
SUBSTITUTE HOUSE BILL 2879

State of Washington

57th Legislature

2002 Regular Session

By House Committee on Select Committee on Community Security (originally sponsored by Representatives Hurst, Lisk, Mulliken, Woods, Buck, Kirby, Simpson, Barlean, Fromhold, Edwards, Haigh, Morris, Kessler, Jackley, O'Brien, Sullivan, Lovick, Berkey, Pflug, Ballasiotes, Campbell, Esser, Alexander, Chase and Conway; by request of Governor Locke and Attorney General)

Read first time 01/31/2002. Referred to Committee on .

1 AN ACT Relating to terrorism offenses; amending RCW 9A.82.090,
2 9A.82.100, 9A.82.120, 10.95.040, 13.40.0357, and 9A.04.080; reenacting
3 and amending RCW 9A.82.010, 9.94A.515, and 9.94A.030; 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 among the federal, state, and local governments.
13 In furtherance of this partnership, it is the legislature's intent to
14 strengthen the laws of the state of Washington to better protect the
15 health and safety of Washington state and its residents from acts of
16 terrorism. It is also the intent of the legislature that this act be
17 interpreted to provide the greatest measure of protection and safety
18 for the people of this state and to preserve and protect their
19 constitutional rights, including the right to petition their

1 governments and to exercise their rights under the First Amendment to
2 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 microorganism, virus,
9 infectious substance, biological product, or toxin or vector, or any
10 naturally occurring or bioengineered component thereof, capable of
11 causing:

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

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

16 (c) Deleterious alteration of the environment.

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

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

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

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

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

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

1 (8) "Toxin" means the toxic material of plants, animals,
2 microorganisms, viruses, fungi, or infectious substances, or a
3 recombinant molecule, whatever its origin or method of production,
4 including:

5 (a) Any poisonous substance or biological product that may be
6 engineered as a result of biotechnology produced by a living organism;
7 or

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

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

14 (10) "Weapon of mass destruction" means any device, object, or
15 substance that is designed, or that a person intends to use, to cause
16 multiple human deaths, or a biological agent, radioactive material, or
17 chemical agent that is possessed, released, or disseminated without
18 lawful authority.

19 NEW SECTION. **Sec. 3.** TERRORISM IN THE FIRST DEGREE. (1) A person
20 is guilty of terrorism in the first degree if such person, with the
21 intent to significantly disrupt the conduct of government or of the
22 general civilian population of the state or the United States, commits
23 an act which manifests an extreme indifference to human life and
24 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 referred to
29 in subsection (1) of this section.

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, with
35 the intent to significantly disrupt the conduct of government or of the
36 general civilian population of the state or the United States, commits

1 an act which manifests an extreme indifference to human life and
2 thereby:

3 (a) Causes substantial bodily harm to any other person; or

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

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

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

14 NEW SECTION. **Sec. 5.** UNLAWFUL USE OR POSSESSION OF A WEAPON OF
15 MASS DESTRUCTION. (1) Any person who, with the intent to significantly
16 disrupt the conduct of government or of the general civilian population
17 of the state or the United States by engaging in conduct manifesting
18 extreme indifference to human life, uses, manufactures, transports,
19 possesses, spills, disposes of, or otherwise releases a weapon of mass
20 destruction is guilty of unlawful use or possession of a weapon of mass
21 destruction.

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

24 NEW SECTION. **Sec. 6.** THREATENING ACTS OF TERRORISM. (1) Any
25 person who knowingly threatens to use or release, or falsely claims to
26 have used or released, a weapon of mass destruction, or who takes any
27 other action intended to cause a reasonable belief that a weapon of
28 mass destruction has been or will be used or released, including, but
29 not limited to, placement of an imitation weapon of mass destruction in
30 an area open to or frequented by the public, is guilty of:

31 (a) Threatening acts of terrorism in the first degree if the
32 offense is committed with the intent to significantly disrupt the
33 conduct of government or of the general civilian population of the
34 state or the United States by threatening to engage in conduct which
35 manifests an extreme indifference to human life. Threatening acts of
36 terrorism in the first degree is a class B felony;

1 (b) Threatening acts of terrorism in the second degree if the
2 offense is committed under circumstances not amounting to threatening
3 acts of terrorism in the first degree. Threatening acts of terrorism
4 in the second degree is a class C felony.

5 (2) It is not a defense to any prosecution under this section that
6 the defendant did not have the intention or capability of actually
7 using or releasing a weapon of mass destruction.

8 NEW SECTION. **Sec. 7.** PROVIDING MATERIAL SUPPORT OR RESOURCES TO
9 TERRORISTS. (1) Any person who knowingly provides material support or
10 resources or conceals or disguises the nature, location, source, or
11 ownership of material support or resources, intending that the material
12 support or resources are to be used in planning, preparing for, or
13 carrying out a crime defined in this chapter, or in planning, preparing
14 for, or carrying out the concealment or an escape from the commission
15 of any such offense, is guilty of providing material support or
16 resources to terrorists.

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

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

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

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

30 Unless the context requires the contrary, the definitions in this
31 section apply throughout this chapter.

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

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

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

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

7 (b) "Beneficial interest" does not include the interest of a
8 stockholder in a corporation or the interest of a partner in a general
9 partnership or limited partnership.

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

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

14 (3) "Creditor" means a person making an extension of credit or a
15 person claiming by, under, or through a person making an extension of
16 credit.

17 (4) "Criminal profiteering" means any act, including any
18 anticipatory or completed offense, committed for financial gain, or any
19 offense, including any anticipatory or completed offense, which is
20 defined in chapter 9A.-- RCW (sections 1 through 8 and 19 through 25 of
21 this act), whether or not committed for financial gain, that is
22 chargeable or indictable under the laws of the state in which the act
23 occurred and, if the act occurred in a state other than this state,
24 would be chargeable or indictable under the laws of this state had the
25 act occurred in this state and punishable as a felony and by
26 imprisonment for more than one year, regardless of whether the act is
27 charged or indicted, as any of the following:

28 (a) Murder, as defined in RCW 9A.32.030 and 9A.32.050;

29 (b) Robbery, as defined in RCW 9A.56.200 and 9A.56.210;

30 (c) Kidnapping, as defined in RCW 9A.40.020 and 9A.40.030;

31 (d) Forgery, as defined in RCW 9A.60.020 and 9A.60.030;

32 (e) Theft, as defined in RCW 9A.56.030, 9A.56.040, 9A.56.060, and
33 9A.56.080;

34 (f) Unlawful sale of subscription television services, as defined
35 in RCW 9A.56.230;

36 (g) Theft of telecommunication services or unlawful manufacture of
37 a telecommunication device, as defined in RCW 9A.56.262 and 9A.56.264;

38 (h) Child selling or child buying, as defined in RCW 9A.64.030;

1 (i) Bribery, as defined in RCW 9A.68.010, 9A.68.020, 9A.68.040, and
2 9A.68.050;

3 (j) Gambling, as defined in RCW 9.46.220 and 9.46.215 and 9.46.217;

4 (k) Extortion, as defined in RCW 9A.56.120 and 9A.56.130;

5 (l) Extortionate extension of credit, as defined in RCW 9A.82.020;

6 (m) Advancing money for use in an extortionate extension of credit,
7 as defined in RCW 9A.82.030;

8 (n) Collection of an extortionate extension of credit, as defined
9 in RCW 9A.82.040;

10 (o) Collection of an unlawful debt, as defined in RCW 9A.82.045;

11 (p) Delivery or manufacture of controlled substances or possession
12 with intent to deliver or manufacture controlled substances under
13 chapter 69.50 RCW;

14 (q) Trafficking in stolen property, as defined in RCW 9A.82.050;

15 (r) Leading organized crime, as defined in RCW 9A.82.060;

16 (s) Money laundering, as defined in RCW 9A.83.020;

17 (t) Obstructing criminal investigations or prosecutions in
18 violation of RCW 9A.72.090, 9A.72.100, 9A.72.110, 9A.72.120, 9A.72.130,
19 9A.76.070, or 9A.76.180;

20 (u) Fraud in the purchase or sale of securities, as defined in RCW
21 21.20.010;

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

23 (w) Sexual exploitation of children, as defined in RCW 9.68A.040,
24 9.68A.050, and 9.68A.060;

25 (x) Promoting prostitution, as defined in RCW 9A.88.070 and
26 9A.88.080;

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

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

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

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

31 (cc) Commercial telephone solicitation in violation of RCW
32 19.158.040(1);

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

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

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

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

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

1 (ii) Improperly obtaining financial information, as defined in RCW
2 9.35.010; (~~o~~)

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

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

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

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

10 (nn) Threatening acts of terrorism in the first degree, as defined
11 in section 6(1)(a) of this act;

12 (oo) Threatening acts of terrorism in the second degree, as defined
13 in section 6(1)(b) of this act;

14 (pp) Providing material support or resources to terrorists, as
15 defined in section 7 of this act; or

16 (qq) Unlawful possession of false identification for terrorist
17 purposes, as defined in section 8 of this act.

