
SUBSTITUTE SENATE BILL 5449

State of Washington

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By Senate Committee on Labor, Commerce & Financial Institutions (originally sponsored by Senators Prentice, Long, Winsley, Gardner, Franklin, Costa, Rasmussen and Kohl-Welles; by request of Attorney General)

READ FIRST TIME 03/05/01.

1 AN ACT Relating to identity theft; amending RCW 43.43.760,
2 19.16.250, 9.35.010, 9.35.020, 9.35.030, 9A.82.010, and 13.40.0357;
3 reenacting and amending RCW 9.94A.320; adding new sections to chapter
4 9.35 RCW; creating a new section; and prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 9.35 RCW
7 to read as follows:

8 DEFINITIONS. The definitions in this section apply throughout this
9 chapter unless the context clearly requires otherwise.

10 (1) "Financial information" means any of the following information
11 identifiable to the individual that concerns the amount and conditions
12 of an individual's assets, liabilities, or credit:

13 (a) Account numbers and balances;

14 (b) Transactional information concerning an account; and

15 (c) Codes, passwords, social security numbers, tax identification
16 numbers, driver's license or permit numbers, state identicard numbers
17 issued by the department of licensing, and other information held for
18 the purpose of account access or transaction initiation.

1 (2) "Financial information repository" means a person engaged in
2 the business of providing services to customers who have a credit,
3 deposit, trust, stock, or other financial account or relationship with
4 the person.

5 (3) "Means of identification" means information or an item that is
6 not describing finances or credit but is personal to or identifiable
7 with an individual or other person, including: A current or former
8 name of the person, telephone number, an electronic address, or
9 identifier of the individual or a member of his or her family,
10 including the ancestor of the person; information relating to a change
11 in name, address, telephone number, or electronic address or identifier
12 of the individual or his or her family; a social security, driver's
13 license, or tax identification number of the individual or a member of
14 his or her family; and other information that could be used to identify
15 the person, including unique biometric data.

16 (4) "Person" means a person as defined in RCW 9A.04.110.

17 (5) "Victim" means a person whose means of identification or
18 financial information has been used or transferred with the intent to
19 commit, or to aid or abet, any unlawful activity.

20 NEW SECTION. **Sec. 2.** A new section is added to chapter 9.35 RCW
21 to read as follows:

22 INFORMATION AVAILABLE TO VICTIM. (1) A person, financial
23 information repository, financial service provider, merchant,
24 corporation, trust, partnership, or unincorporated association
25 possessing information relating to an actual or potential violation of
26 this chapter, and who may have entered into a transaction, provided
27 credit, products, goods, or services, accepted payment, or otherwise
28 done business with a person who has used the victim's means of
29 identification, must, upon written request of the victim, provide
30 copies of all relevant application and transaction information related
31 to the transaction being alleged as a potential or actual violation of
32 this chapter.

33 (2) Unless the information provider is otherwise able to verify the
34 victim's identification, the provider shall require the victim to
35 provide one or more of the following as proof of positive
36 identification:

1 (a) The showing of a government issued photo identification card
2 or, if providing proof by mail, a copy of a government issued
3 identification card;

4 (b) A copy of a police report evidencing the victim's claim; and

5 (c) The written statement from any law enforcement agency showing
6 that the state patrol has on file documentation of the victim's
7 identity pursuant to the personal identification procedures in RCW
8 43.43.760.

9 (3) The provider may require reasonable compensation for the
10 reasonable cost of providing the information requested.

11 (4) No person, financial information repository, financial service
12 provider, merchant, corporation, trust, partnership, or unincorporated
13 association may be held liable for an action taken in good faith to
14 provide information regarding potential or actual violations of this
15 chapter to other financial information repositories, financial service
16 providers, merchants, law enforcement authorities, the victim, or any
17 person alleging to be a victim who complies with subsection (2) of this
18 section which evidences the alleged victim's claim for the purpose of
19 identification and prosecution of violators of this chapter, or to
20 assist a victim in recovery of fines, restitution, rehabilitation of
21 the victim's credit, or such other relief as may be appropriate.

22 (5) Nothing in this section creates an obligation on the part of a
23 person, financial information repository, financial services provider,
24 merchant, corporation, trust, partnership, or unincorporated
25 association to retain or maintain additional information or records
26 that they are not otherwise required to retain or maintain in the
27 ordinary course of business.

28 (6) The legislature finds that the practices covered by this
29 section are matters vitally affecting the public interest for the
30 purpose of applying the consumer protection act, chapter 19.86 RCW.
31 Violations of this section are not reasonable in relation to the
32 development and preservation of business. It is an unfair or deceptive
33 act in trade or commerce and an unfair method of competition for the
34 purpose of applying the consumer protection act, chapter 19.86 RCW.
35 The burden of proof in an action alleging a violation of this section
36 shall be by a preponderance of the evidence, and the applicable statute
37 of limitation shall be as set forth in RCW 19.182.120. For purposes of
38 a judgment awarded pursuant to an action by a consumer under chapter
39 19.86 RCW, the consumer shall be awarded actual damages and costs of

1 the action together with reasonable attorneys' fees as determined by
2 the court. However, where there has been willful failure to comply
3 with any requirement imposed under this section, the consumer shall be
4 awarded actual damages, a monetary penalty of one thousand dollars, and
5 the costs of the action together with reasonable attorneys' fees as
6 determined by the court.

7 **Sec. 3.** RCW 43.43.760 and 1985 c 201 s 15 are each amended to read
8 as follows:

9 (1) Whenever a resident of this state appears before any law
10 enforcement agency and requests an impression of his or her
11 fingerprints to be made, such agency may comply with his or her request
12 and make the required copies of the impressions on forms marked
13 "Personal Identification". The required copies shall be forwarded to
14 the section and marked "for personal identification only".

15 The section shall accept and file such fingerprints submitted
16 voluntarily by such resident, for the purpose of securing a more
17 certain and easy identification in case of death, injury, loss of
18 memory, or other similar circumstances. Upon the request of such
19 person, the section shall return his or her identification data.

20 (2) Whenever a person claiming to be a victim of identity theft
21 appears before any law enforcement agency and requests an impression of
22 his or her fingerprints to be made, such agency may comply with this
23 request and make the required copies of the impressions on forms marked
24 "Personal Identification." The required copies shall be forwarded to
25 the section and marked "for personal identification only."

26 The section shall accept and file such fingerprints submitted by
27 such resident, for the purpose of securing a more certain and easy
28 identification in cases of identity theft. The law enforcement agency
29 shall upon taking the impression of fingerprints provide the victim
30 with a statement showing that the victim's impression of fingerprints
31 has been taken and forwarded to the section. Upon the request of such
32 person, the section shall return his or her identification data.

33 Any law enforcement agency may charge a fee not to exceed ten
34 dollars for the purpose of taking fingerprint impressions, and
35 providing the statement to the victim of identity theft.

36 The statement provided to the victim shall state clearly in twelve-
37 point print:

1 "The person holding this statement has claimed to be a victim of
2 identity theft. Pursuant to chapter 9.35 RCW, a business is required
3 by law to provide this victim with copies of all relevant application
4 and transaction information related to the transaction being alleged as
5 a potential or actual identity theft. A business must provide this
6 information once the victim makes a request in writing, shows this
7 statement, any government issued photo identification card, and a copy
8 of a police report."

9 (3) Whenever any person is an applicant for appointment to any
10 position or is an applicant for employment or is an applicant for a
11 license to be issued by any governmental agency, and the law or a
12 regulation of such governmental agency requires that the applicant be
13 of good moral character or not have been convicted of a crime, or is an
14 applicant for appointment to or employment with a criminal justice
15 agency, or the department, the applicant may request any law
16 enforcement agency to make an impression of his or her fingerprints to
17 be submitted to the section. The law enforcement agency may comply
18 with such request and make copies of the impressions on forms marked
19 "applicant", and submit such copies to the section.

