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HOUSE BILL 2314

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State of Washington

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By Representatives Hurst, Kessler, Berkey, Sullivan, Dunshee, Lovick, Kenney, Edwards, Rockefeller, Conway, Lisk, Buck, D. Schmidt, Alexander, Kirby, Haigh, Fromhold, O'Brien and Esser; by request of Governor Locke and Attorney General

Read first time 01/14/2002. Referred to Committee on Select Committee on Community Security.

1 AN ACT Relating to criminal penalties for terrorism offenses;  
2 amending RCW 9A.82.090, 9A.82.100, 9A.82.120, 10.95.040, and 9A.04.080;  
3 reenacting and amending RCW 9A.82.010 and 9.94A.515; adding a new  
4 section to chapter 10.95 RCW; adding a new chapter to Title 9A RCW;  
5 prescribing penalties; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** LEGISLATIVE FINDINGS--INTENT. The  
8 legislature finds that the events of September 11, 2001, have focused  
9 our nation's attention on the importance of preparedness in preventing,  
10 investigating, and prosecuting acts of terrorism against its citizens.  
11 The legislature further finds that, to be effective, this effort  
12 requires a partnership between the federal and state and local  
13 governments. In furtherance of this partnership, it is the  
14 legislature's intent to strengthen the laws of the state of Washington  
15 to better protect the health and safety of Washington state and its  
16 residents from acts of terrorism. It is also the intent of the  
17 legislature that this act be interpreted to provide the greatest  
18 measure of protection and safety for the people of this state and to  
19 preserve and protect their constitutional rights, including the right

1 to petition their governments and to exercise their rights under the  
2 First Amendment to the United States Constitution.

3 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this  
4 section apply throughout this chapter unless the context clearly  
5 requires otherwise.

6 (1) "Biological agent" means any microorganism, virus, infectious  
7 substance, or biological product that may be engineered as a result of  
8 biotechnology, or any naturally occurring or bioengineered component of  
9 any such microorganism, virus, infectious substance, or biological  
10 product, capable of causing:

11 (a) Death, disease, or other biological malfunction in a human, an  
12 animal, a plant, or another living organism; or

13 (b) Deterioration of food, water equipment, supplies, or material  
14 of any kind; or

15 (c) Deleterious alteration of the environment.

16 (2) "Chemical agent" means any weapon, device, material, or  
17 substance that is designed or intended to cause widespread death or  
18 physical injury through the release, dissemination, or impact of toxic  
19 or poisonous chemicals or precursors of toxic or poisonous chemicals.

20 (3) "Imitation weapon of mass destruction" means any device or  
21 substance that is not a weapon of mass destruction, but which by  
22 appearance or representation would lead a reasonable person to believe  
23 that the device or substance is a weapon of mass destruction.

24 (4) "Material support or resources" means currency or other  
25 financial securities, financial services, lodging, training,  
26 safehouses, false documentation or identification, intelligence  
27 information, communications equipment, facilities, weapons, lethal  
28 substances, explosives, personnel, transportation, and other assets.

29 (5) "Physical damage" has the meaning given in RCW 9A.48.100.

30 (6) "Public water system" means any publicly or privately owned  
31 system, including a system serving only one single-family residence,  
32 providing piped water for human consumption, including any collection,  
33 treatment, storage, or distribution facilities.

34 (7) "Radioactive material" means any material containing, emitting,  
35 or otherwise releasing radiation or radioactivity at a level dangerous  
36 to human life.

37 (8) "Terroristic intent" means the intent to use a weapon of mass  
38 destruction, or to cause substantial damage to a habitable structure or

1 to critical infrastructure with the intent to intimidate or coerce a  
2 civilian population or to affect the conduct of a government or unit of  
3 government.

4 (9) "Toxin" means the toxic material of plants, animals,  
5 microorganisms, viruses, fungi, or infectious substances, or a  
6 recombinant molecule, whatever its origin or method of production,  
7 including:

8 (a) Any poisonous substance or biological product that may be  
9 engineered as a result of biotechnology produced by a living organism;  
10 or

11 (b) Any poisonous isomer or biological product, homolog, or  
12 derivative of such a substance.

13 (10) "Vector" means a living organism, or molecule, including a  
14 recombinant molecule, or biological product that may be engineered as  
15 a result of biotechnology, capable of carrying a biological agent or  
16 toxin to a host.

17 (11) "Weapon of mass destruction" means any device, object, or  
18 substance that is designed, or that the defendant intends to use, to  
19 cause multiple human deaths or serious physical injuries, or the  
20 intentional unlawful release, or dissemination of a biological agent,  
21 radioactive material, or chemical agent.

22 NEW SECTION. Sec. 3. TERRORISM IN THE FIRST DEGREE. (1) A person  
23 is guilty of terrorism in the first degree if such person acts with  
24 terroristic intent and thereby causes the death of another person.

25 (2) For the purposes of this section, "another person," in addition  
26 to its ordinary meaning, includes, but is not limited to, any emergency  
27 services personnel or a member of the civilian population responding,  
28 at any point in time, to render aid in response to the act of  
29 terrorism.

30 (3) Terrorism in the first degree is a class A felony and, any  
31 other provision of law notwithstanding, is punishable as provided in  
32 RCW 10.95.010, 10.95.030 through 10.95.900, and section 13 of this act.

33 NEW SECTION. Sec. 4. TERRORISM IN THE SECOND DEGREE. (1) A  
34 person is guilty of terrorism in the second degree if such person acts  
35 with terroristic intent and thereby:

36 (a) Causes substantial bodily harm to more than one person; or

1 (b) Causes substantial damage to a habitable building or structure,  
2 whether or not occupied, sufficient to create a substantial risk of  
3 death to another person if the building or structure had been occupied  
4 by any such person; or

5 (c) Causes substantial physical damage sufficient to disrupt the  
6 normal functioning of a critical public or private infrastructure  
7 system including, but not limited to, a public water system, or an  
8 emergency, governmental, medical, fire, or law enforcement response  
9 system.

10 (2) Terrorism in the second degree is a class A felony.

11 NEW SECTION. **Sec. 5.** UNLAWFUL USE OR POSSESSION OF A WEAPON OF  
12 MASS DESTRUCTION. (1) Any person who with terroristic intent uses,  
13 manufactures, transports, possesses, spills, disposes, or otherwise  
14 releases a weapon of mass destruction is guilty of unlawful use or  
15 possession of a weapon of mass destruction.

16 (2) Unlawful use or possession of a weapon of mass destruction is  
17 a class A felony.

18 NEW SECTION. **Sec. 6.** THREATENING ACTS OF TERRORISM. (1) Any  
19 person who knowingly threatens to commit, falsely claims to have  
20 committed, or takes any other action intended to cause a reasonable  
21 belief that a violation of section 5 of this act has been committed or  
22 will be committed, including placement of an imitation weapon of mass  
23 destruction in an area open to or frequented by the public is guilty of  
24 threatening an act of terrorism.

25 (2) It is not a defense to any prosecution under this section that  
26 the defendant did not have the intent or capability of committing the  
27 terrorist act.

28 (3) Threatening an act of terrorism is a class B felony.

29 NEW SECTION. **Sec. 7.** PROVIDING MATERIAL SUPPORT OR RESOURCES TO  
30 TERRORISTS. (1) Any person who knowingly provides material support or  
31 resources or conceals or disguises the nature, location, source, or  
32 ownership of material support or resources, intending that the material  
33 support or resources are to be used in planning, preparation, or  
34 carrying out a crime defined in this chapter, or in planning,  
35 preparation, or carrying out the concealment or an escape from the

1 commission of any such offense, is guilty of providing material support  
2 or resources to terrorists.

3 (2) Providing material support or resources to terrorists is a  
4 class B felony.