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

20 (6) "Debtor" means a person to whom an extension of credit is made
21 or a person who guarantees the repayment of an extension of credit or
22 in any manner undertakes to indemnify the creditor against loss
23 resulting from the failure of a person to whom an extension is made to
24 repay the same.

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

30 (8) "Enterprise" includes any individual, sole proprietorship,
31 partnership, corporation, business trust, or other profit or nonprofit
32 legal entity, and includes any union, association, or group of
33 individuals associated in fact although not a legal entity, and both
34 illicit and licit enterprises and governmental and nongovernmental
35 entities.

36 (9) "Extortionate extension of credit" means an extension of credit
37 with respect to which it is the understanding of the creditor and the
38 debtor at the time the extension is made that delay in making repayment
39 or failure to make repayment could result in the use of violence or

1 other criminal means to cause harm to the person, reputation, or
2 property of any person.

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

6 (11) "Financial institution" means any bank, trust company, savings
7 and loan association, savings bank, mutual savings bank, credit union,
8 or loan company under the jurisdiction of the state or an agency of the
9 United States.

10 (12) "Pattern of criminal profiteering activity" means engaging in
11 at least three acts of criminal profiteering, one of which occurred
12 after July 1, 1985, and the last of which occurred within five years,
13 excluding any period of imprisonment, after the commission of the
14 earliest act of criminal profiteering. In order to constitute a
15 pattern, the three acts must have the same or similar intent, results,
16 accomplices, principals, victims, or methods of commission, or be
17 otherwise interrelated by distinguishing characteristics including a
18 nexus to the same enterprise, and must not be isolated events.
19 However, in any civil proceedings brought pursuant to RCW 9A.82.100 by
20 any person other than the attorney general or county prosecuting
21 attorney in which one or more acts of fraud in the purchase or sale of
22 securities are asserted as acts of criminal profiteering activity, it
23 is a condition to civil liability under RCW 9A.82.100 that the
24 defendant has been convicted in a criminal proceeding of fraud in the
25 purchase or sale of securities under RCW 21.20.400 or under the laws of
26 another state or of the United States requiring the same elements of
27 proof, but such conviction need not relate to any act or acts asserted
28 as acts of criminal profiteering activity in such civil action under
29 RCW 9A.82.100.

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

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

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

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

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

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

9 (19) "Traffic" means to sell, transfer, distribute, dispense, or
10 otherwise dispose of stolen property to another person, or to buy,
11 receive, possess, or obtain control of stolen property, with intent to
12 sell, transfer, distribute, dispense, or otherwise dispose of the
13 property to another person.

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

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

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

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

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

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

24 (ii) A trustee of any testamentary trust;

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

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

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

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

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

34 (ii) Chapter 9.46 RCW relating to gambling;

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

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

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

3 During the pendency of any criminal case charging a violation of
4 RCW 9A.82.060 or (~~a violation of RCW~~) 9A.82.080, or of an offense
5 defined in chapter 9A.-- RCW (sections 1 through 8 and 19 through 25 of
6 this act) whether or not committed for financial gain, the superior
7 court may, in addition to its other powers, issue an order pursuant to
8 RCW 9A.82.100 (2) or (3). Upon conviction of a person for a violation
9 of RCW 9A.82.060 or (~~a violation of RCW~~) 9A.82.080, or of an offense
10 defined in chapter 9A.-- RCW (sections 1 through 8 and 19 through 25 of
11 this act) whether or not committed for financial gain, the superior
12 court may, in addition to its other powers of disposition, issue an
13 order pursuant to RCW 9A.82.100.

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

16 (1)(a) A person who sustains injury to his or her person, business,
17 or property by an act of criminal profiteering that is part of a
18 pattern of criminal profiteering activity, or by an offense defined in
19 chapter 9A.-- RCW (sections 1 through 8 and 19 through 25 of this act)
20 whether or not committed for financial gain, or by a violation of RCW
21 9A.82.060 or 9A.82.080 may file an action in superior court for the
22 recovery of damages and the costs of the suit, including reasonable
23 investigative and attorney's fees.

24 (b) The attorney general or county prosecuting attorney may file an
25 action: (i) On behalf of those persons injured or, respectively, on
26 behalf of the state or county if the entity has sustained damages, or
27 (ii) to prevent, restrain, or remedy a pattern of criminal profiteering
28 activity, or an offense defined in chapter 9A.-- RCW (sections 1
29 through 8 and 19 through 25 of this act) whether or not committed for
30 financial gain, or a violation of RCW 9A.82.060 or 9A.82.080.

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

35 (d) In an action filed to prevent, restrain, or remedy a pattern of
36 criminal profiteering activity, or an offense defined in chapter 9A.--
37 RCW (sections 1 through 8 and 19 through 25 of this act) whether or not
38 committed for financial gain, or a violation of RCW 9A.82.060 or

1 9A.82.080, the court, upon proof of the violation, may impose a civil
2 penalty not exceeding two hundred fifty thousand dollars, in addition
3 to awarding the cost of the suit, including reasonable investigative
4 and attorney's fees.

5 (2) The superior court has jurisdiction to prevent, restrain, and
6 remedy a pattern of criminal profiteering, or an offense defined in
7 chapter 9A.-- RCW (sections 1 through 8 and 19 through 25 of this act)
8 whether or not committed for financial gain, or a violation of RCW
9 9A.82.060 or 9A.82.080 after making provision for the rights of all
10 innocent persons affected by the violation and after hearing or trial,
11 as appropriate, by issuing appropriate orders.

12 (3) Prior to a determination of liability, orders issued under
13 subsection (2) of this section may include, but are not limited to,
14 entering restraining orders or prohibitions or taking such other
15 actions, including the acceptance of satisfactory performance bonds, in
16 connection with any property or other interest subject to damages,
17 forfeiture, or other restraints pursuant to this section as the court
18 deems proper. The orders may also include attachment, receivership, or
19 injunctive relief in regard to personal or real property pursuant to
20 Title 7 RCW. In shaping the reach or scope of receivership,
21 attachment, or injunctive relief, the superior court shall provide for
22 the protection of bona fide interests in property, including community
23 property, of persons who were not involved in the violation of this
24 chapter, except to the extent that such interests or property were
25 acquired or used in such a way as to be subject to forfeiture under RCW
26 9A.82.100(4)(f).

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

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

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

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

37 (d) Ordering the payment of actual damages sustained to those
38 persons injured by a violation of RCW 9A.82.060 or 9A.82.080, or an
39 offense defined in chapter 9A.-- RCW (sections 1 through 8 and 19

1 through 25 of this act) whether or not committed for financial gain, or
2 an act of criminal profiteering that is part of a pattern of criminal
3 profiteering, and in the court's discretion, increasing the payment to
4 an amount not exceeding three times the actual damages sustained.

5 (e) Ordering the payment of all costs and expenses of the
6 prosecution and investigation of a pattern of criminal profiteering
7 activity, or an offense defined in chapter 9A.-- RCW (sections 1
8 through 8 and 19 through 25 of this act) whether or not committed for
9 financial gain, or a violation of RCW 9A.82.060 or 9A.82.080, civil and
10 criminal, incurred by the state or county, including any costs of
11 defense provided at public expense, as appropriate to the state general
12 fund or the antiprofitteering revolving fund of the county.

13 (f) Ordering forfeiture first as restitution to any person damaged
14 by an act of criminal profiteering that is part of a pattern of
15 criminal profiteering, or by an offense defined in chapter 9A.-- RCW
16 (sections 1 through 8 and 19 through 25 of this act) whether or not
17 committed for financial gain, then to the state general fund or
18 antiprofitteering revolving fund of the county, as appropriate, to the
19 extent not already ordered to be paid in other damages, of the
20 following:

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

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

29 (iii) All proceeds traceable to or derived from an offense included
30 in the pattern of criminal profiteering activity, or an offense defined
31 in chapter 9A.-- RCW (sections 1 through 8 and 19 through 25 of this
32 act) whether or not committed for financial gain, and all moneys,
33 negotiable instruments, securities, and other things of value
34 significantly used or intended to be used significantly to facilitate
35 commission of the offense.

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

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

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

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

14 (c) All proceeds traceable to or derived from an offense included
15 in the pattern of criminal profiteering activity, or an offense defined
16 in chapter 9A.-- RCW (sections 1 through 8 and 19 through 25 of this
17 act) whether or not committed for financial gain, and all moneys,
18 negotiable instruments, securities, and other things of value
19 significantly used or intended to be used significantly to facilitate
20 the commission of the offense.