20 The section shall accept such fingerprints and shall cause its
21 files to be examined and shall promptly send to the appointing
22 authority, employer, or licensing authority indicated on the form of
23 application, a transcript of the record of previous crimes committed by
24 the person described on the data submitted, or a transcript of the
25 dependency record information regarding the person described on the
26 data submitted, or if there is no record of his or her commission of
27 any crimes, or if there is no dependency record information, a
28 statement to that effect.

29 (~~(3)~~) (4) The Washington state patrol shall charge fees for
30 processing of noncriminal justice system requests for criminal history
31 record information pursuant to this section which will cover, as nearly
32 as practicable, the direct and indirect costs to the patrol of
33 processing such requests.

34 Any law enforcement agency may charge a fee not to exceed five
35 dollars for the purpose of taking fingerprint impressions or searching
36 its files of identification for noncriminal purposes.

37 **Sec. 4.** RCW 19.16.250 and 1983 c 107 s 1 are each amended to read
38 as follows:

1 No licensee or employee of a licensee shall:

2 (1) Directly or indirectly aid or abet any unlicensed person to
3 engage in business as a collection agency in this state or receive
4 compensation from such unlicensed person: PROVIDED, That nothing in
5 this chapter shall prevent a licensee from accepting, as forwarder,
6 claims for collection from a collection agency or attorney whose place
7 of business is outside the state.

8 (2) Collect or attempt to collect a claim by the use of any means
9 contrary to the postal laws and regulations of the United States postal
10 department.

11 (3) Publish or post or cause to be published or posted, any list of
12 debtors commonly known as "bad debt lists" or threaten to do so. For
13 purposes of this chapter, a "bad debt list" means any list of natural
14 persons alleged to fail to honor their lawful debts. However, nothing
15 herein shall be construed to prohibit a licensee from communicating to
16 its customers or clients by means of a coded list, the existence of a
17 check dishonored because of insufficient funds, not sufficient funds or
18 closed account by the financial institution servicing the debtor's
19 checking account: PROVIDED, That the debtor's identity is not readily
20 apparent: PROVIDED FURTHER, That the licensee complies with the
21 requirements of subsection (9)(e) of this section.

22 (4) Have in his possession or make use of any badge, use a uniform
23 of any law enforcement agency or any simulation thereof, or make any
24 statements which might be construed as indicating an official
25 connection with any federal, state, county, or city law enforcement
26 agency, or any other governmental agency, while engaged in collection
27 agency business.

28 (5) Perform any act or acts, either directly or indirectly,
29 constituting the practice of law.

30 (6) Advertise for sale or threaten to advertise for sale any claim
31 as a means of endeavoring to enforce payment thereof or agreeing to do
32 so for the purpose of soliciting claims, except where the licensee has
33 acquired claims as an assignee for the benefit of creditors or where
34 the licensee is acting under court order.

35 (7) Use any name while engaged in the making of a demand for any
36 claim other than the name set forth on his or its current license
37 issued hereunder.

38 (8) Give or send to any debtor or cause to be given or sent to any
39 debtor, any notice, letter, message, or form which represents or

1 implies that a claim exists unless it shall indicate in clear and
2 legible type:

3 (a) The name of the licensee and the city, street, and number at
4 which he is licensed to do business;

5 (b) The name of the original creditor to whom the debtor owed the
6 claim if such name is known to the licensee or employee: PROVIDED, That
7 upon written request of the debtor, the licensee shall make a
8 reasonable effort to obtain the name of such person and provide this
9 name to the debtor;

10 (c) If the notice, letter, message, or form is the first notice to
11 the debtor or if the licensee is attempting to collect a different
12 amount than indicated in his or its first notice to the debtor, an
13 itemization of the claim asserted must be made including:

14 (i) Amount owing on the original obligation at the time it was
15 received by the licensee for collection or by assignment;

16 (ii) Interest or service charge, collection costs, or late payment
17 charges, if any, added to the original obligation by the original
18 creditor, customer or assignor before it was received by the licensee
19 for collection, if such information is known by the licensee or
20 employee: PROVIDED, That upon written request of the debtor, the
21 licensee shall make a reasonable effort to obtain information on such
22 items and provide this information to the debtor;

23 (iii) Interest or service charge, if any, added by the licensee or
24 customer or assignor after the obligation was received by the licensee
25 for collection;

26 (iv) Collection costs, if any, that the licensee is attempting to
27 collect;

28 (v) Attorneys' fees, if any, that the licensee is attempting to
29 collect on his or its behalf or on the behalf of a customer or
30 assignor;

31 (vi) Any other charge or fee that the licensee is attempting to
32 collect on his or its own behalf or on the behalf of a customer or
33 assignor.

34 (9) Communicate or threaten to communicate, the existence of a
35 claim to a person other than one who might be reasonably expected to be
36 liable on the claim in any manner other than through proper legal
37 action, process, or proceedings except under the following conditions:

38 (a) A licensee or employee of a licensee may inform a credit
39 reporting bureau of the existence of a claim: PROVIDED, That if the

1 licensee or employee of a licensee reports a claim to a credit
2 reporting bureau, the licensee shall upon receipt of written notice
3 from the debtor that any part of the claim is disputed, forward a copy
4 of such written notice to the credit reporting bureau;

5 (b) A licensee or employee in collecting or attempting to collect
6 a claim may communicate the existence of a claim to a debtor's employer
7 if the claim has been reduced to a judgment;

8 (c) A licensee or employee in collecting or attempting to collect
9 a claim that has not been reduced to judgment, may communicate the
10 existence of a claim to a debtor's employer if:

11 (i) The licensee or employee has notified or attempted to notify
12 the debtor in writing at his last known address or place of employment
13 concerning the claim and the debtor after a reasonable time has failed
14 to pay the claim or has failed to agree to make payments on the claim
15 in a manner acceptable to the licensee, and

16 (ii) The debtor has not in writing to the licensee disputed any
17 part of the claim: PROVIDED, That the licensee or employee may only
18 communicate the existence of a claim which has not been reduced to
19 judgment to the debtor's employer once unless the debtor's employer has
20 agreed to additional communications.

21 (d) A licensee may for the purpose of locating the debtor or
22 locating assets of the debtor communicate the existence of a claim to
23 any person who might reasonably be expected to have knowledge of the
24 whereabouts of a debtor or the location of assets of the debtor if the
25 claim is reduced to judgment, or if not reduced to judgment, when:

26 (i) The licensee or employee has notified or attempted to notify
27 the debtor in writing at his last known address or last known place of
28 employment concerning the claim and the debtor after a reasonable time
29 has failed to pay the claim or has failed to agree to make payments on
30 the claim in a manner acceptable to the licensee, and

31 (ii) The debtor has not in writing disputed any part of the claim.

32 (e) A licensee may communicate the existence of a claim to its
33 customers or clients if the claim is reduced to judgment, or if not
34 reduced to judgment, when:

35 (i) The licensee has notified or attempted to notify the debtor in
36 writing at his last known address or last known place of employment
37 concerning the claim and the debtor after a reasonable time has failed
38 to pay the claim or has failed to agree to make payments on the claim
39 in a manner acceptable to the licensee, and

1 (ii) The debtor has not in writing disputed any part of the claim.

2 (10) Threaten the debtor with impairment of his credit rating if a
3 claim is not paid.

4 (11) Communicate with the debtor after notification in writing from
5 an attorney representing such debtor that all further communications
6 relative to a claim should be addressed to the attorney: PROVIDED,
7 That if a licensee requests in writing information from an attorney
8 regarding such claim and the attorney does not respond within a
9 reasonable time, the licensee may communicate directly with the debtor
10 until he or it again receives notification in writing that an attorney
11 is representing the debtor.

