
SENATE BILL 6704

State of Washington 57th Legislature 2002 Regular Session

By Senators Kline, Hargrove, Kastama, Winsley, Oke, Keiser and Johnson

Read first time 01/28/2002. Referred to Committee on Judiciary.

1 AN ACT Relating to the state's measured response to terrorism;
2 amending RCW 9.94A.535 and 9A.04.080; reenacting and amending RCW
3 9.94A.030 and 9.94A.515; adding a new section to chapter 9.94A RCW;
4 adding a new section to chapter 69.40 RCW; adding a new section to
5 chapter 70.98 RCW; adding a new chapter to Title 9A RCW; repealing RCW
6 69.40.010, 69.40.015, 69.40.020, and 69.40.025; and prescribing
7 penalties.

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

9 NEW SECTION. **Sec. 1.** The legislature intends to provide law
10 enforcement and judicial agencies with the capacity to prevent and
11 prosecute acts committed with terrorist intent. The legislature
12 declares that the statutes creating crimes in this act are to be
13 construed with lenity and in all respects to be done with deference to
14 each person's state and federal constitutional guarantees.

15 NEW SECTION. **Sec. 2.** For the purposes of this act:

16 (1) "Terrorist intent" means the intent to unlawfully use physical
17 force or violence against persons or property to intimidate or coerce

1 an agency or the civilian population at large in the furtherance of
2 political or social objectives.

3 (2) "Agency" means "agency" as defined in RCW 42.17.020.

4 (3) "Population at large" means persons not selected on the basis
5 of their individual identities or personal characteristics.

6 NEW SECTION. **Sec. 3.** (1) A person is guilty of a hoax terrorist
7 act if he or she knowingly and falsely:

8 (a) Claims to have committed a crime with terrorist intent; or

9 (b) Makes any statement or takes any other action that causes or is
10 intended to cause a reasonable belief that a crime with terrorist
11 intent has been or will be committed.

12 (2) A hoax terrorist act is a class B felony.

13 (3) A hoax terrorist act is a felony with terrorist intent as
14 defined in section 2 of this act.

15 **Sec. 4.** RCW 9.94A.535 and 2001 2nd sp.s. c 12 s 314 are each
16 amended to read as follows:

17 The court may impose a sentence outside the standard sentence range
18 for an offense if it finds, considering the purpose of this chapter,
19 that there are substantial and compelling reasons justifying an
20 exceptional sentence. Whenever a sentence outside the standard
21 sentence range is imposed, the court shall set forth the reasons for
22 its decision in written findings of fact and conclusions of law. A
23 sentence outside the standard sentence range shall be a determinate
24 sentence unless it is imposed on an offender sentenced under RCW
25 9.94A.712. An exceptional sentence imposed on an offender sentenced
26 under RCW 9.94A.712 shall be to a minimum term set by the court and a
27 maximum term equal to the statutory maximum sentence for the offense of
28 conviction under chapter 9A.20 RCW.

29 If the sentencing court finds that an exceptional sentence outside
30 the standard sentence range should be imposed, the sentence is subject
31 to review only as provided for in RCW 9.94A.585(4).

32 A departure from the standards in RCW 9.94A.589 (1) and (2)
33 governing whether sentences are to be served consecutively or
34 concurrently is an exceptional sentence subject to the limitations in
35 this section, and may be appealed by the offender or the state as set
36 forth in RCW 9.94A.585 (2) through (6).

1 The following are illustrative factors which the court may consider
2 in the exercise of its discretion to impose an exceptional sentence.
3 The following are illustrative only and are not intended to be
4 exclusive reasons for exceptional sentences.

5 (1) Mitigating Circumstances

6 (a) To a significant degree, the victim was an initiator, willing
7 participant, aggressor, or provoker of the incident.

8 (b) Before detection, the defendant compensated, or made a good
9 faith effort to compensate, the victim of the criminal conduct for any
10 damage or injury sustained.

11 (c) The defendant committed the crime under duress, coercion,
12 threat, or compulsion insufficient to constitute a complete defense but
13 which significantly affected his or her conduct.

14 (d) The defendant, with no apparent predisposition to do so, was
15 induced by others to participate in the crime.

16 (e) The defendant's capacity to appreciate the wrongfulness of his
17 or her conduct, or to conform his or her conduct to the requirements of
18 the law, was significantly impaired. Voluntary use of drugs or alcohol
19 is excluded.

20 (f) The offense was principally accomplished by another person and
21 the defendant manifested extreme caution or sincere concern for the
22 safety or well-being of the victim.