5 NEW SECTION. **Sec. 8.** UNLAWFUL POSSESSION OF FALSE IDENTIFICATION  
6 FOR TERRORIST. (1) A person is guilty of unlawful possession of false  
7 identification for terrorist purposes if he or she, with the intent to  
8 commit or facilitate the commission of a crime defined in this chapter,  
9 possesses or uses any document or record that contains false  
10 information relating to the person who is the subject of such document  
11 or record.

12 (2) Unlawful possession of false identification for terrorist  
13 purposes is a class B felony.

14 **Sec. 9.** RCW 9A.82.010 and 2001 c 222 s 3 and 2001 c 217 s 11 are  
15 each reenacted and amended to read as follows:

16 Unless the context requires the contrary, the definitions in this  
17 section apply throughout this chapter.

18 (1)(a) "Beneficial interest" means:

19 (i) The interest of a person as a beneficiary under a trust  
20 established under Title 11 RCW in which the trustee for the trust holds  
21 legal or record title to real property;

22 (ii) The interest of a person as a beneficiary under any other  
23 trust arrangement under which a trustee holds legal or record title to  
24 real property for the benefit of the beneficiary; or

25 (iii) The interest of a person under any other form of express  
26 fiduciary arrangement under which one person holds legal or record  
27 title to real property for the benefit of the other person.

28 (b) "Beneficial interest" does not include the interest of a  
29 stockholder in a corporation or the interest of a partner in a general  
30 partnership or limited partnership.

31 (c) A beneficial interest is considered to be located where the  
32 real property owned by the trustee is located.

33 (2) "Control" means the possession of a sufficient interest to  
34 permit substantial direction over the affairs of an enterprise.

35 (3) "Creditor" means a person making an extension of credit or a  
36 person claiming by, under, or through a person making an extension of  
37 credit.

1 (4) "Criminal profiteering" means any act, including any  
2 anticipatory or completed offense, committed for financial gain, or any  
3 offense, including any anticipatory or completed offense, which is  
4 defined in chapter 9A.-- RCW (sections 1 through 8 and 17 through 23 of  
5 this act), whether or not committed for financial gain, that is  
6 chargeable or indictable under the laws of the state in which the act  
7 occurred and, if the act occurred in a state other than this state,  
8 would be chargeable or indictable under the laws of this state had the  
9 act occurred in this state and punishable as a felony and by  
10 imprisonment for more than one year, regardless of whether the act is  
11 charged or indicted, as any of the following:

- 12 (a) Murder, as defined in RCW 9A.32.030 and 9A.32.050;
- 13 (b) Robbery, as defined in RCW 9A.56.200 and 9A.56.210;
- 14 (c) Kidnapping, as defined in RCW 9A.40.020 and 9A.40.030;
- 15 (d) Forgery, as defined in RCW 9A.60.020 and 9A.60.030;
- 16 (e) Theft, as defined in RCW 9A.56.030, 9A.56.040, 9A.56.060, and  
17 9A.56.080;
- 18 (f) Unlawful sale of subscription television services, as defined  
19 in RCW 9A.56.230;
- 20 (g) Theft of telecommunication services or unlawful manufacture of  
21 a telecommunication device, as defined in RCW 9A.56.262 and 9A.56.264;
- 22 (h) Child selling or child buying, as defined in RCW 9A.64.030;
- 23 (i) Bribery, as defined in RCW 9A.68.010, 9A.68.020, 9A.68.040, and  
24 9A.68.050;
- 25 (j) Gambling, as defined in RCW 9.46.220 and 9.46.215 and 9.46.217;
- 26 (k) Extortion, as defined in RCW 9A.56.120 and 9A.56.130;
- 27 (l) Extortionate extension of credit, as defined in RCW 9A.82.020;
- 28 (m) Advancing money for use in an extortionate extension of credit,  
29 as defined in RCW 9A.82.030;
- 30 (n) Collection of an extortionate extension of credit, as defined  
31 in RCW 9A.82.040;
- 32 (o) Collection of an unlawful debt, as defined in RCW 9A.82.045;
- 33 (p) Delivery or manufacture of controlled substances or possession  
34 with intent to deliver or manufacture controlled substances under  
35 chapter 69.50 RCW;
- 36 (q) Trafficking in stolen property, as defined in RCW 9A.82.050;
- 37 (r) Leading organized crime, as defined in RCW 9A.82.060;
- 38 (s) Money laundering, as defined in RCW 9A.83.020;

1 (t) Obstructing criminal investigations or prosecutions in  
2 violation of RCW 9A.72.090, 9A.72.100, 9A.72.110, 9A.72.120, 9A.72.130,  
3 9A.76.070, or 9A.76.180;

4 (u) Fraud in the purchase or sale of securities, as defined in RCW  
5 21.20.010;

6 (v) Promoting pornography, as defined in RCW 9.68.140;

7 (w) Sexual exploitation of children, as defined in RCW 9.68A.040,  
8 9.68A.050, and 9.68A.060;

9 (x) Promoting prostitution, as defined in RCW 9A.88.070 and  
10 9A.88.080;

11 (y) Arson, as defined in RCW 9A.48.020 and 9A.48.030;

12 (z) Assault, as defined in RCW 9A.36.011 and 9A.36.021;

13 (aa) Assault of a child, as defined in RCW 9A.36.120 and 9A.36.130;

14 (bb) A pattern of equity skimming, as defined in RCW 61.34.020;

15 (cc) Commercial telephone solicitation in violation of RCW  
16 19.158.040(1);

17 (dd) Trafficking in insurance claims, as defined in RCW 48.30A.015;

18 (ee) Unlawful practice of law, as defined in RCW 2.48.180;

19 (ff) Commercial bribery, as defined in RCW 9A.68.060;

20 (gg) Health care false claims, as defined in RCW 48.80.030;

21 (hh) Unlicensed practice of a profession or business, as defined in  
22 RCW 18.130.190(7);

23 (ii) Improperly obtaining financial information, as defined in RCW  
24 9.35.010; (~~ex~~)

25 (jj) Identity theft, as defined in RCW 9.35.020;

26 (kk) Terrorism in the first degree, as defined in section 3 of this  
27 act;

28 (ll) Terrorism in the second degree, as defined in section 4 of  
29 this act;

30 (mm) Unlawful use or possession of a weapon of mass destruction, as  
31 defined in section 5 of this act;

32 (nn) Threatening acts of terrorism, as defined in section 6 of this  
33 act;

34 (oo) Providing material support or resources to terrorists, as  
35 defined in section 7 of this act; or

36 (pp) Unlawful possession of false identification for terrorist  
37 purposes, as defined in section 8 of this act.

38 (5) "Dealer in property" means a person who buys and sells property  
39 as a business.

1 (6) "Debtor" means a person to whom an extension of credit is made  
2 or a person who guarantees the repayment of an extension of credit or  
3 in any manner undertakes to indemnify the creditor against loss  
4 resulting from the failure of a person to whom an extension is made to  
5 repay the same.

6 (7) "Documentary material" means any book, paper, document,  
7 writing, drawing, graph, chart, photograph, phonograph record, magnetic  
8 tape, computer printout, other data compilation from which information  
9 can be obtained or from which information can be translated into usable  
10 form, or other tangible item.

11 (8) "Enterprise" includes any individual, sole proprietorship,  
12 partnership, corporation, business trust, or other profit or nonprofit  
13 legal entity, and includes any union, association, or group of  
14 individuals associated in fact although not a legal entity, and both  
15 illicit and licit enterprises and governmental and nongovernmental  
16 entities.

17 (9) "Extortionate extension of credit" means an extension of credit  
18 with respect to which it is the understanding of the creditor and the  
19 debtor at the time the extension is made that delay in making repayment  
20 or failure to make repayment could result in the use of violence or  
21 other criminal means to cause harm to the person, reputation, or  
22 property of any person.

23 (10) "Extortionate means" means the use, or an express or implicit  
24 threat of use, of violence or other criminal means to cause harm to the  
25 person, reputation, or property of any person.