21 (6) A defendant convicted in any criminal proceeding is precluded
22 in any civil proceeding from denying the essential allegations of the
23 criminal offense proven in the criminal trial in which the defendant
24 was convicted. For the purposes of this subsection, a conviction shall
25 be deemed to have occurred upon a verdict, finding, or plea of guilty,
26 notwithstanding the fact that appellate review of the conviction and
27 sentence has been or may be sought. If a subsequent reversal of the
28 conviction occurs, any judgment that was based upon that conviction may
29 be reopened upon motion of the defendant.

30 (7) The initiation of civil proceedings under this section shall be
31 commenced within three years after discovery of the pattern of criminal
32 profiteering activity or after the pattern should reasonably have been
33 discovered or, in the case of an offense which is defined in chapter
34 9A.-- RCW (sections 1 through 8 and 19 through 25 of this act), within
35 three years after the final disposition of any criminal charges
36 relating to the offense, whichever is later.

37 (8) The attorney general or county prosecuting attorney may, in a
38 civil action brought pursuant to this section, file with the clerk of
39 the superior court a certificate stating that the case is of special

1 public importance. A copy of that certificate shall be furnished
2 immediately by the clerk to the presiding chief judge of the superior
3 court in which the action is pending and, upon receipt of the copy, the
4 judge shall immediately designate a judge to hear and determine the
5 action. The judge so designated shall promptly assign the action for
6 hearing, participate in the hearings and determination, and cause the
7 action to be expedited.

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

10 (10) A person other than the attorney general or county prosecuting
11 attorney who files an action under this section shall serve notice and
12 one copy of the pleading on the attorney general within thirty days
13 after the action is filed with the superior court. The notice shall
14 identify the action, the person, and the person's attorney. Service of
15 the notice does not limit or otherwise affect the right of the state to
16 maintain an action under this section or intervene in a pending action
17 nor does it authorize the person to name the state or the attorney
18 general as a party to the action.

19 (11) Except in cases filed by a county prosecuting attorney, the
20 attorney general may, upon timely application, intervene in any civil
21 action or proceeding brought under this section if the attorney general
22 certifies that in the attorney general's opinion the action is of
23 special public importance. Upon intervention, the attorney general may
24 assert any available claim and is entitled to the same relief as if the
25 attorney general had instituted a separate action.

26 (12) In addition to the attorney general's right to intervene as a
27 party in any action under this section, the attorney general may appear
28 as amicus curiae in any proceeding in which a claim under this section
29 has been asserted or in which a court is interpreting RCW 9A.82.010,
30 9A.82.080, 9A.82.090, 9A.82.110, or 9A.82.120, or this section.

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

35 (14) Upon motion by the defendant, the court may authorize the sale
36 or transfer of assets subject to an order or lien authorized by this
37 chapter for the purpose of paying actual attorney's fees and costs of
38 defense. The motion shall specify the assets for which sale or
39 transfer is sought and shall be accompanied by the defendant's sworn

1 statement that the defendant has no other assets available for such
2 purposes. No order authorizing such sale or transfer may be entered
3 unless the court finds that the assets involved are not subject to
4 possible forfeiture under RCW 9A.82.100(4)(f). Prior to disposition of
5 the motion, the court shall notify the state of the assets sought to be
6 sold or transferred and shall hear argument on the issue of whether the
7 assets are subject to forfeiture under RCW 9A.82.100(4)(f). Such a
8 motion may be made from time to time and shall be heard by the court on
9 an expedited basis.

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

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

14 (1) The state, upon filing a criminal action under RCW 9A.82.060 or
15 9A.82.080 or for an offense defined in chapter 9A.-- RCW (sections 1
16 through 8 and 19 through 25 of this act) whether or not committed for
17 financial gain, or a civil action under RCW 9A.82.100, may file in
18 accordance with this section a criminal profiteering lien. A filing
19 fee or other charge is not required for filing a criminal profiteering
20 lien.

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

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

26 (b) In the discretion of the attorney general or county prosecuting
27 attorney filing the lien, any aliases or fictitious names of the
28 defendant named in the lien;

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

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

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

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

1 (g) The amount that the state claims in the action or, with respect
2 to property or other interests that the state has requested forfeiture
3 to the state or county, a description of the property or interests
4 sought to be paid or forfeited;

5 (h) If known to the attorney general or county prosecuting attorney
6 filing the lien, a description of property that is subject to
7 forfeiture to the state or property in which the defendant has an
8 interest that is available to satisfy a judgment entered in favor of
9 the state; and

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

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

16 (4) The attorney general or the county prosecuting attorney filing
17 the lien shall, as soon as practical after filing a criminal
18 profiteering lien, furnish to any person named in the lien a notice of
19 the filing of the lien. Failure to furnish notice under this
20 subsection does not invalidate or otherwise affect a criminal
21 profiteering lien filed in accordance with this section.

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

30 NOTICE OF LIEN

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

33 Name:
34 Address:
35
36

1 State of Washington

2

3 By (authorized signature)

4 On receipt of such a notice from the state, a filing officer shall,
5 without payment of filing fee, file and index the notice as if it were
6 a financing statement naming the state as secured party and the
7 defendant as debtor.

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

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

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

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

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

23 (7) The lien created in favor of the state in accordance with this
24 section, when filed or otherwise perfected as provided in subsection
25 (5) of this section, has, with respect to any of the property described
26 in subsection (6) of this section, the same priority determined
27 pursuant to the laws of this state as a mortgage or security interest
28 given for value (but not a purchase money security interest) and
29 perfected in the same manner with respect to such property; except that
30 any lien perfected pursuant to Title 60 RCW by any person who, in the
31 ordinary course of his business, furnishes labor, services, or
32 materials, or rents, leases, or otherwise supplies equipment, without
33 knowledge of the criminal profiteering lien, is superior to the
34 criminal profiteering lien.

35 (8) Upon entry of judgment in favor of the state, the state may
36 proceed to execute thereon as in the case of any other judgment, except
37 that in order to preserve the state's lien priority as provided in this
38 section the state shall, in addition to such other notice as is
39 required by law, give at least thirty days' notice of the execution to

1 any person possessing at the time the notice is given, an interest
2 recorded subsequent to the date the state's lien was perfected.

3 (9) Upon the entry of a final judgment in favor of the state
4 providing for forfeiture of property to the state, the title of the
5 state to the property:

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

10 (b) In the case of personal property or a beneficial interest in
11 personal property, relates back to the date the personal property was
12 seized by the state, or the date of filing of a criminal profiteering
13 lien in accordance with this section, whichever is earlier, but if the
14 property was not seized and no criminal profiteering lien was filed
15 then to the date the final judgment was filed with the department of
16 licensing and, if the personal property is an aircraft, with the
17 federal aviation administration.

18 (10) This section does not limit the right of the state to obtain
19 any order or injunction, receivership, writ, attachment, garnishment,
20 or other remedy authorized under RCW 9A.82.100 or appropriate to
21 protect the interests of the state or available under other applicable
22 law.

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

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

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

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

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

7 (2) The notice of special sentencing proceeding shall be filed and
8 served on the defendant or the defendant's attorney within thirty days
9 after the defendant's arraignment upon the charge of aggravated first
10 degree murder unless the court, for good cause shown, extends or
11 reopens the period for filing and service of the notice. Except with
12 the consent of the prosecuting attorney, during the period in which the
13 prosecuting attorney may file the notice of special sentencing
14 proceeding, the defendant may not tender a plea of guilty to the charge
15 of aggravated first degree murder nor may the court accept a plea of
16 guilty to the charge of aggravated first degree murder or any lesser
17 included offense.

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

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

24 TABLE 2

25 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

26	XVI	Aggravated Murder 1 (RCW 10.95.020)
27		<u>Terrorism 1 (RCW 9A.--.--- (section 3 of</u>
28		<u>this act))</u>
29	XV	Homicide by abuse (RCW 9A.32.055)
30		Malicious explosion 1 (RCW 70.74.280(1))
31		Murder 1 (RCW 9A.32.030)
32		<u>Terrorism 2 (RCW 9A.--.--- (section 4 of</u>
33		<u>this act))</u>
34	XIV	Murder 2 (RCW 9A.32.050)

1 Unlawful Use or Possession of a Weapon of
2 Mass Destruction (RCW 9A.--.---
3 (section 5 of this act))

4 XIII Malicious explosion 2 (RCW 70.74.280(2))
5 Malicious placement of an explosive 1 (RCW
6 70.74.270(1))

7 XII Assault 1 (RCW 9A.36.011)
8 Assault of a Child 1 (RCW 9A.36.120)
9 Malicious placement of an imitation device
10 1 (RCW 70.74.272(1)(a))
11 Rape 1 (RCW 9A.44.040)
12 Rape of a Child 1 (RCW 9A.44.073)
13 Threatening Acts of Terrorism 1
14 (RCW 9A.--.--- (section 6(1)(a) of this act))