12 (12) Communicate with a debtor or anyone else in such a manner as
13 to harass, intimidate, threaten, or embarrass a debtor, including but
14 not limited to communication at an unreasonable hour, with unreasonable
15 frequency, by threats of force or violence, by threats of criminal
16 prosecution, and by use of offensive language. A communication shall
17 be presumed to have been made for the purposes of harassment if:

18 (a) It is made with a debtor or spouse in any form, manner, or
19 place, more than three times in a single week;

20 (b) It is made with a debtor at his or her place of employment more
21 than one time in a single week;

22 (c) It is made with the debtor or spouse at his or her place of
23 residence between the hours of 9:00 p.m. and 7:30 a.m.

24 (13) Communicate with the debtor through use of forms or
25 instruments that simulate the form or appearance of judicial process,
26 the form or appearance of government documents, or the simulation of a
27 form or appearance of a telegraphic or emergency message.

28 (14) Communicate with the debtor and represent or imply that the
29 existing obligation of the debtor may be or has been increased by the
30 addition of attorney fees, investigation fees, service fees, or any
31 other fees or charges when in fact such fees or charges may not legally
32 be added to the existing obligation of such debtor.

33 (15) Threaten to take any action against the debtor which the
34 licensee cannot legally take at the time the threat is made.

35 (16) Send any telegram or make any telephone calls to a debtor or
36 concerning a debt or for the purpose of demanding payment of a claim or
37 seeking information about a debtor, for which the charges are payable
38 by the addressee or by the person to whom the call is made.

1 (17) In any manner convey the impression that the licensee is
2 vouched for, bonded to or by, or is an instrumentality of the state of
3 Washington or any agency or department thereof.

4 (18) Collect or attempt to collect in addition to the principal
5 amount of a claim any sum other than allowable interest, collection
6 costs or handling fees expressly authorized by statute, and, in the
7 case of suit, attorney's fees and taxable court costs.

8 (19) Procure from a debtor or collect or attempt to collect on any
9 written note, contract, stipulation, promise or acknowledgment under
10 which a debtor may be required to pay any sum other than principal,
11 allowable interest, and, in the case of suit, attorney's fees and
12 taxable court costs.

13 (20) Upon notification by a debtor that the debtor disputes all
14 debts arising from a series of dishonored checks or other preprinted
15 written instruments, initiate oral contact with a debtor more than one
16 time in an attempt to collect from the debtor debts arising from the
17 identified series of dishonored checks or other preprinted written
18 instruments when: (a) Within the previous one hundred eighty days, in
19 response to the licensee's attempt to collect the initial debt assigned
20 to the licensee and arising from the identified series of dishonored
21 checks or other preprinted written instruments, the debtor in writing
22 notified the licensee that the debtor's checkbook or other series of
23 preprinted written instruments was stolen or fraudulently created; (b)
24 the licensee has received from the debtor a certified copy of a police
25 report referencing the theft or fraudulent creation of the checkbook or
26 series of preprinted written instruments; (c) in the written
27 notification to the licensee or in the police report, the debtor
28 identified the financial institution where the account was maintained,
29 the account number, and the check numbers of the stolen checks or other
30 preprinted written instruments, which check numbers included the number
31 of the check that is the subject of the licensee's collection efforts;
32 (d) the debtor provides, or within the previous one hundred eighty days
33 provided, to the licensee a legible copy of a government-issued photo
34 identification which contains the debtor's signature and which was
35 issued prior to the date of the theft or fraud identified in the police
36 report; and (e) the debtor advised the licensee that the subject debt
37 is disputed because the identified check or other preprinted written
38 instrument underlying the debt is a stolen or fraudulently created
39 check or instrument.

1 The licensee is not in violation of this subsection if the licensee
2 initiates oral contact with the debtor more than one time in an attempt
3 to collect debts arising from the identified series of dishonored
4 checks or other preprinted written instruments when: (i) The licensee
5 acted in good faith and relied on their established practices and
6 procedures for batching or packeting debtor accounts, and the licensee
7 inadvertently initiates oral contact with the debtor in an attempt to
8 collect debts in the identified series subsequent to the initial debt
9 assigned to the licensee; (ii) the licensee is following up on
10 collection of a debt assigned to the licensee, and the debtor has
11 previously requested more information from the licensee regarding the
12 subject debt; (iii) the debtor has notified the licensee that the
13 debtor disputes only some, but not all the debts arising from the
14 identified series of dishonored checks or other preprinted written
15 instruments, in which case the licensee shall be allowed to initiate
16 oral contact with the debtor one time for each debt arising from the
17 series of identified checks or written instruments and initiate
18 additional oral contact for those debts that the debtor acknowledges do
19 not arise from stolen or fraudulently created checks or written
20 instruments; or (iv) the oral contact is in the context of a judicial,
21 administrative, arbitration, mediation, or similar proceeding.

22 NEW SECTION. Sec. 5. A new section is added to chapter 9.35 RCW
23 to read as follows:

24 BLOCK OF INFORMATION APPEARING AS A RESULT OF IDENTITY THEFT. (1)
25 Unless the credit reporting agency is otherwise able to verify the
26 victim's identification, the credit reporting agency shall require the
27 victim to provide one or more of the following as proof of positive
28 identification:

29 (a) The showing of a government issued photo identification card
30 or, if providing proof by mail, a copy of a government issued
31 identification card;

32 (b) A copy of a police report evidencing the victim's claim; and

33 (c) The written statement from any law enforcement agency showing
34 that the state patrol has on file documentation of the victim's
35 identity pursuant to the personal identification procedures in RCW
36 43.43.760. The consumer reporting agency shall within thirty days of
37 receipt of proof of positive identification permanently block or
38 decline to block reporting any information that the consumer identifies

1 on his or her credit report is a result of a violation of this chapter,
2 so that the information cannot be reported. The consumer reporting
3 agency shall promptly notify the furnisher of the information that a
4 police report has been filed, that a block has been requested, and the
5 effective date of the block.

6 (2) Furnishers of information and consumer reporting agencies may
7 decline to block or may rescind any block of credit information if:

8 (a) The information was blocked due to a material misrepresentation
9 of fact by the consumer;

10 (b) The consumer agrees that the blocked information or portions of
11 the blocked information were blocked in error; or

12 (c) The consumer knowingly obtained possession of goods, services,
13 or moneys as a result of the blocked transaction or transactions or the
14 consumer should have known that he or she obtained possession of goods,
15 services, or moneys as a result of the blocked transaction or
16 transactions.

17 (3) If the block of information is declined or rescinded under this
18 section, the consumer shall be promptly notified in the same manner as
19 consumers are notified of the reinsertion of information pursuant to
20 section 611 of the fair credit reporting act, 15 U.S.C. Sec. 1681I, as
21 amended. The prior presence of the blocked information in the consumer
22 reporting agency's file on the consumer is not evidence of whether the
23 consumer knew or should have known that he or she obtained possession
24 of any goods, services, or moneys.

25 (4) The legislature finds that the practices covered by this
26 section are matters vitally affecting the public interest for the
27 purpose of applying the consumer protection act, chapter 19.86 RCW.
28 Violations of this section are not reasonable in relation to the
29 development and preservation of business. A violation of this section
30 is an unfair or deceptive act in trade or commerce and an unfair method
31 of competition for the purpose of applying the consumer protection act,
32 chapter 19.86 RCW. The burden of proof in an action alleging a
33 violation of this section shall be by a preponderance of the evidence,
34 and the applicable statute of limitation shall be as set forth in RCW
35 19.182.120. For purposes of a judgment awarded pursuant to an action
36 by a consumer under chapter 19.86 RCW, the consumer shall be awarded
37 actual damages and costs of the action together with reasonable
38 attorneys' fees as determined by the court. However, where there has
39 been willful failure to comply with any requirement imposed under this

1 section, the consumer shall be awarded actual damages, a monetary
2 penalty of one thousand dollars, and the costs of the action together
3 with reasonable attorneys' fees as determined by the court.