26 (11) "Financial institution" means any bank, trust company, savings  
27 and loan association, savings bank, mutual savings bank, credit union,  
28 or loan company under the jurisdiction of the state or an agency of the  
29 United States.

30 (12) "Pattern of criminal profiteering activity" means engaging in  
31 at least three acts of criminal profiteering, one of which occurred  
32 after July 1, 1985, and the last of which occurred within five years,  
33 excluding any period of imprisonment, after the commission of the  
34 earliest act of criminal profiteering. In order to constitute a  
35 pattern, the three acts must have the same or similar intent, results,  
36 accomplices, principals, victims, or methods of commission, or be  
37 otherwise interrelated by distinguishing characteristics including a  
38 nexus to the same enterprise, and must not be isolated events.  
39 However, in any civil proceedings brought pursuant to RCW 9A.82.100 by

1 any person other than the attorney general or county prosecuting  
2 attorney in which one or more acts of fraud in the purchase or sale of  
3 securities are asserted as acts of criminal profiteering activity, it  
4 is a condition to civil liability under RCW 9A.82.100 that the  
5 defendant has been convicted in a criminal proceeding of fraud in the  
6 purchase or sale of securities under RCW 21.20.400 or under the laws of  
7 another state or of the United States requiring the same elements of  
8 proof, but such conviction need not relate to any act or acts asserted  
9 as acts of criminal profiteering activity in such civil action under  
10 RCW 9A.82.100.

11 (13) "Real property" means any real property or interest in real  
12 property, including but not limited to a land sale contract, lease, or  
13 mortgage of real property.

14 (14) "Records" means any book, paper, writing, record, computer  
15 program, or other material.

16 (15) "Repayment of an extension of credit" means the repayment,  
17 satisfaction, or discharge in whole or in part of a debt or claim,  
18 acknowledged or disputed, valid or invalid, resulting from or in  
19 connection with that extension of credit.

20 (16) "Stolen property" means property that has been obtained by  
21 theft, robbery, or extortion.

22 (17) "To collect an extension of credit" means to induce in any way  
23 a person to make repayment thereof.

24 (18) "To extend credit" means to make or renew a loan or to enter  
25 into an agreement, tacit or express, whereby the repayment or  
26 satisfaction of a debt or claim, whether acknowledged or disputed,  
27 valid or invalid, and however arising, may or shall be deferred.

28 (19) "Traffic" means to sell, transfer, distribute, dispense, or  
29 otherwise dispose of stolen property to another person, or to buy,  
30 receive, possess, or obtain control of stolen property, with intent to  
31 sell, transfer, distribute, dispense, or otherwise dispose of the  
32 property to another person.

33 (20)(a) "Trustee" means:

34 (i) A person acting as a trustee under a trust established under  
35 Title 11 RCW in which the trustee holds legal or record title to real  
36 property;

37 (ii) A person who holds legal or record title to real property in  
38 which another person has a beneficial interest; or

1 (iii) A successor trustee to a person who is a trustee under (a)(i)  
2 or (ii) of this subsection.

3 (b) "Trustee" does not mean a person appointed or acting as:

4 (i) A personal representative under Title 11 RCW;

5 (ii) A trustee of any testamentary trust;

6 (iii) A trustee of any indenture of trust under which a bond is  
7 issued; or

8 (iv) A trustee under a deed of trust.

9 (21) "Unlawful debt" means any money or other thing of value  
10 constituting principal or interest of a debt that is legally  
11 unenforceable in the state in full or in part because the debt was  
12 incurred or contracted:

13 (a) In violation of any one of the following:

14 (i) Chapter 67.16 RCW relating to horse racing;

15 (ii) Chapter 9.46 RCW relating to gambling;

16 (b) In a gambling activity in violation of federal law; or

17 (c) In connection with the business of lending money or a thing of  
18 value at a rate that is at least twice the permitted rate under the  
19 applicable state or federal law relating to usury.

20 **Sec. 10.** RCW 9A.82.090 and 2001 c 222 s 13 are each amended to  
21 read as follows:

22 During the pendency of any criminal case charging a violation of  
23 RCW 9A.82.060 or (~~a violation of RCW~~) 9A.82.080, or of an offense  
24 defined in chapter 9A.-- RCW (sections 1 through 8 and 17 through 23 of  
25 this act) whether or not committed for financial gain, the superior  
26 court may, in addition to its other powers, issue an order pursuant to  
27 RCW 9A.82.100 (2) or (3). Upon conviction of a person for a violation  
28 of RCW 9A.82.060 or (~~a violation of RCW~~) 9A.82.080, or of an offense  
29 defined in chapter 9A.-- RCW (sections 1 through 8 and 17 through 23 of  
30 this act) whether or not committed for financial gain, the superior  
31 court may, in addition to its other powers of disposition, issue an  
32 order pursuant to RCW 9A.82.100.

33 **Sec. 11.** RCW 9A.82.100 and 2001 c 222 s 14 are each amended to  
34 read as follows:

35 (1)(a) A person who sustains injury to his or her person, business,  
36 or property by an act of criminal profiteering that is part of a  
37 pattern of criminal profiteering activity, by an offense defined in

1 chapter 9A.-- RCW (sections 1 through 8 and 17 through 23 of this act)  
2 whether or not committed for financial gain, or by a violation of RCW  
3 9A.82.060 or 9A.82.080 may file an action in superior court for the  
4 recovery of damages and the costs of the suit, including reasonable  
5 investigative and attorney's fees.

6 (b) The attorney general or county prosecuting attorney may file an  
7 action: (i) On behalf of those persons injured or, respectively, on  
8 behalf of the state or county if the entity has sustained damages, or  
9 (ii) to prevent, restrain, or remedy a pattern of criminal profiteering  
10 activity, or an offense defined in chapter 9A.-- RCW (sections 1  
11 through 8 and 17 through 23 of this act) whether or not committed for  
12 financial gain, or a violation of RCW 9A.82.060 or 9A.82.080.

13 (c) An action for damages filed by or on behalf of an injured  
14 person, the state, or the county shall be for the recovery of damages  
15 and the costs of the suit, including reasonable investigative and  
16 attorney's fees.

17 (d) In an action filed to prevent, restrain, or remedy a pattern of  
18 criminal profiteering activity, or an offense defined in chapter 9A.--  
19 RCW (sections 1 through 8 and 17 through 23 of this act) whether or not  
20 committed for financial gain, or a violation of RCW 9A.82.060 or  
21 9A.82.080, the court, upon proof of the violation, may impose a civil  
22 penalty not exceeding two hundred fifty thousand dollars, in addition  
23 to awarding the cost of the suit, including reasonable investigative  
24 and attorney's fees.

25 (2) The superior court has jurisdiction to prevent, restrain, and  
26 remedy a pattern of criminal profiteering, or an offense defined in  
27 chapter 9A.-- RCW (sections 1 through 8 and 17 through 23 of this act)  
28 whether or not committed for financial gain, or a violation of RCW  
29 9A.82.060 or 9A.82.080 after making provision for the rights of all  
30 innocent persons affected by the violation and after hearing or trial,  
31 as appropriate, by issuing appropriate orders.

32 (3) Prior to a determination of liability, orders issued under  
33 subsection (2) of this section may include, but are not limited to,  
34 entering restraining orders or prohibitions or taking such other  
35 actions, including the acceptance of satisfactory performance bonds, in  
36 connection with any property or other interest subject to damages,  
37 forfeiture, or other restraints pursuant to this section as the court  
38 deems proper. The orders may also include attachment, receivership, or  
39 injunctive relief in regard to personal or real property pursuant to

1 Title 7 RCW. In shaping the reach or scope of receivership,  
2 attachment, or injunctive relief, the superior court shall provide for  
3 the protection of bona fide interests in property, including community  
4 property, of persons who were not involved in the violation of this  
5 chapter, except to the extent that such interests or property were  
6 acquired or used in such a way as to be subject to forfeiture under RCW  
7 9A.82.100(4)(f).