15 XI Manslaughter 1 (RCW 9A.32.060)
16 Rape 2 (RCW 9A.44.050)
17 Rape of a Child 2 (RCW 9A.44.076)

18 X Child Molestation 1 (RCW 9A.44.083)
19 Indecent Liberties (with forcible
20 compulsion) (RCW 9A.44.100(1)(a))
21 Kidnapping 1 (RCW 9A.40.020)
22 Leading Organized Crime (RCW
23 9A.82.060(1)(a))
24 Malicious explosion 3 (RCW 70.74.280(3))
25 Manufacture of methamphetamine (RCW
26 69.50.401(a)(1)(ii))
27 Over 18 and deliver heroin,
28 methamphetamine, a narcotic from
29 Schedule I or II, or flunitrazepam
30 from Schedule IV to someone under 18
31 (RCW 69.50.406)
32 Providing Material Support or Resources to
33 Terrorists (RCW 9A.--.--- (section 7
34 of this act))
35 Sexually Violent Predator Escape (RCW
36 9A.76.115)

1 Unlawful Possession of False Identification
2 for Terrorist Purposes (RCW 9A.--.---
3 (section 8 of this act))

4 IX

5 Assault of a Child 2 (RCW 9A.36.130)
6 Controlled Substance Homicide (RCW
7 69.50.415)
8 Explosive devices prohibited (RCW
9 70.74.180)
10 Hit and Run--Death (RCW 46.52.020(4)(a))
11 Homicide by Watercraft, by being under the
12 influence of intoxicating liquor or
13 any drug (RCW 79A.60.050)
14 Inciting Criminal Profiteering (RCW
15 9A.82.060(1)(b))
16 Malicious placement of an explosive 2 (RCW
17 70.74.270(2))
18 Over 18 and deliver narcotic from Schedule
19 III, IV, or V or a nonnarcotic, except
20 flunitrazepam or methamphetamine, from
21 Schedule I-V to someone under 18 and 3
22 years junior (RCW 69.50.406)
23 Robbery 1 (RCW 9A.56.200)
24 Sexual Exploitation (RCW 9.68A.040)
25 Vehicular Homicide, by being under the
26 influence of intoxicating liquor or
any drug (RCW 46.61.520)

27 VIII

28 Arson 1 (RCW 9A.48.020)
29 Deliver or possess with intent to deliver
30 m e t h a m p h e t a m i n e (R C W
31 69.50.401(a)(1)(ii))
32 Homicide by Watercraft, by the operation of
33 any vessel in a reckless manner (RCW
34 79A.60.050)
35 Manslaughter 2 (RCW 9A.32.070)
36 Manufacture, deliver, or possess with
37 intent to deliver amphetamine (RCW
69.50.401(a)(1)(ii))

1 Manufacture, deliver, or possess with
2 intent to deliver heroin or cocaine
3 (RCW 69.50.401(a)(1)(i))
4 Possession of Ephedrine, Pseudoephedrine,
5 or Anhydrous Ammonia with intent to
6 manufacture methamphetamine (RCW
7 69.50.440)
8 Promoting Prostitution 1 (RCW 9A.88.070)
9 Selling for profit (controlled or
10 counterfeit) any controlled substance
11 (RCW 69.50.410)
12 Theft of Anhydrous Ammonia (RCW 69.55.010)
13 Vehicular Homicide, by the operation of any
14 vehicle in a reckless manner (RCW
15 46.61.520)

16 VII Burglary 1 (RCW 9A.52.020)
17 Child Molestation 2 (RCW 9A.44.086)
18 Dealing in depictions of minor engaged in
19 sexually explicit conduct (RCW
20 9.68A.050)
21 Drive-by Shooting (RCW 9A.36.045)
22 Homicide by Watercraft, by disregard for
23 the safety of others (RCW 79A.60.050)
24 Indecent Liberties (without forcible
25 compulsion) (RCW 9A.44.100(1) (b) and
26 (c))
27 Introducing Contraband 1 (RCW 9A.76.140)
28 Involving a minor in drug dealing (RCW
29 69.50.401(f))
30 Malicious placement of an explosive 3 (RCW
31 70.74.270(3))
32 Sending, bringing into state depictions of
33 minor engaged in sexually explicit
34 conduct (RCW 9.68A.060)
35 Unlawful Possession of a Firearm in the
36 first degree (RCW 9.41.040(1)(a))
37 Use of a Machine Gun in Commission of a
38 Felony (RCW 9.41.225)

1 Vehicular Homicide, by disregard for the
2 safety of others (RCW 46.61.520)

3 VI Bail Jumping with Murder 1 (RCW
4 9A.76.170(3)(a))
5 Bribery (RCW 9A.68.010)
6 Incest 1 (RCW 9A.64.020(1))
7 Intimidating a Judge (RCW 9A.72.160)
8 Intimidating a Juror/Witness (RCW
9 9A.72.110, 9A.72.130)
10 Malicious placement of an imitation device
11 2 (RCW 70.74.272(1)(b))
12 Manufacture, deliver, or possess with
13 intent to deliver narcotics from
14 Schedule I or II (except heroin or
15 cocaine) or flunitrazepam from
16 Schedule IV (RCW 69.50.401(a)(1)(i))
17 Rape of a Child 3 (RCW 9A.44.079)
18 Theft of a Firearm (RCW 9A.56.300)
19 Unlawful Storage of Anhydrous Ammonia (RCW
20 69.55.020)

21 V Abandonment of dependent person 1 (RCW
22 9A.42.060)
23 Advancing money or property for
24 extortionate extension of credit (RCW
25 9A.82.030)
26 Bail Jumping with class A Felony (RCW
27 9A.76.170(3)(b))
28 Child Molestation 3 (RCW 9A.44.089)
29 Criminal Mistreatment 1 (RCW 9A.42.020)
30 Custodial Sexual Misconduct 1 (RCW
31 9A.44.160)
32 Delivery of imitation controlled substance
33 by person eighteen or over to person
34 under eighteen (RCW 69.52.030(2))
35 Domestic Violence Court Order Violation
36 (RCW 10.99.040, 10.99.050, 26.09.300,
37 26.10.220, 26.26.138, 26.50.110,
38 26.52.070, or 74.34.145)

1 Extortion 1 (RCW 9A.56.120)
2 Extortionate Extension of Credit (RCW
3 9A.82.020)
4 Extortionate Means to Collect Extensions of
5 Credit (RCW 9A.82.040)
6 Incest 2 (RCW 9A.64.020(2))
7 Kidnapping 2 (RCW 9A.40.030)
8 Perjury 1 (RCW 9A.72.020)
9 Persistent prison misbehavior (RCW
10 9.94.070)
11 Possession of a Stolen Firearm (RCW
12 9A.56.310)
13 Rape 3 (RCW 9A.44.060)
14 Rendering Criminal Assistance 1 (RCW
15 9A.76.070)
16 Sexual Misconduct with a Minor 1 (RCW
17 9A.44.093)
18 Sexually Violating Human Remains (RCW
19 9A.44.105)
20 Stalking (RCW 9A.46.110)
21 IV Arson 2 (RCW 9A.48.030)
22 Assault 2 (RCW 9A.36.021)
23 Assault by Watercraft (RCW 79A.60.060)
24 Bribing a Witness/Bribe Received by Witness
25 (RCW 9A.72.090, 9A.72.100)
26 Commercial Bribery (RCW 9A.68.060)
27 Counterfeiting (RCW 9.16.035(4))
28 Escape 1 (RCW 9A.76.110)
29 Hit and Run--Injury (RCW 46.52.020(4)(b))
30 Hit and Run with Vessel--Injury Accident
31 (RCW 79A.60.200(3))
32 Identity Theft 1 (RCW 9.35.020(2)(a))
33 Indecent Exposure to Person Under Age
34 Fourteen (subsequent sex offense) (RCW
35 9A.88.010)
36 Influencing Outcome of Sporting Event (RCW
37 9A.82.070)
38 Knowingly Trafficking in Stolen Property
39 (RCW 9A.82.050(2))

1 Malicious Harassment (RCW 9A.36.080)
2 Manufacture, deliver, or possess with
3 intent to deliver narcotics from
4 Schedule III, IV, or V or nonnarcotics
5 from Schedule I-V (except marijuana,
6 amphetamine, methamphetamines, or
7 flunitrazepam) (RCW 69.50.401(a)(1)
8 (iii) through (v))
9 Residential Burglary (RCW 9A.52.025)
10 Robbery 2 (RCW 9A.56.210)
11 Theft of Livestock 1 (RCW 9A.56.080)
12 Threats to Bomb (RCW 9.61.160)
13 Use of Proceeds of Criminal Profiteering
14 (RCW 9A.82.080 (1) and (2))
15 Vehicular Assault, by being under the
16 influence of intoxicating liquor or
17 any drug, or by the operation or
18 driving of a vehicle in a reckless
19 manner (RCW 46.61.522)
20 Willful Failure to Return from Furlough
21 (RCW 72.66.060)
22 III Abandonment of dependent person 2 (RCW
23 9A.42.070)
24 Assault 3 (RCW 9A.36.031)
25 Assault of a Child 3 (RCW 9A.36.140)
26 Bail Jumping with class B or C Felony (RCW
27 9A.76.170(3)(c))
28 Burglary 2 (RCW 9A.52.030)
29 Communication with a Minor for Immoral
30 Purposes (RCW 9.68A.090)
31 Criminal Gang Intimidation (RCW 9A.46.120)
32 Criminal Mistreatment 2 (RCW 9A.42.030)
33 Custodial Assault (RCW 9A.36.100)
34 Delivery of a material in lieu of a
35 controlled substance (RCW
36 69.50.401(c))
37 Escape 2 (RCW 9A.76.120)
38 Extortion 2 (RCW 9A.56.130)
39 Harassment (RCW 9A.46.020)