4 NEW SECTION. **Sec. 6.** A new section is added to chapter 9.35 RCW
5 to read as follows:

6 The legislature finds that the practices covered by RCW 19.16.250,
7 9.35.010, and 9.35.020 are matters vitally affecting the public
8 interest for the purpose of applying the consumer protection act,
9 chapter 19.86 RCW. Violations of RCW 19.16.250, 9.35.010, and 9.35.020
10 are not reasonable in relation to the development and preservation of
11 business. A violation of RCW 19.16.250, 9.35.010, and 9.35.020 is an
12 unfair or deceptive act in trade or commerce and an unfair method of
13 competition for the purpose of applying the consumer protection act,
14 chapter 19.86 RCW.

15 Nothing in RCW 19.16.250, 9.35.010, and 9.35.020 limits a victim's
16 ability to receive treble damages under RCW 19.86.090.

17 **Sec. 7.** RCW 9.35.010 and 1999 c 368 s 2 are each amended to read
18 as follows:

19 (1) No person may obtain or attempt to obtain, or cause to be
20 disclosed or attempt to cause to be disclosed to (~~any person~~) anyone,
21 financial information from a financial information repository,
22 financial services provider, merchant, corporation, trust, partnership,
23 or unincorporated association:

24 (a) By knowingly making a false, fictitious, or fraudulent
25 statement or representation to an officer, employee, or agent of a
26 financial information repository with the intent to deceive the
27 officer, employee, or agent into relying on that statement or
28 representation for purposes of releasing the financial information;

29 (b) By knowingly making a false, fictitious, or fraudulent
30 statement or representation to a customer of a financial information
31 repository, financial services provider, merchant, corporation, trust,
32 partnership, or unincorporated association with the intent to deceive
33 the customer into releasing financial information or authorizing the
34 release of such information;

35 (c) By knowingly providing any document to an officer, employee, or
36 agent of a financial information repository, financial services
37 provider, merchant, corporation, trust, partnership, or unincorporated

1 association, knowing that the document is forged, counterfeit, lost, or
2 stolen; was fraudulently obtained; or contains a false, fictitious, or
3 fraudulent statement or representation, if the document is provided
4 with the intent to deceive the officer, employee, or agent to release
5 the financial information.

6 (2) No person may request another person to obtain financial
7 information from a financial information repository, financial services
8 provider, merchant, corporation, trust, partnership, or unincorporated
9 association and knows or should have known that the person will obtain
10 or attempt to obtain the information from the financial institution
11 repository, financial services provider, merchant, corporation, trust,
12 partnership, or unincorporated association in any manner described in
13 subsection (1) of this section.

14 (3) ~~((As used in this section, unless the context clearly requires~~
15 ~~otherwise:~~

16 (a) ~~"Financial information" means, to the extent it is nonpublic,~~
17 ~~any of the following information identifiable to the individual that~~
18 ~~concerns the amount and conditions of an individual's assets,~~
19 ~~liabilities, or credit:~~

20 (i) ~~Account numbers and balances;~~

21 (ii) ~~Transactional information concerning any account; and~~

22 (iii) ~~Codes, passwords, social security numbers, tax identification~~
23 ~~numbers, driver's license or permit numbers, state identicard numbers~~
24 ~~issued by the department of licensing, and other information held for~~
25 ~~the purpose of account access or transaction initiation.~~

26 (b) ~~"Financial information repository" means any person engaged in~~
27 ~~the business of providing services to customers who have a credit,~~
28 ~~deposit, trust, stock, or other financial account or relationship with~~
29 ~~the person.~~

30 (c) ~~"Person" means an individual, partnership, corporation, or~~
31 ~~association.~~

32 (4)) No provision of this section shall be construed so as to
33 prevent any action by a law enforcement agency, or any officer,
34 employee, or agent of such agency, or any action of an agent of the
35 financial information repository, financial services provider,
36 merchant, corporation, trust, partnership, or unincorporated
37 association when working in conjunction with a law enforcement agency.

38 ((5)) (4) This section does not apply to:

1 (a) Efforts by the financial information repository to test
2 security procedures or systems of the financial institution repository
3 for maintaining the confidentiality of customer information;

4 (b) Investigation of alleged employee misconduct or negligence; or

5 (c) Efforts to recover financial or personal information of the
6 financial institution obtained or received by another person in any
7 manner described in subsection (1) or (2) of this section.

8 ~~((+6))~~ (5) Violation of this section is a class C felony.

9 ~~((+7))~~ (6) A person ~~((that [who]))~~ who violates this section is
10 liable for five hundred dollars or actual damages, whichever is
11 greater, and reasonable attorneys' fees. ~~((If the person violating
12 this section is a business that repeatedly violates this section, that
13 person also violates the Consumer Protection Act, chapter 19.86 RCW.))~~

14 **Sec. 8.** RCW 9.35.020 and 1999 c 368 s 3 are each amended to read
15 as follows:

16 (1) No person may knowingly obtain, possess, use, or ((knowingly))
17 transfer a means of identification or financial information of another
18 person, living or dead, with the intent to commit, or to aid or abet,
19 any ~~((unlawful activity harming or intending to harm the person whose
20 identity is used, or for committing any felony.~~

21 ~~(2) For purposes of this section, "means of identification" means
22 any information or item that is not describing finances or credit but
23 is personal to or identifiable with any individual or other person,
24 including any current or former name of the person, telephone number,
25 and electronic address or identifier of the individual or any member of
26 his or her family, including the ancestor of such person; any
27 information relating to a change in name, address, telephone number, or
28 electronic address or identifier of the individual or his or her
29 family; any social security, driver's license, or tax identification
30 number of the individual or any member of his or her family; and other
31 information which could be used to identify the person, including
32 unique biometric data)) crime.~~

33 ~~((+3))~~ (2)(a) Violation of this section when the accused or an
34 accomplice uses the victim's means of identification or financial
35 information and obtains an aggregate total of credit, money, goods,
36 services, or anything else of value in excess of one thousand five
37 hundred dollars in value shall constitute identity theft in the first
38 degree. Identity theft in the first degree is a class B felony.

1 (b) Violation of this section when the accused or an accomplice
2 uses the victim's means of identification or financial information and
3 obtains an aggregate total of credit, money, goods, services, or
4 anything else of value that is less than one thousand five hundred
5 dollars in value, or when no credit, money, goods, services, or
6 anything of value is obtained shall constitute identity theft in the
7 second degree. Identity theft in the second degree is a class C
8 felony.

9 ~~((4))~~ (3) A person ~~((that [who]))~~ who violates this section is
10 liable for civil damages of five hundred dollars or actual damages,
11 whichever is greater, including costs to repair the ((person's))
12 victim's credit record, ((whichever is greater,)) and reasonable
13 attorneys' fees~~((. If the person violating this section is a business~~
14 ~~that repeatedly violates this section, that person also violates the~~
15 ~~Consumer Protection Act, chapter 19.86 RCW))~~ as determined by the
16 court.

17 (4) In a proceeding under this section, the crime will be
18 considered to have been committed in any locality where the person
19 whose means of identification or financial information was appropriated
20 resides, or in which any part of the offense took place, regardless of
21 whether the defendant was ever actually in that locality.

22 (5) The provisions of this section do not apply to any person who
23 obtains another person's driver's license or other form of
24 identification for the sole purpose of misrepresenting his or her age.

25 (6) In a proceeding under this section in which a person's means of
26 identification or financial information was used without that person's
27 authorization, and when there has been a conviction, the sentencing
28 court may issue such orders as are necessary to correct a public record
29 that contains false information resulting from a violation of this
30 section.

31 **Sec. 9.** RCW 9.35.030 and 2000 c 77 s 1 are each amended to read as
32 follows:

33 (1) It is unlawful for any person to knowingly use a means of
34 identification or financial information of another person to solicit
35 undesired mail with the intent to annoy, harass, intimidate, torment,
36 or embarrass that person.