8 (4) Following a determination of liability, orders may include, but  
9 are not limited to:

10 (a) Ordering any person to divest himself or herself of any  
11 interest, direct or indirect, in any enterprise.

12 (b) Imposing reasonable restrictions on the future activities or  
13 investments of any person, including prohibiting any person from  
14 engaging in the same type of endeavor as the enterprise engaged in, the  
15 activities of which affect the laws of this state, to the extent the  
16 Constitutions of the United States and this state permit.

17 (c) Ordering dissolution or reorganization of any enterprise.

18 (d) Ordering the payment of actual damages sustained to those  
19 persons injured by a violation of RCW 9A.82.060 or 9A.82.080, or an  
20 offense defined in chapter 9A.-- RCW (sections 1 through 8 and 17  
21 through 23 of this act) whether or not committed for financial gain, or  
22 an act of criminal profiteering that is part of a pattern of criminal  
23 profiteering, and in the court's discretion, increasing the payment to  
24 an amount not exceeding three times the actual damages sustained.

25 (e) Ordering the payment of all costs and expenses of the  
26 prosecution and investigation of a pattern of criminal profiteering  
27 activity, or an offense defined in chapter 9A.-- RCW (sections 1  
28 through 8 and 17 through 23 of this act) whether or not committed for  
29 financial gain, or a violation of RCW 9A.82.060 or 9A.82.080, civil and  
30 criminal, incurred by the state or county, including any costs of  
31 defense provided at public expense, as appropriate to the state general  
32 fund or the antiprofitteering revolving fund of the county.

33 (f) Ordering forfeiture first as restitution to any person damaged  
34 by an act of criminal profiteering that is part of a pattern of  
35 criminal profiteering, or by an offense defined in chapter 9A.-- RCW  
36 (sections 1 through 8 and 17 through 23 of this act) whether or not  
37 committed for financial gain, then to the state general fund or  
38 antiprofitteering revolving fund of the county, as appropriate, to the

1 extent not already ordered to be paid in other damages, of the  
2 following:

3 (i) Any property or other interest acquired or maintained in  
4 violation of RCW 9A.82.060 or 9A.82.080 to the extent of the investment  
5 of funds, and any appreciation or income attributable to the  
6 investment, from a violation of RCW 9A.82.060 or 9A.82.080.

7 (ii) Any property, contractual right, or claim against property  
8 used to influence any enterprise that a person has established,  
9 operated, controlled, conducted, or participated in the conduct of, in  
10 violation of RCW 9A.82.060 or 9A.82.080.

11 (iii) All proceeds traceable to or derived from an offense included  
12 in the pattern of criminal profiteering activity, or an offense defined  
13 in chapter 9A.-- RCW (sections 1 through 8 and 17 through 23 of this  
14 act) whether or not committed for financial gain, and all moneys,  
15 negotiable instruments, securities, and other things of value  
16 significantly used or intended to be used significantly to facilitate  
17 commission of the offense.

18 (g) Ordering payment to the state general fund or antiprofitteering  
19 revolving fund of the county, as appropriate, of an amount equal to the  
20 gain a person has acquired or maintained through an offense included in  
21 the definition of criminal profiteering.

22 (5) In addition to or in lieu of an action under this section, the  
23 attorney general or county prosecuting attorney may file an action for  
24 forfeiture to the state general fund or antiprofitteering revolving fund  
25 of the county, as appropriate, to the extent not already ordered paid  
26 pursuant to this section, of the following:

27 (a) Any interest acquired or maintained by a person in violation of  
28 RCW 9A.82.060 or 9A.82.080 to the extent of the investment of funds  
29 obtained from a violation of RCW 9A.82.060 or 9A.82.080 and any  
30 appreciation or income attributable to the investment.

31 (b) Any property, contractual right, or claim against property used  
32 to influence any enterprise that a person has established, operated,  
33 controlled, conducted, or participated in the conduct of, in violation  
34 of RCW 9A.82.060 or 9A.82.080.

35 (c) All proceeds traceable to or derived from an offense included  
36 in the pattern of criminal profiteering activity, or an offense defined  
37 in chapter 9A.-- RCW (sections 1 through 8 and 17 through 23 of this  
38 act) whether or not committed for financial gain, and all moneys,  
39 negotiable instruments, securities, and other things of value

1 significantly used or intended to be used significantly to facilitate  
2 the commission of the offense.

3 (6) A defendant convicted in any criminal proceeding is precluded  
4 in any civil proceeding from denying the essential allegations of the  
5 criminal offense proven in the criminal trial in which the defendant  
6 was convicted. For the purposes of this subsection, a conviction shall  
7 be deemed to have occurred upon a verdict, finding, or plea of guilty,  
8 notwithstanding the fact that appellate review of the conviction and  
9 sentence has been or may be sought. If a subsequent reversal of the  
10 conviction occurs, any judgment that was based upon that conviction may  
11 be reopened upon motion of the defendant.

12 (7) The initiation of civil proceedings under this section shall be  
13 commenced within three years after discovery of the pattern of criminal  
14 profiteering activity or after the pattern should reasonably have been  
15 discovered or, in the case of an offense which is defined in chapter  
16 9A.-- RCW (sections 1 through 8 and 17 through 23 of this act), within  
17 three years after the final disposition of any criminal charges  
18 relating to the offense, whichever is later.

19 (8) The attorney general or county prosecuting attorney may, in a  
20 civil action brought pursuant to this section, file with the clerk of  
21 the superior court a certificate stating that the case is of special  
22 public importance. A copy of that certificate shall be furnished  
23 immediately by the clerk to the presiding chief judge of the superior  
24 court in which the action is pending and, upon receipt of the copy, the  
25 judge shall immediately designate a judge to hear and determine the  
26 action. The judge so designated shall promptly assign the action for  
27 hearing, participate in the hearings and determination, and cause the  
28 action to be expedited.

29 (9) The standard of proof in actions brought pursuant to this  
30 section is the preponderance of the evidence test.

31 (10) A person other than the attorney general or county prosecuting  
32 attorney who files an action under this section shall serve notice and  
33 one copy of the pleading on the attorney general within thirty days  
34 after the action is filed with the superior court. The notice shall  
35 identify the action, the person, and the person's attorney. Service of  
36 the notice does not limit or otherwise affect the right of the state to  
37 maintain an action under this section or intervene in a pending action  
38 nor does it authorize the person to name the state or the attorney  
39 general as a party to the action.

1 (11) Except in cases filed by a county prosecuting attorney, the  
2 attorney general may, upon timely application, intervene in any civil  
3 action or proceeding brought under this section if the attorney general  
4 certifies that in the attorney general's opinion the action is of  
5 special public importance. Upon intervention, the attorney general may  
6 assert any available claim and is entitled to the same relief as if the  
7 attorney general had instituted a separate action.

8 (12) In addition to the attorney general's right to intervene as a  
9 party in any action under this section, the attorney general may appear  
10 as amicus curiae in any proceeding in which a claim under this section  
11 has been asserted or in which a court is interpreting RCW 9A.82.010,  
12 9A.82.080, 9A.82.090, 9A.82.110, or 9A.82.120, or this section.

13 (13) A private civil action under this section does not limit any  
14 other civil or criminal action under this chapter or any other  
15 provision. Private civil remedies provided under this section are  
16 supplemental and not mutually exclusive.

17 (14) Upon motion by the defendant, the court may authorize the sale  
18 or transfer of assets subject to an order or lien authorized by this  
19 chapter for the purpose of paying actual attorney's fees and costs of  
20 defense. The motion shall specify the assets for which sale or  
21 transfer is sought and shall be accompanied by the defendant's sworn  
22 statement that the defendant has no other assets available for such  
23 purposes. No order authorizing such sale or transfer may be entered  
24 unless the court finds that the assets involved are not subject to  
25 possible forfeiture under RCW 9A.82.100(4)(f). Prior to disposition of  
26 the motion, the court shall notify the state of the assets sought to be  
27 sold or transferred and shall hear argument on the issue of whether the  
28 assets are subject to forfeiture under RCW 9A.82.100(4)(f). Such a  
29 motion may be made from time to time and shall be heard by the court on  
30 an expedited basis.