1 Intimidating a Public Servant (RCW
2 9A.76.180)
3 Introducing Contraband 2 (RCW 9A.76.150)
4 Maintaining a Dwelling or Place for
5 Controlled Substances (RCW
6 69.50.402(a)(6))
7 Malicious Injury to Railroad Property (RCW
8 81.60.070)
9 Manufacture, deliver, or possess with
10 intent to deliver marijuana (RCW
11 69.50.401(a)(1)(iii))
12 Manufacture, distribute, or possess with
13 intent to distribute an imitation
14 controlled substance (RCW
15 69.52.030(1))
16 Patronizing a Juvenile Prostitute (RCW
17 9.68A.100)
18 Perjury 2 (RCW 9A.72.030)
19 Possession of Incendiary Device (RCW
20 9.40.120)
21 Possession of Machine Gun or Short-Barreled
22 Shotgun or Rifle (RCW 9.41.190)
23 Promoting Prostitution 2 (RCW 9A.88.080)
24 Recklessly Trafficking in Stolen Property
25 (RCW 9A.82.050(1))
26 Securities Act violation (RCW 21.20.400)
27 Tampering with a Witness (RCW 9A.72.120)
28 Telephone Harassment (subsequent conviction
29 or threat of death) (RCW 9.61.230)
30 Theft of Livestock 2 (RCW 9A.56.080)
31 Unlawful Imprisonment (RCW 9A.40.040)
32 Unlawful possession of firearm in the
33 second degree (RCW 9.41.040(1)(b))
34 Unlawful Use of Building for Drug Purposes
35 (RCW 69.53.010)
36 Vehicular Assault, by the operation or
37 driving of a vehicle with disregard
38 for the safety of others (RCW
39 46.61.522)

1 Willful Failure to Return from Work Release
2 (RCW 72.65.070)

3 II Computer Trespass 1 (RCW 9A.52.110)
4 Counterfeiting (RCW 9.16.035(3))
5 Create, deliver, or possess a counterfeit
6 controlled substance (RCW
7 69.50.401(b))
8 Escape from Community Custody (RCW
9 72.09.310)

10 Health Care False Claims (RCW 48.80.030)
11 Identity Theft 2 (RCW 9.35.020(2)(b))
12 Improperly Obtaining Financial Information
13 (RCW 9.35.010)

14 Malicious Mischief 1 (RCW 9A.48.070)
15 Possession of controlled substance that is
16 either heroin or narcotics from
17 Schedule I or II or flunitrazepam from
18 Schedule IV (RCW 69.50.401(d))
19 Possession of phencyclidine (PCP) (RCW
20 69.50.401(d))
21 Possession of Stolen Property 1 (RCW
22 9A.56.150)

23 Theft 1 (RCW 9A.56.030)
24 Theft of Rental, Leased, or Lease-purchased
25 Property (valued at one thousand five
26 hundred dollars or more) (RCW
27 9A.56.096(4))

28 Trafficking in Insurance Claims (RCW
29 48.30A.015)

30 Unlawful Practice of Law (RCW 2.48.180)
31 Unlicensed Practice of a Profession or
32 Business (RCW 18.130.190(7))

33 I Attempting to Elude a Pursuing Police
34 Vehicle (RCW 46.61.024)
35 False Verification for Welfare (RCW
36 74.08.055)
37 Forged Prescription (RCW 69.41.020)

1 Forged Prescription for a Controlled
2 Substance (RCW 69.50.403)
3 Forgery (RCW 9A.60.020)
4 Malicious Mischief 2 (RCW 9A.48.080)
5 Possess Controlled Substance that is a
6 Narcotic from Schedule III, IV, or V
7 or Non-narcotic from Schedule I-V
8 (except phencyclidine or
9 flunitrazepam) (RCW 69.50.401(d))
10 Possession of Stolen Property 2 (RCW
11 9A.56.160)
12 Reckless Burning 1 (RCW 9A.48.040)
13 Taking Motor Vehicle Without Permission
14 (RCW 9A.56.070)
15 Theft 2 (RCW 9A.56.040)
16 Theft of Rental, Leased, or Lease-purchased
17 Property (valued at two hundred fifty
18 dollars or more but less than one
19 thousand five hundred dollars) (RCW
20 9A.56.096(4))
21 Unlawful Issuance of Checks or Drafts (RCW
22 9A.56.060)
23 Unlawful Use of Food Stamps (RCW 9.91.140
24 (2) and (3))
25 Vehicle Prowl 1 (RCW 9A.52.095)

26 **Sec. 16.** RCW 13.40.0357 and 2001 c 217 s 13 are each amended to
27 read as follows:

28 **DESCRIPTION AND OFFENSE CATEGORY**

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

Arson and Malicious Mischief		
A	Arson 1 (9A.48.020)	B+
B	Arson 2 (9A.48.030)	C
C	Reckless Burning 1 (9A.48.040)	D

1	D	Reckless Burning 2 (9A.48.050)	E
2	B	Malicious Mischief 1 (9A.48.070)	C
3	C	Malicious Mischief 2 (9A.48.080)	D
4	D	Malicious Mischief 3 (<\$50 is	
5		E class) (9A.48.090)	E
6	E	Tampering with Fire Alarm	
7		Apparatus (9.40.100)	E
8	A	Possession of Incendiary Device	
9		(9.40.120)	B+
10		Assault and Other Crimes	
11		Involving Physical Harm	
12	A	Assault 1 (9A.36.011)	B+
13	B+	Assault 2 (9A.36.021)	C+
14	C+	Assault 3 (9A.36.031)	D+
15	D+	Assault 4 (9A.36.041)	E
16	B+	Drive-By Shooting	
17		(9A.36.045)	C+
18	D+	Reckless Endangerment	
19		(9A.36.050)	E
20	C+	Promoting Suicide Attempt	
21		(9A.36.060)	D+
22	D+	Coercion (9A.36.070)	E
23	C+	Custodial Assault (9A.36.100)	D+
24		Burglary and Trespass	
25	B+	Burglary 1 (9A.52.020)	C+
26	B	Residential Burglary	
27		(9A.52.025)	C
28	B	Burglary 2 (9A.52.030)	C
29	D	Burglary Tools (Possession of)	
30		(9A.52.060)	E
31	D	Criminal Trespass 1 (9A.52.070)	E
32	E	Criminal Trespass 2 (9A.52.080)	E
33	C	Vehicle Prowling 1 (9A.52.095)	D
34	D	Vehicle Prowling 2 (9A.52.100)	E
35		Drugs	
36	E	Possession/Consumption of Alcohol	
37		(66.44.270)	E

1	C	Illegally Obtaining Legend Drug	
2		(69.41.020)	D
3	C+	Sale, Delivery, Possession of Legend	
4		Drug with Intent to Sell	
5		(69.41.030)	D+
6	E	Possession of Legend Drug	
7		(69.41.030)	E
8	B+	Violation of Uniform Controlled	
9		Substances Act - Narcotic,	
10		Methamphetamine, or Flunitrazepam	
11		Sale (69.50.401(a)(1) (i) or (ii))	B+
12	C	Violation of Uniform Controlled	
13		Substances Act - Nonnarcotic Sale	
14		(69.50.401(a)(1)(iii))	C
15	E	Possession of Marihuana <40 grams	
16		(69.50.401(e))	E
17	C	Fraudulently Obtaining Controlled	
18		Substance (69.50.403)	C
19	C+	Sale of Controlled Substance	
20		for Profit (69.50.410)	C+
21	E	Unlawful Inhalation (9.47A.020)	E
22	B	Violation of Uniform Controlled	
23		Substances Act - Narcotic,	
24		Methamphetamine, or Flunitrazepam	
25		Counterfeit Substances	
26		(69.50.401(b)(1) (i) or (ii))	B
27	C	Violation of Uniform Controlled	
28		Substances Act - Nonnarcotic	
29		Counterfeit Substances	
30		(69.50.401(b)(1) (iii), (iv), (v))	C
31	C	Violation of Uniform Controlled	
32		Substances Act - Possession of a	
33		Controlled Substance	
34		(69.50.401(d))	C
35	C	Violation of Uniform Controlled	
36		Substances Act - Possession of a	
37		Controlled Substance	
38		(69.50.401(c))	C