37 (2) ~~((For purposes of this section, "means of identification" has~~
38 ~~the meaning provided in RCW 9.35.020.~~

1 ~~(3))~~) Violation of this section is a misdemeanor.

2 ~~((4))~~) (3) Additionally, a person who violates this section is
3 liable for civil damages of five hundred dollars or actual damages,
4 including costs to repair the person's credit record, whichever is
5 greater, and reasonable attorneys' fees as determined by the court.

6 **Sec. 10.** RCW 9A.82.010 and 1999 c 143 s 40 are each amended to
7 read as follows:

8 Unless the context requires the contrary, the definitions in this
9 section apply throughout this chapter.

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

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

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

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

20 (b) "Beneficial interest" does not include the interest of a
21 stockholder in a corporation or the interest of a partner in a general
22 partnership or limited partnership.

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

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

27 (3) "Creditor" means a person making an extension of credit or a
28 person claiming by, under, or through a person making an extension of
29 credit.

30 (4) "Criminal profiteering" means any act, including any
31 anticipatory or completed offense, committed for financial gain, that
32 is chargeable or indictable under the laws of the state in which the
33 act occurred and, if the act occurred in a state other than this state,
34 would be chargeable or indictable under the laws of this state had the
35 act occurred in this state and punishable as a felony and by
36 imprisonment for more than one year, regardless of whether the act is
37 charged or indicted, as any of the following:

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

- 1 (b) Robbery, as defined in RCW 9A.56.200 and 9A.56.210;
- 2 (c) Kidnapping, as defined in RCW 9A.40.020 and 9A.40.030;
- 3 (d) Forgery, as defined in RCW 9A.60.020 and 9A.60.030;
- 4 (e) Theft, as defined in RCW 9A.56.030, 9A.56.040, 9A.56.060, and
5 9A.56.080;
- 6 (f) Unlawful sale of subscription television services, as defined
7 in RCW 9A.56.230;
- 8 (g) Theft of telecommunication services or unlawful manufacture of
9 a telecommunication device, as defined in RCW 9A.56.262 and 9A.56.264;
- 10 (h) Child selling or child buying, as defined in RCW 9A.64.030;
- 11 (i) Bribery, as defined in RCW 9A.68.010, 9A.68.020, 9A.68.040, and
12 9A.68.050;
- 13 (j) Gambling, as defined in RCW 9.46.220 and 9.46.215 and 9.46.217;
- 14 (k) Extortion, as defined in RCW 9A.56.120 and 9A.56.130;
- 15 (l) Extortionate extension of credit, as defined in RCW 9A.82.020;
- 16 (m) Advancing money for use in an extortionate extension of credit,
17 as defined in RCW 9A.82.030;
- 18 (n) Collection of an extortionate extension of credit, as defined
19 in RCW 9A.82.040;
- 20 (o) Collection of an unlawful debt, as defined in RCW 9A.82.045;
- 21 (p) Delivery or manufacture of controlled substances or possession
22 with intent to deliver or manufacture controlled substances under
23 chapter 69.50 RCW;
- 24 (q) Trafficking in stolen property, as defined in RCW 9A.82.050;
- 25 (r) Leading organized crime, as defined in RCW 9A.82.060;
- 26 (s) Money laundering, as defined in RCW 9A.83.020;
- 27 (t) Obstructing criminal investigations or prosecutions in
28 violation of RCW 9A.72.090, 9A.72.100, 9A.72.110, 9A.72.120, 9A.72.130,
29 9A.76.070, or 9A.76.180;
- 30 (u) Fraud in the purchase or sale of securities, as defined in RCW
31 21.20.010;
- 32 (v) Promoting pornography, as defined in RCW 9.68.140;
- 33 (w) Sexual exploitation of children, as defined in RCW 9.68A.040,
34 9.68A.050, and 9.68A.060;
- 35 (x) Promoting prostitution, as defined in RCW 9A.88.070 and
36 9A.88.080;
- 37 (y) Arson, as defined in RCW 9A.48.020 and 9A.48.030;
- 38 (z) Assault, as defined in RCW 9A.36.011 and 9A.36.021;
- 39 (aa) Assault of a child, as defined in RCW 9A.36.120 and 9A.36.130;

- 1 (bb) A pattern of equity skimming, as defined in RCW 61.34.020;
2 (cc) Commercial telephone solicitation in violation of RCW
3 19.158.040(1);
4 (dd) Trafficking in insurance claims, as defined in RCW 48.30A.015;
5 (ee) Unlawful practice of law, as defined in RCW 2.48.180;
6 (ff) Commercial bribery, as defined in RCW 9A.68.060;
7 (gg) Health care false claims, as defined in RCW 48.80.030; (~~or~~)
8 (hh) Unlicensed practice of a profession or business, as defined in
9 RCW 18.130.190(7);
10 (ii) Improperly obtaining financial information, as defined in RCW
11 9.35.010; or
12 (jj) Identity theft, as defined in RCW 9.35.020.

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

15 (6) "Debtor" means a person to whom an extension of credit is made
16 or a person who guarantees the repayment of an extension of credit or
17 in any manner undertakes to indemnify the creditor against loss
18 resulting from the failure of a person to whom an extension is made to
19 repay the same.

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

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

31 (9) "Extortionate extension of credit" means an extension of credit
32 with respect to which it is the understanding of the creditor and the
33 debtor at the time the extension is made that delay in making repayment
34 or failure to make repayment could result in the use of violence or
35 other criminal means to cause harm to the person, reputation, or
36 property of any person.

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

1 (11) "Financial institution" means any bank, trust company, savings
2 and loan association, savings bank, mutual savings bank, credit union,
3 or loan company under the jurisdiction of the state or an agency of the
4 United States.

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

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

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

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

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

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

38 (18) "To extend credit" means to make or renew a loan or to enter
39 into an agreement, tacit or express, whereby the repayment or

1 satisfaction of a debt or claim, whether acknowledged or disputed,
2 valid or invalid, and however arising, may or shall be deferred.

3 (19) "Traffic" means to sell, transfer, distribute, dispense, or
4 otherwise dispose of stolen property to another person, or to buy,
5 receive, possess, or obtain control of stolen property, with intent to
6 sell, transfer, distribute, dispense, or otherwise dispose of the
7 property to another person.

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

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

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

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

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

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

18 (ii) A trustee of any testamentary trust;

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

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

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

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

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

28 (ii) Chapter 9.46 RCW relating to gambling;

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

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

33 **Sec. 11.** RCW 9.94A.320 and 2000 c 225 s 5, 2000 c 119 s 17, and
34 2000 c 66 s 2 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

1		
2		
3	XVI	Aggravated Murder 1 (RCW 10.95.020)
4	XV	Homicide by abuse (RCW 9A.32.055)
5		Malicious explosion 1 (RCW 70.74.280(1))
6		Murder 1 (RCW 9A.32.030)
7	XIV	Murder 2 (RCW 9A.32.050)
8	XIII	Malicious explosion 2 (RCW 70.74.280(2))
9		Malicious placement of an explosive 1 (RCW
10		70.74.270(1))
11	XII	Assault 1 (RCW 9A.36.011)
12		Assault of a Child 1 (RCW 9A.36.120)
13		Malicious placement of an imitation device
14		1 (RCW 70.74.272(1)(a))
15		Rape 1 (RCW 9A.44.040)
16		Rape of a Child 1 (RCW 9A.44.073)
17	XI	Manslaughter 1 (RCW 9A.32.060)
18		Rape 2 (RCW 9A.44.050)
19		Rape of a Child 2 (RCW 9A.44.076)
20	X	Child Molestation 1 (RCW 9A.44.083)
21		Indecent Liberties (with forcible
22		compulsion) (RCW 9A.44.100(1)(a))
23		Kidnapping 1 (RCW 9A.40.020)
24		Leading Organized Crime (RCW
25		9A.82.060(1)(a))
26		Malicious explosion 3 (RCW 70.74.280(3))
27		Manufacture of methamphetamine (RCW
28		69.50.401(a)(1)(ii))
29		Over 18 and deliver heroin,
30		methamphetamine, a narcotic from
31		Schedule I or II, or flunitrazepam
32		from Schedule IV to someone under 18
33		(RCW 69.50.406)
34	IX	Assault of a Child 2 (RCW 9A.36.130)