31 (15) In an action brought under subsection (1)(a) and (b)(i) of  
32 this section, either party has the right to a jury trial.

33 **Sec. 12.** RCW 9A.82.120 and 2001 c 222 s 16 are each amended to  
34 read as follows:

35 (1) The state, upon filing a criminal action under RCW 9A.82.060 or  
36 9A.82.080 or for an offense defined in chapter 9A.-- RCW (sections 1  
37 through 8 and 17 through 23 of this act) whether or not committed for  
38 financial gain, or a civil action under RCW 9A.82.100, may file in

1 accordance with this section a criminal profiteering lien. A filing  
2 fee or other charge is not required for filing a criminal profiteering  
3 lien.

4 (2) A criminal profiteering lien shall be signed by the attorney  
5 general or the county prosecuting attorney representing the state in  
6 the action and shall set forth the following information:

7 (a) The name of the defendant whose property or other interests are  
8 to be subject to the lien;

9 (b) In the discretion of the attorney general or county prosecuting  
10 attorney filing the lien, any aliases or fictitious names of the  
11 defendant named in the lien;

12 (c) If known to the attorney general or county prosecuting attorney  
13 filing the lien, the present residence or principal place of business  
14 of the person named in the lien;

15 (d) A reference to the proceeding pursuant to which the lien is  
16 filed, including the name of the court, the title of the action, and  
17 the court's file number for the proceeding;

18 (e) The name and address of the attorney representing the state in  
19 the proceeding pursuant to which the lien is filed;

20 (f) A statement that the notice is being filed pursuant to this  
21 section;

22 (g) The amount that the state claims in the action or, with respect  
23 to property or other interests that the state has requested forfeiture  
24 to the state or county, a description of the property or interests  
25 sought to be paid or forfeited;

26 (h) If known to the attorney general or county prosecuting attorney  
27 filing the lien, a description of property that is subject to  
28 forfeiture to the state or property in which the defendant has an  
29 interest that is available to satisfy a judgment entered in favor of  
30 the state; and

31 (i) Such other information as the attorney general or county  
32 prosecuting attorney filing the lien deems appropriate.

33 (3) The attorney general or the county prosecuting attorney filing  
34 the lien may amend a lien filed under this section at any time by  
35 filing an amended criminal profiteering lien in accordance with this  
36 section that identifies the prior lien amended.

37 (4) The attorney general or the county prosecuting attorney filing  
38 the lien shall, as soon as practical after filing a criminal  
39 profiteering lien, furnish to any person named in the lien a notice of

1 the filing of the lien. Failure to furnish notice under this  
2 subsection does not invalidate or otherwise affect a criminal  
3 profiteering lien filed in accordance with this section.

4 (5)(a) A criminal profiteering lien is perfected against interests  
5 in personal property in the same manner as a security interest in like  
6 property pursuant to RCW 62A.9-302, 62A.9-303, 62A.9-304, 62A.9-305,  
7 and 62A.9-306 or as otherwise required to perfect a security interest  
8 in like property under applicable law. In the case of perfection by  
9 filing, the state shall file, in lieu of a financing statement in the  
10 form prescribed by RCW 62A.9-402, a notice of lien in substantially the  
11 following form:

12 NOTICE OF LIEN

13 Pursuant to RCW 9A.82.120, the state of Washington claims a  
14 criminal profiteering lien on all real and personal property of:

15 Name: . . . . .  
16 Address: . . . . .  
17 . . . . .  
18 . . . . .

20 State of Washington  
21 . . . . .  
22 By (authorized signature)

23 On receipt of such a notice from the state, a filing officer shall,  
24 without payment of filing fee, file and index the notice as if it were  
25 a financing statement naming the state as secured party and the  
26 defendant as debtor.

27 (b) A criminal profiteering lien is perfected against interests in  
28 real property by filing the lien in the office where a mortgage on the  
29 real estate would be filed or recorded. The filing officer shall file  
30 and index the criminal profiteering lien, without payment of a filing  
31 fee, in the same manner as a mortgage.

32 (6) The filing of a criminal profiteering lien in accordance with  
33 this section creates a lien in favor of the state in:

34 (a) Any interest of the defendant, in real property situated in the  
35 county in which the lien is filed, then maintained, or thereafter  
36 acquired in the name of the defendant identified in the lien;

1 (b) Any interest of the defendant, in personal property situated in  
2 this state, then maintained or thereafter acquired in the name of the  
3 defendant identified in the lien; and

4 (c) Any property identified in the lien to the extent of the  
5 defendant's interest therein.

6 (7) The lien created in favor of the state in accordance with this  
7 section, when filed or otherwise perfected as provided in subsection  
8 (5) of this section, has, with respect to any of the property described  
9 in subsection (6) of this section, the same priority determined  
10 pursuant to the laws of this state as a mortgage or security interest  
11 given for value (but not a purchase money security interest) and  
12 perfected in the same manner with respect to such property; except that  
13 any lien perfected pursuant to Title 60 RCW by any person who, in the  
14 ordinary course of his business, furnishes labor, services, or  
15 materials, or rents, leases, or otherwise supplies equipment, without  
16 knowledge of the criminal profiteering lien, is superior to the  
17 criminal profiteering lien.

18 (8) Upon entry of judgment in favor of the state, the state may  
19 proceed to execute thereon as in the case of any other judgment, except  
20 that in order to preserve the state's lien priority as provided in this  
21 section the state shall, in addition to such other notice as is  
22 required by law, give at least thirty days' notice of the execution to  
23 any person possessing at the time the notice is given, an interest  
24 recorded subsequent to the date the state's lien was perfected.

25 (9) Upon the entry of a final judgment in favor of the state  
26 providing for forfeiture of property to the state, the title of the  
27 state to the property:

28 (a) In the case of real property or a beneficial interest in real  
29 property, relates back to the date of filing the criminal profiteering  
30 lien or, if no criminal profiteering lien is filed, then to the date of  
31 recording of the final judgment or the abstract thereof; or

32 (b) In the case of personal property or a beneficial interest in  
33 personal property, relates back to the date the personal property was  
34 seized by the state, or the date of filing of a criminal profiteering  
35 lien in accordance with this section, whichever is earlier, but if the  
36 property was not seized and no criminal profiteering lien was filed  
37 then to the date the final judgment was filed with the department of  
38 licensing and, if the personal property is an aircraft, with the  
39 federal aviation administration.

1 (10) This section does not limit the right of the state to obtain  
2 any order or injunction, receivership, writ, attachment, garnishment,  
3 or other remedy authorized under RCW 9A.82.100 or appropriate to  
4 protect the interests of the state or available under other applicable  
5 law.

6 (11) In a civil or criminal action under this chapter, the superior  
7 court shall provide for the protection of bona fide interests in  
8 property, including community property, subject to liens of persons who  
9 were not involved in the violation of this chapter, except to the  
10 extent that such interests or property were acquired or used in such a  
11 way as to be subject to forfeiture pursuant to RCW 9A.82.100(4)(f).

12 NEW SECTION. **Sec. 13.** A new section is added to chapter 10.95 RCW  
13 to read as follows:

14 AGGRAVATED FIRST DEGREE MURDER--DEFINITION--ALTERNATIVE MEANS OF  
15 COMMISSION--TERRORISM IN THE FIRST DEGREE. A person is guilty of  
16 aggravated murder in the first degree if he or she commits terrorism in  
17 the first degree as defined by section 3 of this act and shall be  
18 punished in accordance with the provisions of this chapter.

19 **Sec. 14.** RCW 10.95.040 and 1981 c 138 s 4 are each amended to read  
20 as follows:

21 (1) If a person is charged with aggravated first degree murder as  
22 defined by RCW 10.95.020 or section 13 of this act, the prosecuting  
23 attorney shall file written notice of a special sentencing proceeding  
24 to determine whether or not the death penalty should be imposed when  
25 there is reason to believe that there are not sufficient mitigating  
26 circumstances to merit leniency.