1		Firearms and Weapons	
2	B	Theft of Firearm (9A.56.300)	C
3	B	Possession of Stolen Firearm	
4		(9A.56.310)	C
5	E	Carrying Loaded Pistol Without	
6		Permit (9.41.050)	E
7	C	Possession of Firearms by Minor (<18)	
8		(9.41.040(1)(b)(iii))	C
9	D+	Possession of Dangerous Weapon	
10		(9.41.250)	E
11	D	Intimidating Another Person by use	
12		of Weapon (9.41.270)	E
13		Homicide	
14	A+	Murder 1 (9A.32.030)	A
15	A+	Murder 2 (9A.32.050)	B+
16	B+	Manslaughter 1 (9A.32.060)	C+
17	C+	Manslaughter 2 (9A.32.070)	D+
18	B+	Vehicular Homicide (46.61.520)	C+
19		Kidnapping	
20	A	Kidnap 1 (9A.40.020)	B+
21	B+	Kidnap 2 (9A.40.030)	C+
22	C+	Unlawful Imprisonment	
23		(9A.40.040)	D+
24		Obstructing Governmental Operation	
25	D	Obstructing a Law Enforcement	
26		Officer (9A.76.020)	E
27	E	Resisting Arrest (9A.76.040)	E
28	B	Introducing Contraband 1	
29		(9A.76.140)	C
30	C	Introducing Contraband 2	
31		(9A.76.150)	D
32	E	Introducing Contraband 3	
33		(9A.76.160)	E
34	B+	Intimidating a Public Servant	
35		(9A.76.180)	C+
36	B+	Intimidating a Witness	
37		(9A.72.110)	C+

1		Public Disturbance	
2	C+	Riot with Weapon (9A.84.010)	D+
3	D+	Riot Without Weapon	
4		(9A.84.010)	E
5	E	Failure to Disperse (9A.84.020)	E
6	E	Disorderly Conduct (9A.84.030)	E
7		Sex Crimes	
8	A	Rape 1 (9A.44.040)	B+
9	A-	Rape 2 (9A.44.050)	B+
10	C+	Rape 3 (9A.44.060)	D+
11	A-	Rape of a Child 1 (9A.44.073)	B+
12	B+	Rape of a Child 2 (9A.44.076)	C+
13	B	Incest 1 (9A.64.020(1))	C
14	C	Incest 2 (9A.64.020(2))	D
15	D+	Indecent Exposure	
16		(Victim <14) (9A.88.010)	E
17	E	Indecent Exposure	
18		(Victim 14 or over) (9A.88.010)	E
19	B+	Promoting Prostitution 1	
20		(9A.88.070)	C+
21	C+	Promoting Prostitution 2	
22		(9A.88.080)	D+
23	E	O & A (Prostitution) (9A.88.030)	E
24	B+	Indecent Liberties (9A.44.100)	C+
25	A-	Child Molestation 1 (9A.44.083)	B+
26	B	Child Molestation 2 (9A.44.086)	C+
27		<u>Terrorism</u>	
28	<u>A+</u>	<u>Terrorism in the First</u>	
29		<u>Degree (section 3 of this act)</u>	<u>A</u>
30	<u>A</u>	<u>Terrorism in the Second Degree</u>	
31		<u>(section 4 of this act)</u>	<u>B+</u>
32	<u>B+</u>	<u>Unlawful Use or Possession</u>	
33		<u>of Weapon of Mass Destruction</u>	
34		<u>(section 5 of this act)</u>	<u>C+</u>
35	<u>B</u>	<u>Threatening Acts of Terrorism 1</u>	
36		<u>(section 6(1)(a) of this act)</u>	<u>C</u>
37	<u>C+</u>	<u>Providing Material Support or</u>	
38		<u>Resources to Terrorists (section</u>	

1		<u>7 of this act)</u>	<u>D+</u>
2	<u>C</u>	<u>Unlawful Possession of False</u>	
3		<u>Identification for Terrorist Purposes</u>	
4		<u>(section 8 of this act)</u>	<u>D</u>
5	<u>D+</u>	<u>Threatening Acts of Terrorism 2</u>	
6		<u>(section 6(1)(b) of this act)</u>	<u>E</u>
7		Theft, Robbery, Extortion, and Forgery	
8	B	Theft 1 (9A.56.030)	C
9	C	Theft 2 (9A.56.040)	D
10	D	Theft 3 (9A.56.050)	E
11	B	Theft of Livestock (9A.56.080)	C
12	C	Forgery (9A.60.020)	D
13	A	Robbery 1 (9A.56.200)	B+
14	B+	Robbery 2 (9A.56.210)	C+
15	B+	Extortion 1 (9A.56.120)	C+
16	C+	Extortion 2 (9A.56.130)	D+
17	C	Identity Theft 1 (9.35.020(2)(a))	D
18	D	Identity Theft 2 (9.35.020(2)(b))	E
19	D	Improperly Obtaining Financial	
20		Information (((9.35.010)))	
21		<u>(9.35.010)</u>	<u>E</u>
22	B	Possession of Stolen Property 1	
23		(9A.56.150)	C
24	C	Possession of Stolen Property 2	
25		(9A.56.160)	D
26	D	Possession of Stolen Property 3	
27		(9A.56.170)	E
28	C	Taking Motor Vehicle Without	
29		Owner's Permission (9A.56.070)	D
30		Motor Vehicle Related Crimes	
31	E	Driving Without a License	
32		(46.20.005)	E
33	B+	Hit and Run - Death	
34		(46.52.020(4)(a))	C+
35	C	Hit and Run - Injury	
36		(46.52.020(4)(b))	D
37	D	Hit and Run-Attended	
38		(46.52.020(5))	E

1	E	Hit and Run-Unattended	
2		(46.52.010)	E
3	C	Vehicular Assault (46.61.522)	D
4	C	Attempting to Elude Pursuing	
5		Police Vehicle (46.61.024)	D
6	E	Reckless Driving (46.61.500)	E
7	D	Driving While Under the Influence	
8		(46.61.502 and 46.61.504)	E
9		Other	
10	B	Bomb Threat (9.61.160)	C
11	C	Escape 1 (9A.76.110)	C
12	C	Escape 2 (9A.76.120)	C
13	D	Escape 3 (9A.76.130)	E
14	E	Obscene, Harassing, Etc.,	
15		Phone Calls (9.61.230)	E
16	A	Other Offense Equivalent to an	
17		Adult Class A Felony	B+
18	B	Other Offense Equivalent to an	
19		Adult Class B Felony	C
20	C	Other Offense Equivalent to an	
21		Adult Class C Felony	D
22	D	Other Offense Equivalent to an	
23		Adult Gross Misdemeanor	E
24	E	Other Offense Equivalent to an	
25		Adult Misdemeanor	E
26	V	Violation of Order of Restitution,	
27		Community Supervision, or	
28		Confinement (13.40.200)	V

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

31 1st escape or attempted escape during 12-month period - 4 weeks
32 confinement

33 2nd escape or attempted escape during 12-month period - 8 weeks
34 confinement

35 3rd and subsequent escape or attempted escape during 12-month
36 period - 12 weeks confinement

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

3 **JUVENILE SENTENCING STANDARDS**

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

6 **OPTION A**
 7 **JUVENILE OFFENDER SENTENCING GRID**
 8 **STANDARD RANGE**

9		_____					
10	A+	180 WEEKS TO AGE 21 YEARS					
11		_____					
12	A	103 WEEKS TO 129 WEEKS					
13		_____					
14	A-	15-36	52-65	80-100	103-129		
15		WEEKS	WEEKS	WEEKS	WEEKS		
16		EXCEPT					
17		30-40					
18		WEEKS FOR					
19		15-17					
20		YEAR OLDS					
21		_____					
22	Current Offense Category	B+	15-36	52-65	80-100	103-129	
23			WEEKS	WEEKS	WEEKS	WEEKS	
24			_____				
25		B	LOCAL		52-65		
26			SANCTIONS (LS)	15-36 WEEKS	WEEKS		
27				_____	_____		
28		C+	LS				
29				15-36 WEEKS			
30				_____			
31		C	LS		15-36 WEEKS		
32			Local Sanctions:				
33			0 to 30 Days				
34		D+	LS	0 to 12 Months Community Supervision			
35				0 to 150 Hours Community Service			
36		D	LS	\$0 to \$500 Fine			
37		E	LS				
38			_____				
39			0	1	2	3	4 or more
40			PRIOR ADJUDICATIONS				

1 NOTE: References in the grid to days or weeks mean periods of
2 confinement.

3 (1) The vertical axis of the grid is the current offense category.
4 The current offense category is determined by the offense of
5 adjudication.

6 (2) The horizontal axis of the grid is the number of prior
7 adjudications included in the juvenile's criminal history. Each prior
8 felony adjudication shall count as one point. Each prior violation,
9 misdemeanor, and gross misdemeanor adjudication shall count as 1/4
10 point. Fractional points shall be rounded down.