1 Controlled Substance Homicide (RCW
2 69.50.415)
3 Explosive devices prohibited (RCW
4 70.74.180)
5 Homicide by Watercraft, by being under the
6 influence of intoxicating liquor or
7 any drug (RCW 79A.60.050)
8 Inciting Criminal Profiteering (RCW
9 9A.82.060(1)(b))
10 Malicious placement of an explosive 2 (RCW
11 70.74.270(2))
12 Over 18 and deliver narcotic from Schedule
13 III, IV, or V or a nonnarcotic, except
14 flunitrazepam or methamphetamine, from
15 Schedule I-V to someone under 18 and 3
16 years junior (RCW 69.50.406)
17 Robbery 1 (RCW 9A.56.200)
18 Sexual Exploitation (RCW 9.68A.040)
19 Vehicular Homicide, by being under the
20 influence of intoxicating liquor or
21 any drug (RCW 46.61.520)
22 VIII Arson 1 (RCW 9A.48.020)
23 Deliver or possess with intent to deliver
24 m e t h a m p h e t a m i n e (R C W
25 69.50.401(a)(1)(ii))
26 Hit and Run--Death (RCW 46.52.020(4)(a))
27 Homicide by Watercraft, by the operation of
28 any vessel in a reckless manner (RCW
29 79A.60.050)
30 Manslaughter 2 (RCW 9A.32.070)
31 Manufacture, deliver, or possess with
32 intent to deliver amphetamine (RCW
33 69.50.401(a)(1)(ii))
34 Manufacture, deliver, or possess with
35 intent to deliver heroin or cocaine
36 (RCW 69.50.401(a)(1)(i))
37 Possession of Ephedrine, Pseudoephedrine,
38 or Anhydrous Ammonia with intent to

1 manufacture methamphetamine (RCW
2 69.50.440)
3 Promoting Prostitution 1 (RCW 9A.88.070)
4 Selling for profit (controlled or
5 counterfeit) any controlled substance
6 (RCW 69.50.410)
7 Theft of Anhydrous Ammonia (RCW 69.55.010)
8 Vehicular Homicide, by the operation of any
9 vehicle in a reckless manner (RCW
10 46.61.520)

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

36 VI Bail Jumping with Murder 1 (RCW
37 9A.76.170(2)(a))
38 Bribery (RCW 9A.68.010)

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

16 V Abandonment of dependent person 1 (RCW
17 9A.42.060)
18 Advancing money or property for
19 extortionate extension of credit (RCW
20 9A.82.030)
21 Bail Jumping with class A Felony (RCW
22 9A.76.170(2)(b))
23 Child Molestation 3 (RCW 9A.44.089)
24 Criminal Mistreatment 1 (RCW 9A.42.020)
25 Custodial Sexual Misconduct 1 (RCW
26 9A.44.160)
27 Delivery of imitation controlled substance
28 by person eighteen or over to person
29 under eighteen (RCW 69.52.030(2))
30 Domestic Violence Court Order Violation
31 (RCW 10.99.040, 10.99.050, 26.09.300,
32 26.10.220, 26.26.138, 26.50.110,
33 26.52.070, or 74.34.145)
34 Extortion 1 (RCW 9A.56.120)
35 Extortionate Extension of Credit (RCW
36 9A.82.020)
37 Extortionate Means to Collect Extensions of
38 Credit (RCW 9A.82.040)
39 Incest 2 (RCW 9A.64.020(2))

1 Kidnapping 2 (RCW 9A.40.030)
2 Perjury 1 (RCW 9A.72.020)
3 Persistent prison misbehavior (RCW
4 9.94.070)
5 Possession of a Stolen Firearm (RCW
6 9A.56.310)
7 Rape 3 (RCW 9A.44.060)
8 Rendering Criminal Assistance 1 (RCW
9 9A.76.070)
10 Sexual Misconduct with a Minor 1 (RCW
11 9A.44.093)
12 Sexually Violating Human Remains (RCW
13 9A.44.105)
14 Stalking (RCW 9A.46.110)
15 IV Arson 2 (RCW 9A.48.030)
16 Assault 2 (RCW 9A.36.021)
17 Assault by Watercraft (RCW 79A.60.060)
18 Bribing a Witness/Bribe Received by Witness
19 (RCW 9A.72.090, 9A.72.100)
20 Commercial Bribery (RCW 9A.68.060)
21 Counterfeiting (RCW 9.16.035(4))
22 Escape 1 (RCW 9A.76.110)
23 Hit and Run--Injury (RCW 46.52.020(4)(b))
24 Hit and Run with Vessel--Injury Accident
25 (RCW 79A.60.200(3))
26 Identity Theft 1 (RCW 9.35.020(2)(a))
27 Indecent Exposure to Person Under Age
28 Fourteen (subsequent sex offense) (RCW
29 9A.88.010)
30 Influencing Outcome of Sporting Event (RCW
31 9A.82.070)
32 Knowingly Trafficking in Stolen Property
33 (RCW 9A.82.050(2))
34 Malicious Harassment (RCW 9A.36.080)
35 Manufacture, deliver, or possess with
36 intent to deliver narcotics from
37 Schedule III, IV, or V or nonnarcotics
38 from Schedule I-V (except marijuana,
39 amphetamine, methamphetamines, or

1 flunitrazepam) (RCW 69.50.401(a)(1)
2 (iii) through (v))
3 Residential Burglary (RCW 9A.52.025)
4 Robbery 2 (RCW 9A.56.210)
5 Theft of Livestock 1 (RCW 9A.56.080)
6 Threats to Bomb (RCW 9.61.160)
7 Use of Proceeds of Criminal Profiteering
8 (RCW 9A.82.080 (1) and (2))
9 Vehicular Assault (RCW 46.61.522)
10 Willful Failure to Return from Furlough
11 (RCW 72.66.060)

12 III Abandonment of dependent person 2 (RCW
13 9A.42.070)
14 Assault 3 (RCW 9A.36.031)
15 Assault of a Child 3 (RCW 9A.36.140)
16 Bail Jumping with class B or C Felony (RCW
17 9A.76.170(2)(c))
18 Burglary 2 (RCW 9A.52.030)
19 Communication with a Minor for Immoral
20 Purposes (RCW 9.68A.090)
21 Criminal Gang Intimidation (RCW 9A.46.120)
22 Criminal Mistreatment 2 (RCW 9A.42.030)
23 Custodial Assault (RCW 9A.36.100)
24 Delivery of a material in lieu of a
25 controlled substance (RCW
26 69.50.401(c))
27 Escape 2 (RCW 9A.76.120)
28 Extortion 2 (RCW 9A.56.130)
29 Harassment (RCW 9A.46.020)
30 Intimidating a Public Servant (RCW
31 9A.76.180)
32 Introducing Contraband 2 (RCW 9A.76.150)
33 Maintaining a Dwelling or Place for
34 Controlled Substances (RCW
35 69.50.402(a)(6))
36 Malicious Injury to Railroad Property (RCW
37 81.60.070)