27 (2) The notice of special sentencing proceeding shall be filed and  
28 served on the defendant or the defendant's attorney within thirty days  
29 after the defendant's arraignment upon the charge of aggravated first  
30 degree murder unless the court, for good cause shown, extends or  
31 reopens the period for filing and service of the notice. Except with  
32 the consent of the prosecuting attorney, during the period in which the  
33 prosecuting attorney may file the notice of special sentencing  
34 proceeding, the defendant may not tender a plea of guilty to the charge  
35 of aggravated first degree murder nor may the court accept a plea of  
36 guilty to the charge of aggravated first degree murder or any lesser  
37 included offense.

1 (3) If a notice of special sentencing proceeding is not filed and  
2 served as provided in this section, the prosecuting attorney may not  
3 request the death penalty.

4 **Sec. 15.** RCW 9.94A.515 and 2001 2nd sp.s. c 12 s 361, 2001 c 300  
5 s 4, 2001 c 217 s 12, and 2001 c 17 s 1 are each reenacted and amended  
6 to read as follows:

7 TABLE 2

8 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

9 XVI	Aggravated Murder 1 (RCW 10.95.020)
10	<u>Terrorism 1 (RCW 9A.--.---</u> (section 3 of
11	<u>this act))</u>
12 XV	Homicide by abuse (RCW 9A.32.055)
13	Malicious explosion 1 (RCW 70.74.280(1))
14	Murder 1 (RCW 9A.32.030)
15	<u>Terrorism 2 (RCW 9A.--.---</u> (section 4 of
16	<u>this act))</u>
17 XIV	Murder 2 (RCW 9A.32.050)
18	<u>Unlawful Use or Possession of a Weapon of</u>
19	<u>Mass Destruction (RCW 9A.--.---</u>
20	<u>(section 5 of this act))</u>
21 XIII	Malicious explosion 2 (RCW 70.74.280(2))
22	Malicious placement of an explosive 1 (RCW
23	70.74.270(1))
24 XII	Assault 1 (RCW 9A.36.011)
25	Assault of a Child 1 (RCW 9A.36.120)
26	Malicious placement of an imitation device
27	1 (RCW 70.74.272(1)(a))
28	Rape 1 (RCW 9A.44.040)
29	Rape of a Child 1 (RCW 9A.44.073)
30	<u>Threatening Acts of Terrorism (RCW 9A.--.-</u>
31	<u>-- (section 6 of this act))</u>
32 XI	Manslaughter 1 (RCW 9A.32.060)
33	Rape 2 (RCW 9A.44.050)
34	Rape of a Child 2 (RCW 9A.44.076)

1 X Child Molestation 1 (RCW 9A.44.083)  
2 Indecent Liberties (with forcible  
3 compulsion) (RCW 9A.44.100(1)(a))  
4 Kidnapping 1 (RCW 9A.40.020)  
5 Leading Organized Crime (RCW  
6 9A.82.060(1)(a))  
7 Malicious explosion 3 (RCW 70.74.280(3))  
8 Manufacture of methamphetamine (RCW  
9 69.50.401(a)(1)(ii))  
10 Over 18 and deliver heroin,  
11 methamphetamine, a narcotic from  
12 Schedule I or II, or flunitrazepam  
13 from Schedule IV to someone under 18  
14 (RCW 69.50.406)  
15 Providing Material Support or Resources to  
16 Terrorists (RCW 9A.--.--- (section 7  
17 of this act))  
18 Sexually Violent Predator Escape (RCW  
19 9A.76.115)  
20 Unlawful Possession of False Identification  
21 for Terrorist Purposes (RCW 9A.--.---  
22 (section 8 of this act))  
23 IX Assault of a Child 2 (RCW 9A.36.130)  
24 Controlled Substance Homicide (RCW  
25 69.50.415)  
26 Explosive devices prohibited (RCW  
27 70.74.180)  
28 Hit and Run--Death (RCW 46.52.020(4)(a))  
29 Homicide by Watercraft, by being under the  
30 influence of intoxicating liquor or  
31 any drug (RCW 79A.60.050)  
32 Inciting Criminal Profiteering (RCW  
33 9A.82.060(1)(b))  
34 Malicious placement of an explosive 2 (RCW  
35 70.74.270(2))  
36 Over 18 and deliver narcotic from Schedule  
37 III, IV, or V or a nonnarcotic, except  
38 flunitrazepam or methamphetamine, from

1 Schedule I-V to someone under 18 and 3  
2 years junior (RCW 69.50.406)  
3 Robbery 1 (RCW 9A.56.200)  
4 Sexual Exploitation (RCW 9.68A.040)  
5 Vehicular Homicide, by being under the  
6 influence of intoxicating liquor or  
7 any drug (RCW 46.61.520)

8 VIII Arson 1 (RCW 9A.48.020)  
9 Deliver or possess with intent to deliver  
10 methamphetamine (RCW  
11 69.50.401(a)(1)(ii))  
12 Homicide by Watercraft, by the operation of  
13 any vessel in a reckless manner (RCW  
14 79A.60.050)  
15 Manslaughter 2 (RCW 9A.32.070)  
16 Manufacture, deliver, or possess with  
17 intent to deliver amphetamine (RCW  
18 69.50.401(a)(1)(ii))  
19 Manufacture, deliver, or possess with  
20 intent to deliver heroin or cocaine  
21 (RCW 69.50.401(a)(1)(i))  
22 Possession of Ephedrine, Pseudoephedrine,  
23 or Anhydrous Ammonia with intent to  
24 manufacture methamphetamine (RCW  
25 69.50.440)  
26 Promoting Prostitution 1 (RCW 9A.88.070)  
27 Selling for profit (controlled or  
28 counterfeit) any controlled substance  
29 (RCW 69.50.410)  
30 Theft of Anhydrous Ammonia (RCW 69.55.010)  
31 Vehicular Homicide, by the operation of any  
32 vehicle in a reckless manner (RCW  
33 46.61.520)

34 VII Burglary 1 (RCW 9A.52.020)  
35 Child Molestation 2 (RCW 9A.44.086)  
36 Dealing in depictions of minor engaged in  
37 sexually explicit conduct (RCW  
38 9.68A.050)

1 Drive-by Shooting (RCW 9A.36.045)  
2 Homicide by Watercraft, by disregard for  
3 the safety of others (RCW 79A.60.050)  
4 Indecent Liberties (without forcible  
5 compulsion) (RCW 9A.44.100(1) (b) and  
6 (c))  
7 Introducing Contraband 1 (RCW 9A.76.140)  
8 Involving a minor in drug dealing (RCW  
9 69.50.401(f))  
10 Malicious placement of an explosive 3 (RCW  
11 70.74.270(3))  
12 Sending, bringing into state depictions of  
13 minor engaged in sexually explicit  
14 conduct (RCW 9.68A.060)  
15 Unlawful Possession of a Firearm in the  
16 first degree (RCW 9.41.040(1)(a))  
17 Use of a Machine Gun in Commission of a  
18 Felony (RCW 9.41.225)  
19 Vehicular Homicide, by disregard for the  
20 safety of others (RCW 46.61.520)  
21 VI Bail Jumping with Murder 1 (RCW  
22 9A.76.170(3)(a))  
23 Bribery (RCW 9A.68.010)  
24 Incest 1 (RCW 9A.64.020(1))  
25 Intimidating a Judge (RCW 9A.72.160)  
26 Intimidating a Juror/Witness (RCW  
27 9A.72.110, 9A.72.130)  
28 Malicious placement of an imitation device  
29 2 (RCW 70.74.272(1)(b))  
30 Manufacture, deliver, or possess with  
31 intent to deliver narcotics from  
32 Schedule I or II (except heroin or  
33 cocaine) or flunitrazepam from  
34 Schedule IV (RCW 69.50.401(a)(1)(i))  
35 Rape of a Child 3 (RCW 9A.44.079)  
36 Theft of a Firearm (RCW 9A.56.300)  
37 Unlawful Storage of Anhydrous Ammonia (RCW  
38 69.55.020)