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

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

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

19 OR

20 OPTION B

21 CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE

22 If the juvenile offender is subject to a standard range disposition
23 of local sanctions or 15 to 36 weeks of confinement and has not
24 committed an A- or B+ offense, the court may impose a disposition under
25 RCW 13.40.160(4) and 13.40.165.

26 OR

27 OPTION C

28 MANIFEST INJUSTICE

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

32 **Sec. 17.** RCW 9.94A.030 and 2001 2nd sp.s. c 12 s 301, 2001 c 300
33 s 3, and 2001 c 7 s 2 are each reenacted and amended to read as
34 follows:

1 Unless the context clearly requires otherwise, the definitions in
2 this section apply throughout this chapter.

3 (1) "Board" means the indeterminate sentence review board created
4 under chapter 9.95 RCW.

5 (2) "Collect," or any derivative thereof, "collect and remit," or
6 "collect and deliver," when used with reference to the department,
7 means that the department, either directly or through a collection
8 agreement authorized by RCW 9.94A.760, is responsible for monitoring
9 and enforcing the offender's sentence with regard to the legal
10 financial obligation, receiving payment thereof from the offender, and,
11 consistent with current law, delivering daily the entire payment to the
12 superior court clerk without depositing it in a departmental account.

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

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

18 (5) "Community custody" means that portion of an offender's
19 sentence of confinement in lieu of earned release time or imposed
20 pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670,
21 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545, served in the
22 community subject to controls placed on the offender's movement and
23 activities by the department. For offenders placed on community
24 custody for crimes committed on or after July 1, 2000, the department
25 shall assess the offender's risk of reoffense and may establish and
26 modify conditions of community custody, in addition to those imposed by
27 the court, based upon the risk to community safety.

28 (6) "Community custody range" means the minimum and maximum period
29 of community custody included as part of a sentence under RCW
30 9.94A.715, as established by the commission or the legislature under
31 RCW 9.94A.850, for crimes committed on or after July 1, 2000.

32 (7) "Community placement" means that period during which the
33 offender is subject to the conditions of community custody and/or
34 postrelease supervision, which begins either upon completion of the
35 term of confinement (postrelease supervision) or at such time as the
36 offender is transferred to community custody in lieu of earned release.
37 Community placement may consist of entirely community custody, entirely
38 postrelease supervision, or a combination of the two.

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

4 (9) "Community supervision" means a period of time during which a
5 convicted offender is subject to crime-related prohibitions and other
6 sentence conditions imposed by a court pursuant to this chapter or RCW
7 16.52.200(6) or 46.61.524. Where the court finds that any offender has
8 a chemical dependency that has contributed to his or her offense, the
9 conditions of supervision may, subject to available resources, include
10 treatment. For purposes of the interstate compact for out-of-state
11 supervision of parolees and probationers, RCW 9.95.270, community
12 supervision is the functional equivalent of probation and should be
13 considered the same as probation by other states.

14 (10) "Confinement" means total or partial confinement.

15 (11) "Conviction" means an adjudication of guilt pursuant to Titles
16 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
17 acceptance of a plea of guilty.

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

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

31 (14) "Day fine" means a fine imposed by the sentencing court that
32 equals the difference between the offender's net daily income and the
33 reasonable obligations that the offender has for the support of the
34 offender and any dependents.

35 (15) "Day reporting" means a program of enhanced supervision
36 designed to monitor the offender's daily activities and compliance with
37 sentence conditions, and in which the offender is required to report
38 daily to a specific location designated by the department or the
39 sentencing court.

1 (16) "Department" means the department of corrections.

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

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

22 (19) "Drug offender sentencing alternative" is a sentencing option
23 available to persons convicted of a felony offense other than a violent
24 offense or a sex offense and who are eligible for the option under RCW
25 9.94A.660.

26 (20) "Drug offense" means:

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

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

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

36 (21) "Earned release" means earned release from confinement as
37 provided in RCW 9.94A.728.

38 (22) "Escape" means:

1 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the
2 first degree (RCW 9A.76.110), escape in the second degree (RCW
3 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
4 willful failure to return from work release (RCW 72.65.070), or willful
5 failure to be available for supervision by the department while in
6 community custody (RCW 72.09.310); or

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

10 (23) "Felony traffic offense" means:

11 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
12 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
13 and-run injury-accident (RCW 46.52.020(4)); or

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

17 (24) "Fine" means a specific sum of money ordered by the sentencing
18 court to be paid by the offender to the court over a specific period of
19 time.

20 (25) "First-time offender" means any person who has no prior
21 convictions for a felony and is eligible for the first-time offender
22 waiver under RCW 9.94A.650.

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

26 (27) "Legal financial obligation" means a sum of money that is
27 ordered by a superior court of the state of Washington for legal
28 financial obligations which may include restitution to the victim,
29 statutorily imposed crime victims' compensation fees as assessed
30 pursuant to RCW 7.68.035, court costs, county or interlocal drug funds,
31 court-appointed attorneys' fees, and costs of defense, fines, and any
32 other financial obligation that is assessed to the offender as a result
33 of a felony conviction. Upon conviction for vehicular assault while
34 under the influence of intoxicating liquor or any drug, RCW
35 46.61.522(1)(b), or vehicular homicide while under the influence of
36 intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial
37 obligations may also include payment to a public agency of the expense
38 of an emergency response to the incident resulting in the conviction,
39 subject to RCW 38.52.430.

1 (28) "Most serious offense" means any of the following felonies or
2 a felony attempt to commit any of the following felonies:

3 (a) Any felony defined under any law as a class A felony or
4 criminal solicitation of or criminal conspiracy to commit a class A
5 felony;

6 (b) Assault in the second degree;

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

8 (d) Child molestation in the second degree;

9 (e) Controlled substance homicide;

10 (f) Extortion in the first degree;

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

12 (h) Indecent liberties;

13 (i) Kidnapping in the second degree;

14 (j) Leading organized crime;

15 (k) Manslaughter in the first degree;

16 (l) Manslaughter in the second degree;

17 (m) Promoting prostitution in the first degree;

18 (n) Rape in the third degree;

19 (o) Robbery in the second degree;

20 (p) Sexual exploitation;

21 (q) Vehicular assault, when caused by the operation or driving of
22 a vehicle by a person while under the influence of intoxicating liquor
23 or any drug or by the operation or driving of a vehicle in a reckless
24 manner;

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

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

31 (t) Any other felony with a deadly weapon verdict under RCW
32 9.94A.602;

33 (u) Any felony offense in effect at any time prior to December 2,
34 1993, that is comparable to a most serious offense under this
35 subsection, or any federal or out-of-state conviction for an offense
36 that under the laws of this state would be a felony classified as a
37 most serious offense under this subsection;

38 (v)(i) A prior conviction for indecent liberties under RCW
39 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.

1 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
2 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
3 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

4 (ii) A prior conviction for indecent liberties under RCW
5 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
6 if: (A) The crime was committed against a child under the age of
7 fourteen; or (B) the relationship between the victim and perpetrator is
8 included in the definition of indecent liberties under RCW
9 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
10 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
11 through July 27, 1997.

12 (29) "Nonviolent offense" means an offense which is not a violent
13 offense.

14 (30) "Offender" means a person who has committed a felony
15 established by state law and is eighteen years of age or older or is
16 less than eighteen years of age but whose case is under superior court
17 jurisdiction under RCW 13.04.030 or has been transferred by the
18 appropriate juvenile court to a criminal court pursuant to RCW
19 13.40.110. Throughout this chapter, the terms "offender" and
20 "defendant" are used interchangeably.

21 (31) "Partial confinement" means confinement for no more than one
22 year in a facility or institution operated or utilized under contract
23 by the state or any other unit of government, or, if home detention or
24 work crew has been ordered by the court, in an approved residence, for
25 a substantial portion of each day with the balance of the day spent in
26 the community. Partial confinement includes work release, home
27 detention, work crew, and a combination of work crew and home
28 detention.

29 (32) "Persistent offender" is an offender who:

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

32 (ii) Has, before the commission of the offense under (a) of this
33 subsection, been convicted as an offender on at least two separate
34 occasions, whether in this state or elsewhere, of felonies that under
35 the laws of this state would be considered most serious offenses and
36 would be included in the offender score under RCW 9.94A.525; provided
37 that of the two or more previous convictions, at least one conviction
38 must have occurred before the commission of any of the other most
39 serious offenses for which the offender was previously convicted; or

1 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
2 of a child in the first degree, child molestation in the first degree,
3 rape in the second degree, rape of a child in the second degree, or
4 indecent liberties by forcible compulsion; (B) any of the following
5 offenses with a finding of sexual motivation: Murder in the first
6 degree, murder in the second degree, homicide by abuse, kidnapping in
7 the first degree, kidnapping in the second degree, assault in the first
8 degree, assault in the second degree, assault of a child in the first
9 degree, or burglary in the first degree; or (C) an attempt to commit
10 any crime listed in this subsection (32)(b)(i); and

11 (ii) Has, before the commission of the offense under (b)(i) of this
12 subsection, been convicted as an offender on at least one occasion,
13 whether in this state or elsewhere, of an offense listed in (b)(i) of
14 this subsection or any federal or out-of-state offense or offense under
15 prior Washington law that is comparable to the offenses listed in
16 (b)(i) of this subsection. A conviction for rape of a child in the
17 first degree constitutes a conviction under (b)(i) of this subsection
18 only when the offender was sixteen years of age or older when the
19 offender committed the offense. A conviction for rape of a child in
20 the second degree constitutes a conviction under (b)(i) of this
21 subsection only when the offender was eighteen years of age or older
22 when the offender committed the offense.

