that is a
16 Narcotic from Schedule III, IV, or V
17 or Non-narcotic from Schedule I-V
18 (except phencyclidine or
19 flunitrazepam) (RCW 69.50.401(d))
20 Possession of Stolen Property 2 (RCW
21 9A.56.160)
22 Reckless Burning 1 (RCW 9A.48.040)
23 Taking Motor Vehicle Without Permission
24 (RCW 9A.56.070)
25 Theft 2 (RCW 9A.56.040)
26 Theft of Rental, Leased, or Lease-purchased
27 Property (valued at two hundred fifty
28 dollars or more but less than one
29 thousand five hundred dollars) (RCW
30 9A.56.096(4))
31 Unlawful Issuance of Checks or Drafts (RCW
32 9A.56.060)
33 Unlawful Use of Food Stamps (RCW 9.91.140
34 (2) and (3))
35 Vehicle Prowl 1 (RCW 9A.52.095)"

36 Correct the title.

EFFECT: Removes the new crime of second-degree vehicular assault and instead adds a third way to commit the current crime of vehicular assault: by driving with disregard for the safety of others and causing substantial bodily harm to another.

Ranks the new way of committing vehicular assault (disregard for safety of others) at seriousness level III under the Sentencing Reform Act (the other two ways of committing vehicular assault continue to be ranked at level IV). At level III, a person with no prior offenses would receive a standard range sentence of 1-3 months.

Restores vehicular assault to the definition of "most serious crime" if it is committed while under the influence or by driving in a reckless manner.