1 V Abandonment of dependent person 1 (RCW  
2 9A.42.060)  
3 Advancing money or property for  
4 extortionate extension of credit (RCW  
5 9A.82.030)  
6 Bail Jumping with class A Felony (RCW  
7 9A.76.170(3)(b))  
8 Child Molestation 3 (RCW 9A.44.089)  
9 Criminal Mistreatment 1 (RCW 9A.42.020)  
10 Custodial Sexual Misconduct 1 (RCW  
11 9A.44.160)  
12 Delivery of imitation controlled substance  
13 by person eighteen or over to person  
14 under eighteen (RCW 69.52.030(2))  
15 Domestic Violence Court Order Violation  
16 (RCW 10.99.040, 10.99.050, 26.09.300,  
17 26.10.220, 26.26.138, 26.50.110,  
18 26.52.070, or 74.34.145)  
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 Incest 2 (RCW 9A.64.020(2))  
25 Kidnapping 2 (RCW 9A.40.030)  
26 Perjury 1 (RCW 9A.72.020)  
27 Persistent prison misbehavior (RCW  
28 9.94.070)  
29 Possession of a Stolen Firearm (RCW  
30 9A.56.310)  
31 Rape 3 (RCW 9A.44.060)  
32 Rendering Criminal Assistance 1 (RCW  
33 9A.76.070)  
34 Sexual Misconduct with a Minor 1 (RCW  
35 9A.44.093)  
36 Sexually Violating Human Remains (RCW  
37 9A.44.105)  
38 Stalking (RCW 9A.46.110)  
39 IV Arson 2 (RCW 9A.48.030)

1 Assault 2 (RCW 9A.36.021)  
2 Assault by Watercraft (RCW 79A.60.060)  
3 Bribing a Witness/Bribe Received by Witness  
4 (RCW 9A.72.090, 9A.72.100)  
5 Commercial Bribery (RCW 9A.68.060)  
6 Counterfeiting (RCW 9.16.035(4))  
7 Escape 1 (RCW 9A.76.110)  
8 Hit and Run--Injury (RCW 46.52.020(4)(b))  
9 Hit and Run with Vessel--Injury Accident  
10 (RCW 79A.60.200(3))  
11 Identity Theft 1 (RCW 9.35.020(2)(a))  
12 Indecent Exposure to Person Under Age  
13 Fourteen (subsequent sex offense) (RCW  
14 9A.88.010)  
15 Influencing Outcome of Sporting Event (RCW  
16 9A.82.070)  
17 Knowingly Trafficking in Stolen Property  
18 (RCW 9A.82.050(2))  
19 Malicious Harassment (RCW 9A.36.080)  
20 Manufacture, deliver, or possess with  
21 intent to deliver narcotics from  
22 Schedule III, IV, or V or nonnarcotics  
23 from Schedule I-V (except marijuana,  
24 amphetamine, methamphetamines, or  
25 flunitrazepam) (RCW 69.50.401(a)(1)  
26 (iii) through (v))  
27 Residential Burglary (RCW 9A.52.025)  
28 Robbery 2 (RCW 9A.56.210)  
29 Theft of Livestock 1 (RCW 9A.56.080)  
30 Threats to Bomb (RCW 9.61.160)  
31 Use of Proceeds of Criminal Profiteering  
32 (RCW 9A.82.080 (1) and (2))  
33 Vehicular Assault, by being under the  
34 influence of intoxicating liquor or  
35 any drug, or by the operation or  
36 driving of a vehicle in a reckless  
37 manner (RCW 46.61.522)  
38 Willful Failure to Return from Furlough  
39 (RCW 72.66.060)

1     III           Abandonment of dependent person 2 (RCW  
2                   9A.42.070)  
3                   Assault 3 (RCW 9A.36.031)  
4                   Assault of a Child 3 (RCW 9A.36.140)  
5                   Bail Jumping with class B or C Felony (RCW  
6                   9A.76.170(3)(c))  
7                   Burglary 2 (RCW 9A.52.030)  
8                   Communication with a Minor for Immoral  
9                   Purposes (RCW 9.68A.090)  
10                  Criminal Gang Intimidation (RCW 9A.46.120)  
11                  Criminal Mistreatment 2 (RCW 9A.42.030)  
12                  Custodial Assault (RCW 9A.36.100)  
13                  Delivery of a material in lieu of a  
14                   controlled substance (RCW  
15                   69.50.401(c))  
16                  Escape 2 (RCW 9A.76.120)  
17                  Extortion 2 (RCW 9A.56.130)  
18                  Harassment (RCW 9A.46.020)  
19                  Intimidating a Public Servant (RCW  
20                   9A.76.180)  
21                  Introducing Contraband 2 (RCW 9A.76.150)  
22                  Maintaining a Dwelling or Place for  
23                   Controlled Substances (RCW  
24                   69.50.402(a)(6))  
25                  Malicious Injury to Railroad Property (RCW  
26                   81.60.070)  
27                  Manufacture, deliver, or possess with  
28                   intent to deliver marijuana (RCW  
29                   69.50.401(a)(1)(iii))  
30                  Manufacture, distribute, or possess with  
31                   intent to distribute an imitation  
32                   controlled substance (RCW  
33                   69.52.030(1))  
34                  Patronizing a Juvenile Prostitute (RCW  
35                   9.68A.100)  
36                  Perjury 2 (RCW 9A.72.030)  
37                  Possession of Incendiary Device (RCW  
38                   9.40.120)

1 Possession of Machine Gun or Short-Barreled  
2 Shotgun or Rifle (RCW 9.41.190)  
3 Promoting Prostitution 2 (RCW 9A.88.080)  
4 Recklessly Trafficking in Stolen Property  
5 (RCW 9A.82.050(1))  
6 Securities Act violation (RCW 21.20.400)  
7 Tampering with a Witness (RCW 9A.72.120)  
8 Telephone Harassment (subsequent conviction  
9 or threat of death) (RCW 9.61.230)  
10 Theft of Livestock 2 (RCW 9A.56.080)  
11 Unlawful Imprisonment (RCW 9A.40.040)  
12 Unlawful possession of firearm in the  
13 second degree (RCW 9.41.040(1)(b))  
14 Unlawful Use of Building for Drug Purposes  
15 (RCW 69.53.010)  
16 Vehicular Assault, by the operation or  
17 driving of a vehicle with disregard  
18 for the safety of others (RCW  
19 46.61.522)  
20 Willful Failure to Return from Work Release  
21 (RCW 72.65.070)

22 II Computer Trespass 1 (RCW 9A.52.110)  
23 Counterfeiting (RCW 9.16.035(3))  
24 Create, deliver, or possess a counterfeit  
25 controlled substance (RCW  
26 69.50.401(b))  
27 Escape from Community Custody (RCW  
28 72.09.310)  
29 Health Care False Claims (RCW 48.80.030)  
30 Identity Theft 2 (RCW 9.35.020(2)(b))  
31 Improperly Obtaining Financial Information  
32 (RCW 9.35.010)  
33 Malicious Mischief 1 (RCW 9A.48.070)  
34 Possession of controlled substance that is  
35 either heroin or narcotics from  
36 Schedule I or II or flunitrazepam from  
37 Schedule IV (RCW 69.50.401(d))  
38 Possession of phencyclidine (PCP) (RCW  
39 69.50.401(d))