1 Manufacture, deliver, or possess with
2 intent to deliver marijuana (RCW
3 69.50.401(a)(1)(iii))
4 Manufacture, distribute, or possess with
5 intent to distribute an imitation
6 controlled substance (RCW
7 69.52.030(1))
8 Patronizing a Juvenile Prostitute (RCW
9 9.68A.100)
10 Perjury 2 (RCW 9A.72.030)
11 Possession of Incendiary Device (RCW
12 9.40.120)
13 Possession of Machine Gun or Short-Barreled
14 Shotgun or Rifle (RCW 9.41.190)
15 Promoting Prostitution 2 (RCW 9A.88.080)
16 Recklessly Trafficking in Stolen Property
17 (RCW 9A.82.050(1))
18 Securities Act violation (RCW 21.20.400)
19 Tampering with a Witness (RCW 9A.72.120)
20 Telephone Harassment (subsequent conviction
21 or threat of death) (RCW 9.61.230)
22 Theft of Livestock 2 (RCW 9A.56.080)
23 Unlawful Imprisonment (RCW 9A.40.040)
24 Unlawful possession of firearm in the
25 second degree (RCW 9.41.040(1)(b))
26 Unlawful Use of Building for Drug Purposes
27 (RCW 69.53.010)
28 Willful Failure to Return from Work Release
29 (RCW 72.65.070)
30 II Computer Trespass 1 (RCW 9A.52.110)
31 Counterfeiting (RCW 9.16.035(3))
32 Create, deliver, or possess a counterfeit
33 controlled substance (RCW
34 69.50.401(b))
35 Escape from Community Custody (RCW
36 72.09.310)
37 Health Care False Claims (RCW 48.80.030)
38 Identity Theft 2 (RCW 9.35.020(2)(b))

1 Improperly Obtaining Financial Information
2 (RCW 9.35.010)
3 Malicious Mischief 1 (RCW 9A.48.070)
4 Possession of controlled substance that is
5 either heroin or narcotics from
6 Schedule I or II or flunitrazepam from
7 Schedule IV (RCW 69.50.401(d))
8 Possession of phencyclidine (PCP) (RCW
9 69.50.401(d))
10 Possession of Stolen Property 1 (RCW
11 9A.56.150)
12 Theft 1 (RCW 9A.56.030)
13 Theft of Rental, Leased, or Lease-purchased
14 Property (valued at one thousand five
15 hundred dollars or more) (RCW
16 9A.56.096(4))
17 Trafficking in Insurance Claims (RCW
18 48.30A.015)
19 Unlawful Practice of Law (RCW 2.48.180)
20 Unlicensed Practice of a Profession or
21 Business (RCW 18.130.190(7))
22 I Attempting to Elude a Pursuing Police
23 Vehicle (RCW 46.61.024)
24 False Verification for Welfare (RCW
25 74.08.055)
26 Forged Prescription (RCW 69.41.020)
27 Forged Prescription for a Controlled
28 Substance (RCW 69.50.403)
29 Forgery (RCW 9A.60.020)
30 Malicious Mischief 2 (RCW 9A.48.080)
31 Possess Controlled Substance that is a
32 Narcotic from Schedule III, IV, or V
33 or Non-narcotic from Schedule I-V
34 (except phencyclidine or
35 flunitrazepam) (RCW 69.50.401(d))
36 Possession of Stolen Property 2 (RCW
37 9A.56.160)
38 Reckless Burning 1 (RCW 9A.48.040)

1 Taking Motor Vehicle Without Permission
 2 (RCW 9A.56.070)
 3 Theft 2 (RCW 9A.56.040)
 4 Theft of Rental, Leased, or Lease-purchased
 5 Property (valued at two hundred fifty
 6 dollars or more but less than one
 7 thousand five hundred dollars) (RCW
 8 9A.56.096(4))
 9 Unlawful Issuance of Checks or Drafts (RCW
 10 9A.56.060)
 11 Unlawful Use of Food Stamps (RCW 9.91.140
 12 (2) and (3))
 13 Vehicle Prowl 1 (RCW 9A.52.095)

14 **Sec. 12.** RCW 13.40.0357 and 2000 c 66 s 3 are each amended to read
 15 as follows:

16 **DESCRIPTION AND OFFENSE CATEGORY**

17	JUVENILE		JUVENILE DISPOSITION
18	DISPOSITION		CATEGORY FOR ATTEMPT,
19	OFFENSE		BAILJUMP, CONSPIRACY,
20	CATEGORY	DESCRIPTION (RCW CITATION)	OR SOLICITATION
21		

22 **Arson and Malicious Mischief**

23	A	Arson 1 (9A.48.020)	B+
24	B	Arson 2 (9A.48.030)	C
25	C	Reckless Burning 1 (9A.48.040)	D
26	D	Reckless Burning 2 (9A.48.050)	E
27	B	Malicious Mischief 1 (9A.48.070)	C
28	C	Malicious Mischief 2 (9A.48.080)	D
29	D	Malicious Mischief 3 (<\$50 is	
30		E class) (9A.48.090)	E
31	E	Tampering with Fire Alarm	
32		Apparatus (9.40.100)	E
33	A	Possession of Incendiary Device	
34		(9.40.120)	B+

35 **Assault and Other Crimes**

36 **Involving Physical Harm**

37	A	Assault 1 (9A.36.011)	B+
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1	B+	Assault 2 (9A.36.021)	C+
2	C+	Assault 3 (9A.36.031)	D+
3	D+	Assault 4 (9A.36.041)	E
4	B+	Drive-By Shooting	
5		(9A.36.045)	C+
6	D+	Reckless Endangerment	
7		(9A.36.050)	E
8	C+	Promoting Suicide Attempt	
9		(9A.36.060)	D+
10	D+	Coercion (9A.36.070)	E
11	C+	Custodial Assault (9A.36.100)	D+
12		Burglary and Trespass	
13	B+	Burglary 1 (9A.52.020)	C+
14	B	Residential Burglary	
15		(9A.52.025)	C
16	B	Burglary 2 (9A.52.030)	C
17	D	Burglary Tools (Possession of)	
18		(9A.52.060)	E
19	D	Criminal Trespass 1 (9A.52.070)	E
20	E	Criminal Trespass 2 (9A.52.080)	E
21	C	Vehicle Prowling 1 (9A.52.095)	D
22	D	Vehicle Prowling 2 (9A.52.100)	E
23		Drugs	
24	E	Possession/Consumption of Alcohol	
25		(66.44.270)	E
26	C	Illegally Obtaining Legend Drug	
27		(69.41.020)	D
28	C+	Sale, Delivery, Possession of Legend	
29		Drug with Intent to Sell	
30		(69.41.030)	D+
31	E	Possession of Legend Drug	
32		(69.41.030)	E
33	B+	Violation of Uniform Controlled	
34		Substances Act - Narcotic,	
35		Methamphetamine, or Flunitrazepam	
36		Sale (69.50.401(a)(1) (i) or (ii))	B+

1	C	Violation of Uniform Controlled	
2		Substances Act - Nonnarcotic Sale	
3		(69.50.401(a)(1)(iii))	C
4	E	Possession of Marihuana <40 grams	
5		(69.50.401(e))	E
6	C	Fraudulently Obtaining Controlled	
7		Substance (69.50.403)	C
8	C+	Sale of Controlled Substance	
9		for Profit (69.50.410)	C+
10	E	Unlawful Inhalation (9.47A.020)	E
11	B	Violation of Uniform Controlled	
12		Substances Act - Narcotic,	
13		Methamphetamine, or Flunitrazepam	
14		Counterfeit Substances	
15		(69.50.401(b)(1) (i) or (ii))	B
16	C	Violation of Uniform Controlled	
17		Substances Act - Nonnarcotic	
18		Counterfeit Substances	
19		(69.50.401(b)(1) (iii), (iv), (v))	C
20	C	Violation of Uniform Controlled	
21		Substances Act - Possession of a	
22		Controlled Substance	
23		(69.50.401(d))	C
24	C	Violation of Uniform Controlled	
25		Substances Act - Possession of a	
26		Controlled Substance	
27		(69.50.401(c))	C
28		Firearms and Weapons	
29	B	Theft of Firearm (9A.56.300)	C
30	B	Possession of Stolen Firearm	
31		(9A.56.310)	C
32	E	Carrying Loaded Pistol Without	
33		Permit (9.41.050)	E
34	C	Possession of Firearms by Minor (<18)	
35		(9.41.040(1)(b)(iii))	C
36	D+	Possession of Dangerous Weapon	
37		(9.41.250)	E