23 (33) "Postrelease supervision" is that portion of an offender's
24 community placement that is not community custody.

25 (34) "Restitution" means a specific sum of money ordered by the
26 sentencing court to be paid by the offender to the court over a
27 specified period of time as payment of damages. The sum may include
28 both public and private costs.

29 (35) "Risk assessment" means the application of an objective
30 instrument supported by research and adopted by the department for the
31 purpose of assessing an offender's risk of reoffense, taking into
32 consideration the nature of the harm done by the offender, place and
33 circumstances of the offender related to risk, the offender's
34 relationship to any victim, and any information provided to the
35 department by victims. The results of a risk assessment shall not be
36 based on unconfirmed or unconfirmable allegations.

37 (36) "Serious traffic offense" means:

38 (a) Driving while under the influence of intoxicating liquor or any
39 drug (RCW 46.61.502), actual physical control while under the influence

1 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving
2 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));
3 or

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

7 (37) "Serious violent offense" is a subcategory of violent offense
8 and means:

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

10 (ii) Homicide by abuse;

11 (iii) Murder in the second degree;

12 (iv) Manslaughter in the first degree;

13 (v) Assault in the first degree;

14 (vi) Kidnapping in the first degree;

15 (vii) Rape in the first degree;

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

17 (ix) Terrorism in the first degree (RCW 9A.---.--- (section 3 of
18 this act));

19 (x) Terrorism in the second degree (RCW 9A.---.--- (section 4 of
20 this act));

21 (xi) Unlawful use or possession of a weapon of mass destruction
22 (RCW 9A.---.--- (section 5 of this act)); or

23 (xii) An attempt, criminal solicitation, or criminal conspiracy to
24 commit one of these felonies; or

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

28 (38) "Sex offense" means:

29 (a)(i) A felony that is a violation of chapter 9A.44 RCW other than
30 RCW 9A.44.130(11);

31 (ii) A violation of RCW 9A.64.020;

32 (iii) A felony that is a violation of chapter 9.68A RCW other than
33 RCW 9.68A.070 or 9.68A.080; or

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

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

1 (c) A felony with a finding of sexual motivation under RCW
2 9.94A.835 or 13.40.135; or

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

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

9 (40) "Standard sentence range" means the sentencing court's
10 discretionary range in imposing a nonappealable sentence.

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

15 (42) "Total confinement" means confinement inside the physical
16 boundaries of a facility or institution operated or utilized under
17 contract by the state or any other unit of government for twenty-four
18 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

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

25 (44) "Victim" means any person who has sustained emotional,
26 psychological, physical, or financial injury to person or property as
27 a direct result of the crime charged.

28 (45) "Violent offense" means:

29 (a) Any of the following felonies:

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

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

34 (iii) Manslaughter in the first degree;

35 (iv) Manslaughter in the second degree;

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

37 (vi) Kidnapping in the second degree;

38 (vii) Arson in the second degree;

39 (viii) Assault in the second degree;

1 (ix) Assault of a child in the second degree;
2 (x) Extortion in the first degree;
3 (xi) Robbery in the second degree;
4 (xii) Drive-by shooting;
5 (xiii) Vehicular assault, when caused by the operation or driving
6 of a vehicle by a person while under the influence of intoxicating
7 liquor or any drug or by the operation or driving of a vehicle in a
8 reckless manner; and

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

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

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

19 (46) "Work crew" means a program of partial confinement consisting
20 of civic improvement tasks for the benefit of the community that
21 complies with RCW 9.94A.725.

22 (47) "Work ethic camp" means an alternative incarceration program
23 as provided in RCW 9.94A.690 designed to reduce recidivism and lower
24 the cost of corrections by requiring offenders to complete a
25 comprehensive array of real-world job and vocational experiences,
26 character-building work ethics training, life management skills
27 development, substance abuse rehabilitation, counseling, literacy
28 training, and basic adult education.

29 (48) "Work release" means a program of partial confinement
30 available to offenders who are employed or engaged as a student in a
31 regular course of study at school.

32 **Sec. 18.** RCW 9A.04.080 and 1998 c 221 s 2 are each amended to read
33 as follows:

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

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

38 (i) Murder;

1 (ii) Any offense defined in chapter 9A.-- RCW (sections 1 through
2 8 and 19 through 25 of this act);
3 (iii) Homicide by abuse;
4 (~~(iii)~~) (iv) Arson if a death results;
5 (~~(iv)~~) (v) Vehicular homicide;
6 (~~(v)~~) (vi) Vehicular assault if a death results;
7 (~~(vi)~~) (vii) Hit-and-run injury-accident if a death results (RCW
8 46.52.020(4)).

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

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

14 (ii) Arson if no death results; or

15 (iii) Violations of RCW 9A.44.040 or 9A.44.050 if the rape is
16 reported to a law enforcement agency within one year of its commission;
17 except that if the victim is under fourteen years of age when the rape
18 is committed and the rape is reported to a law enforcement agency
19 within one year of its commission, the violation may be prosecuted up
20 to three years after the victim's eighteenth birthday or up to ten
21 years after the rape's commission, whichever is later. If a violation
22 of RCW 9A.44.040 or 9A.44.050 is not reported within one year, the rape
23 may not be prosecuted: (A) More than three years after its commission
24 if the violation was committed against a victim fourteen years of age
25 or older; or (B) more than three years after the victim's eighteenth
26 birthday or more than seven years after the rape's commission,
27 whichever is later, if the violation was committed against a victim
28 under fourteen years of age.

29 (c) Violations of the following statutes shall not be prosecuted
30 more than three years after the victim's eighteenth birthday or more
31 than seven years after their commission, whichever is later: RCW
32 9A.44.073, 9A.44.076, 9A.44.083, 9A.44.086, 9A.44.070, 9A.44.080,
33 9A.44.100(1)(b), or 9A.64.020.

34 (d) The following offenses shall not be prosecuted more than six
35 years after their commission: Violations of RCW 9A.82.060 or
36 9A.82.080.

37 (e) The following offenses shall not be prosecuted more than five
38 years after their commission: Any class C felony under chapter 74.09,
39 82.36, or 82.38 RCW.

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

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

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

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

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

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

20 (3) If, before the end of a period of limitation prescribed in
21 subsection (1) of this section, an indictment has been found or a
22 complaint or an information has been filed, and the indictment,
23 complaint, or information is set aside, then the period of limitation
24 is extended by a period equal to the length of time from the finding or
25 filing to the setting aside.

26 NEW SECTION. **Sec. 19.** CRIMINAL PENALTIES ADDITIONAL TO CIVIL AND
27 ADMINISTRATIVE SANCTIONS. The penalties imposed pursuant to this
28 chapter shall be in addition to, and not in lieu of, all other civil,
29 administrative, and other penalties and remedies provided for by other
30 laws providing penalties or remedies for actions or conduct which also
31 constitutes a violation of this chapter.

32 NEW SECTION. **Sec. 20.** ADDITIONAL PENALTIES. In addition to all
33 other penalties, criminal or civil, and any other provision of law
34 notwithstanding, any person convicted of any of the offenses described
35 in this chapter shall be ordered by the sentencing court to:

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

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

7 NEW SECTION. **Sec. 21.** ANTIMERGER PROVISION. Every person who, in
8 the commission of an offense defined by this chapter, commits any other
9 crime may be punished therefor, as well as for the violation of this
10 chapter, and may be prosecuted for each crime separately.

11 NEW SECTION. **Sec. 22.** SECTION CAPTIONS. Section captions as used
12 in this chapter do not constitute any part of the law.

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

17 NEW SECTION. **Sec. 24.** SHORT TITLE. This act shall be known as
18 the Washington AntiTerrorism Act of 2002.

19 NEW SECTION. **Sec. 25.** DECLARING AN EMERGENCY. This act is
20 necessary for the immediate preservation of the public peace, health,
21 or safety, or support of the state government and its existing public
22 institutions, and takes effect immediately.

23 NEW SECTION. **Sec. 26.** CODIFICATION INSTRUCTIONS. Sections 1
24 through 8 and 19 through 25 of this act constitute a new chapter in
25 Title 9A RCW.

--- END ---