1 Possession of Stolen Property 1 (RCW  
2 9A.56.150)  
3 Theft 1 (RCW 9A.56.030)  
4 Theft of Rental, Leased, or Lease-purchased  
5 Property (valued at one thousand five  
6 hundred dollars or more) (RCW  
7 9A.56.096(4))  
8 Trafficking in Insurance Claims (RCW  
9 48.30A.015)  
10 Unlawful Practice of Law (RCW 2.48.180)  
11 Unlicensed Practice of a Profession or  
12 Business (RCW 18.130.190(7))  
13 I Attempting to Elude a Pursuing Police  
14 Vehicle (RCW 46.61.024)  
15 False Verification for Welfare (RCW  
16 74.08.055)  
17 Forged Prescription (RCW 69.41.020)  
18 Forged Prescription for a Controlled  
19 Substance (RCW 69.50.403)  
20 Forgery (RCW 9A.60.020)  
21 Malicious Mischief 2 (RCW 9A.48.080)  
22 Possess Controlled Substance that is a  
23 Narcotic from Schedule III, IV, or V  
24 or Non-narcotic from Schedule I-V  
25 (except phencyclidine or  
26 flunitrazepam) (RCW 69.50.401(d))  
27 Possession of Stolen Property 2 (RCW  
28 9A.56.160)  
29 Reckless Burning 1 (RCW 9A.48.040)  
30 Taking Motor Vehicle Without Permission  
31 (RCW 9A.56.070)  
32 Theft 2 (RCW 9A.56.040)  
33 Theft of Rental, Leased, or Lease-purchased  
34 Property (valued at two hundred fifty  
35 dollars or more but less than one  
36 thousand five hundred dollars) (RCW  
37 9A.56.096(4))  
38 Unlawful Issuance of Checks or Drafts (RCW  
39 9A.56.060)

1 Unlawful Use of Food Stamps (RCW 9.91.140  
2 (2) and (3))  
3 Vehicle Prowl 1 (RCW 9A.52.095)

4 **Sec. 16.** RCW 9A.04.080 and 1998 c 221 s 2 are each amended to read  
5 as follows:

6 (1) Prosecutions for criminal offenses shall not be commenced after  
7 the periods prescribed in this section.

8 (a) The following offenses may be prosecuted at any time after  
9 their commission:

10 (i) Murder;

11 (ii) Any offense defined in chapter 9A.-- RCW (sections 1 through  
12 8 and 17 through 23 of this act);

13 (iii) Homicide by abuse;

14 (~~(iii)~~) (iv) Arson if a death results;

15 (~~(iv)~~) (v) Vehicular homicide;

16 (~~(v)~~) (vi) Vehicular assault if a death results;

17 (~~(vi)~~) (vii) Hit-and-run injury-accident if a death results (RCW  
18 46.52.020(4)).

19 (b) The following offenses shall not be prosecuted more than ten  
20 years after their commission:

21 (i) Any felony committed by a public officer if the commission is  
22 in connection with the duties of his or her office or constitutes a  
23 breach of his or her public duty or a violation of the oath of office;

24 (ii) Arson if no death results; or

25 (iii) Violations of RCW 9A.44.040 or 9A.44.050 if the rape is  
26 reported to a law enforcement agency within one year of its commission;  
27 except that if the victim is under fourteen years of age when the rape  
28 is committed and the rape is reported to a law enforcement agency  
29 within one year of its commission, the violation may be prosecuted up  
30 to three years after the victim's eighteenth birthday or up to ten  
31 years after the rape's commission, whichever is later. If a violation  
32 of RCW 9A.44.040 or 9A.44.050 is not reported within one year, the rape  
33 may not be prosecuted: (A) More than three years after its commission  
34 if the violation was committed against a victim fourteen years of age  
35 or older; or (B) more than three years after the victim's eighteenth  
36 birthday or more than seven years after the rape's commission,  
37 whichever is later, if the violation was committed against a victim  
38 under fourteen years of age.

1 (c) Violations of the following statutes shall not be prosecuted  
2 more than three years after the victim's eighteenth birthday or more  
3 than seven years after their commission, whichever is later: RCW  
4 9A.44.073, 9A.44.076, 9A.44.083, 9A.44.086, 9A.44.070, 9A.44.080,  
5 9A.44.100(1)(b), or 9A.64.020.

6 (d) The following offenses shall not be prosecuted more than six  
7 years after their commission: Violations of RCW 9A.82.060 or  
8 9A.82.080.

9 (e) The following offenses shall not be prosecuted more than five  
10 years after their commission: Any class C felony under chapter 74.09,  
11 82.36, or 82.38 RCW.

12 (f) Bigamy shall not be prosecuted more than three years after the  
13 time specified in RCW 9A.64.010.

14 (g) A violation of RCW 9A.56.030 must not be prosecuted more than  
15 three years after the discovery of the offense when the victim is a tax  
16 exempt corporation under 26 U.S.C. Sec. 501(c)(3).

17 (h) No other felony may be prosecuted more than three years after  
18 its commission; except that in a prosecution under RCW 9A.44.115, if  
19 the person who was viewed, photographed, or filmed did not realize at  
20 the time that he or she was being viewed, photographed, or filmed, the  
21 prosecution must be commenced within two years of the time the person  
22 who was viewed or in the photograph or film first learns that he or she  
23 was viewed, photographed, or filmed.

24 (i) No gross misdemeanor may be prosecuted more than two years  
25 after its commission.

26 (j) No misdemeanor may be prosecuted more than one year after its  
27 commission.

28 (2) The periods of limitation prescribed in subsection (1) of this  
29 section do not run during any time when the person charged is not  
30 usually and publicly resident within this state.

31 (3) If, before the end of a period of limitation prescribed in  
32 subsection (1) of this section, an indictment has been found or a  
33 complaint or an information has been filed, and the indictment,  
34 complaint, or information is set aside, then the period of limitation  
35 is extended by a period equal to the length of time from the finding or  
36 filing to the setting aside.

37 NEW SECTION. **Sec. 17.** CRIMINAL PENALTIES ADDITIONAL TO CIVIL AND  
38 ADMINISTRATIVE SANCTIONS. The penalties imposed pursuant to this

1 chapter shall be in addition to, and not in lieu of, all other civil,  
2 administrative, and other penalties and remedies provided for by other  
3 laws providing penalties or remedies for actions or conduct which also  
4 constitutes a violation of this chapter.

5 NEW SECTION. **Sec. 18.** ADDITIONAL PENALTIES. In addition to all  
6 other penalties, criminal or civil, and any other provision of law  
7 notwithstanding, any person convicted of any of the offenses described  
8 in this chapter shall be ordered by the sentencing court to:

9 (1) Make restitution for actual damages sustained to those persons  
10 or entities injured by the commission of any of the offenses described  
11 in this chapter;

12 (2) Make restitution of all costs and expenses incurred by the  
13 state or county in the investigation and prosecution of the offense,  
14 including any costs of defense provided at public expense.

15 NEW SECTION. **Sec. 19.** ANTIMERGER PROVISION. Every person who, in  
16 the commission of an offense defined by this chapter, commits any other  
17 crime may be punished therefor, as well as for the violation of this  
18 chapter, and may be prosecuted for each crime separately.

19 NEW SECTION. **Sec. 20.** SECTION CAPTIONS. Section captions as used  
20 in this chapter do not constitute any part of the law.

21 NEW SECTION. **Sec. 21.** SEVERABILITY. If any provision of this act  
22 or its application to any person or circumstance is held invalid, the  
23 remainder of the act or the application of the provision to other  
24 persons or circumstances is not affected.

25 NEW SECTION. **Sec. 22.** SHORT TITLE. This act shall be known as  
26 the Washington AntiTerrorism Act of 2002.

27 NEW SECTION. **Sec. 23.** DECLARING AN EMERGENCY. This act is  
28 necessary for the immediate preservation of the public peace, health,  
29 or safety, or support of the state government and its existing public  
30 institutions, and takes effect immediately.

1        NEW SECTION.    **Sec. 24.**    CODIFICATION INSTRUCTIONS.    Sections 1  
2 through 8 and 17 through 23 of this act constitute a new chapter in  
3 Title 9A RCW.

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