1	D	Intimidating Another Person by use	
2		of Weapon (9A.41.270)	E
3		Homicide	
4	A+	Murder 1 (9A.32.030)	A
5	A+	Murder 2 (9A.32.050)	B+
6	B+	Manslaughter 1 (9A.32.060)	C+
7	C+	Manslaughter 2 (9A.32.070)	D+
8	B+	Vehicular Homicide (46.61.520)	C+
9		Kidnapping	
10	A	Kidnap 1 (9A.40.020)	B+
11	B+	Kidnap 2 (9A.40.030)	C+
12	C+	Unlawful Imprisonment	
13		(9A.40.040)	D+
14		Obstructing Governmental Operation	
15	D	Obstructing a Law Enforcement	
16		Officer (9A.76.020)	E
17	E	Resisting Arrest (9A.76.040)	E
18	B	Introducing Contraband 1	
19		(9A.76.140)	C
20	C	Introducing Contraband 2	
21		(9A.76.150)	D
22	E	Introducing Contraband 3	
23		(9A.76.160)	E
24	B+	Intimidating a Public Servant	
25		(9A.76.180)	C+
26	B+	Intimidating a Witness	
27		(9A.72.110)	C+
28		Public Disturbance	
29	C+	Riot with Weapon (9A.84.010)	D+
30	D+	Riot Without Weapon	
31		(9A.84.010)	E
32	E	Failure to Disperse (9A.84.020)	E
33	E	Disorderly Conduct (9A.84.030)	E
34		Sex Crimes	
35	A	Rape 1 (9A.44.040)	B+
36	A-	Rape 2 (9A.44.050)	B+
37	C+	Rape 3 (9A.44.060)	D+

1	A-	Rape of a Child 1 (9A.44.073)	B+
2	B+	Rape of a Child 2 (9A.44.076)	C+
3	B	Incest 1 (9A.64.020(1))	C
4	C	Incest 2 (9A.64.020(2))	D
5	D+	Indecent Exposure	
6		(Victim <14) (9A.88.010)	E
7	E	Indecent Exposure	
8		(Victim 14 or over) (9A.88.010)	E
9	B+	Promoting Prostitution 1	
10		(9A.88.070)	C+
11	C+	Promoting Prostitution 2	
12		(9A.88.080)	D+
13	E	O & A (Prostitution) (9A.88.030)	E
14	B+	Indecent Liberties (9A.44.100)	C+
15	A-	Child Molestation 1 (9A.44.083)	B+
16	B	Child Molestation 2 (9A.44.086)	C+
17		Theft, Robbery, Extortion, and Forgery	
18	B	Theft 1 (9A.56.030)	C
19	C	Theft 2 (9A.56.040)	D
20	D	Theft 3 (9A.56.050)	E
21	B	Theft of Livestock (9A.56.080)	C
22	C	Forgery (9A.60.020)	D
23	A	Robbery 1 (9A.56.200)	B+
24	B+	Robbery 2 (9A.56.210)	C+
25	B+	Extortion 1 (9A.56.120)	C+
26	C+	Extortion 2 (9A.56.130)	D+
27	<u>C</u>	<u>Identity Theft 1 (9.35.020(2)(a))</u>	<u>D</u>
28	<u>D</u>	<u>Identity Theft 2 (9.35.020(2)(b))</u>	<u>E</u>
29	<u>D</u>	<u>Improperly Obtaining Financial</u>	
30		<u>Information</u>	<u>E</u>
31	B	Possession of Stolen Property 1	
32		(9A.56.150)	C
33	C	Possession of Stolen Property 2	
34		(9A.56.160)	D
35	D	Possession of Stolen Property 3	
36		(9A.56.170)	E
37	C	Taking Motor Vehicle Without	
38		Owner's Permission (9A.56.070)	D

1		Motor Vehicle Related Crimes	
2	E	Driving Without a License	
3		(46.20.005)	E
4	B+	Hit and Run - Death	
5		(46.52.020(4)(a))	C+
6	C	Hit and Run - Injury	
7		(46.52.020(4)(b))	D
8	D	Hit and Run-Attended	
9		(46.52.020(5))	E
10	E	Hit and Run-Unattended	
11		(46.52.010)	E
12	C	Vehicular Assault (46.61.522)	D
13	C	Attempting to Elude Pursuing	
14		Police Vehicle (46.61.024)	D
15	E	Reckless Driving (46.61.500)	E
16	D	Driving While Under the Influence	
17		(46.61.502 and 46.61.504)	E
18		Other	
19	B	Bomb Threat (9.61.160)	C
20	C	Escape 1 (9A.76.110)	C
21	C	Escape 2 (9A.76.120)	C
22	D	Escape 3 (9A.76.130)	E
23	E	Obscene, Harassing, Etc.,	
24		Phone Calls (9.61.230)	E
25	A	Other Offense Equivalent to an	
26		Adult Class A Felony	B+
27	B	Other Offense Equivalent to an	
28		Adult Class B Felony	C
29	C	Other Offense Equivalent to an	
30		Adult Class C Felony	D
31	D	Other Offense Equivalent to an	
32		Adult Gross Misdemeanor	E
33	E	Other Offense Equivalent to an	
34		Adult Misdemeanor	E
35	V	Violation of Order of Restitution,	
36		Community Supervision, or	
37		Confinement (13.40.200)	V

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

3 1st escape or attempted escape during 12-month period - 4 weeks
4 confinement

5 2nd escape or attempted escape during 12-month period - 8 weeks
6 confinement

7 3rd and subsequent escape or attempted escape during 12-month
8 period - 12 weeks confinement

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

11 **JUVENILE SENTENCING STANDARDS**

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

14 **OPTION A**
15 **JUVENILE OFFENDER SENTENCING GRID**
16 **STANDARD RANGE**

17		_____				
18	A+	180 WEEKS TO AGE 21 YEARS				
19		_____				
20	A	103 WEEKS TO 129 WEEKS				
21		_____				
22	A-	15-36	52-65	80-100	103-129	
23		WEEKS	WEEKS	WEEKS	WEEKS	
24		EXCEPT				
25		30-40				
26		WEEKS FOR				
27		15-17				
28		YEAR OLDS				
29		_____				
30	Current	B+	15-36	52-65	80-100	103-129
31	Offense		WEEKS	WEEKS	WEEKS	WEEKS
32	Category		_____			
33		B	LOCAL		52-65	
34			SANCTIONS (LS)	15-36 WEEKS	WEEKS	
35			_____		_____	
36		C+	LS			
37				15-36 WEEKS		
38				_____		
39		C	LS		15-36 WEEKS	
40			Local Sanctions:			

1			0 to 30 Days	
2	D+	LS	0 to 12 Months Community Supervision	
3			0 to 150 Hours Community Service	
4	D	LS	\$0 to \$500 Fine	
5	E	LS		
6				
7			0	1
8			2	3
				4 or more
			PRIOR ADJUDICATIONS	

9 NOTE: References in the grid to days or weeks mean periods of
10 confinement.

11 (1) The vertical axis of the grid is the current offense category.
12 The current offense category is determined by the offense of
13 adjudication.

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

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

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

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

27 **OR**

28 **OPTION B**

29 **CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE**

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

34 **OR**

35 **OPTION C**

36 **MANIFEST INJUSTICE**

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

4 NEW SECTION. **Sec. 13.** Captions used in this act are not any part
5 of the law.

--- END ---