23 (g) The operation of the multiple offense policy of RCW 9.94A.589
24 results in a presumptive sentence that is clearly excessive in light of
25 the purpose of this chapter, as expressed in RCW 9.94A.010.

26 (h) The defendant or the defendant's children suffered a continuing
27 pattern of physical or sexual abuse by the victim of the offense and
28 the offense is a response to that abuse.

29 (2) Aggravating Circumstances

30 (a) The defendant's conduct during the commission of the current
31 offense manifested deliberate cruelty to the victim.

32 (b) The defendant knew or should have known that the victim of the
33 current offense was particularly vulnerable or incapable of resistance
34 due to extreme youth, advanced age, disability, or ill health.

35 (c) The current offense was a violent offense, and the defendant
36 knew that the victim of the current offense was pregnant.

37 (d) The current offense was a major economic offense or series of
38 offenses, so identified by a consideration of any of the following
39 factors:

1 (i) The current offense involved multiple victims or multiple
2 incidents per victim;

3 (ii) The current offense involved attempted or actual monetary loss
4 substantially greater than typical for the offense;

5 (iii) The current offense involved a high degree of sophistication
6 or planning or occurred over a lengthy period of time; or

7 (iv) The defendant used his or her position of trust, confidence,
8 or fiduciary responsibility to facilitate the commission of the current
9 offense.

10 (e) The current offense was a major violation of the Uniform
11 Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to
12 trafficking in controlled substances, which was more onerous than the
13 typical offense of its statutory definition: The presence of ANY of
14 the following may identify a current offense as a major VUCSA:

15 (i) The current offense involved at least three separate
16 transactions in which controlled substances were sold, transferred, or
17 possessed with intent to do so;

18 (ii) The current offense involved an attempted or actual sale or
19 transfer of controlled substances in quantities substantially larger
20 than for personal use;

21 (iii) The current offense involved the manufacture of controlled
22 substances for use by other parties;

23 (iv) The circumstances of the current offense reveal the offender
24 to have occupied a high position in the drug distribution hierarchy;

25 (v) The current offense involved a high degree of sophistication or
26 planning, occurred over a lengthy period of time, or involved a broad
27 geographic area of disbursement; or

28 (vi) The offender used his or her position or status to facilitate
29 the commission of the current offense, including positions of trust,
30 confidence or fiduciary responsibility (e.g., pharmacist, physician, or
31 other medical professional).

32 (f) The current offense included a finding of sexual motivation
33 pursuant to RCW 9.94A.835.

34 (g) The offense was part of an ongoing pattern of sexual abuse of
35 the same victim under the age of eighteen years manifested by multiple
36 incidents over a prolonged period of time.

37 (h) The current offense involved domestic violence, as defined in
38 RCW 10.99.020, and one or more of the following was present:

1 (i) The offense was part of an ongoing pattern of psychological,
2 physical, or sexual abuse of the victim manifested by multiple
3 incidents over a prolonged period of time;

4 (ii) The offense occurred within sight or sound of the victim's or
5 the offender's minor children under the age of eighteen years; or

6 (iii) The offender's conduct during the commission of the current
7 offense manifested deliberate cruelty or intimidation of the victim.

8 (i) The operation of the multiple offense policy of RCW 9.94A.589
9 results in a presumptive sentence that is clearly too lenient in light
10 of the purpose of this chapter, as expressed in RCW 9.94A.010.

11 (j) The defendant's prior unscored misdemeanor or prior unscored
12 foreign criminal history results in a presumptive sentence that is
13 clearly too lenient in light of the purpose of this chapter, as
14 expressed in RCW 9.94A.010.

15 (k) The offense resulted in the pregnancy of a child victim of
16 rape.

17 (l) The defendant knew that the victim of the current offense was
18 a youth who was not residing with a legal custodian and the defendant
19 established or promoted the relationship for the primary purpose of
20 victimization.

21 (m) The current offense was committed with terrorist intent as
22 defined in section 2 of this act.

23 **Sec. 5.** RCW 9.94A.030 and 2001 2nd sp.s. c 12 s 301, 2001 c 300 s
24 3, and 2001 c 7 s 2 are each reenacted and amended to read as follows:

25 Unless the context clearly requires otherwise, the definitions in
26 this section apply throughout this chapter.

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

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

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

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

5 (5) "Community custody" means that portion of an offender's
6 sentence of confinement in lieu of earned release time or imposed
7 pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670,
8 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545, served in the
9 community subject to controls placed on the offender's movement and
10 activities by the department. For offenders placed on community
11 custody for crimes committed on or after July 1, 2000, the department
12 shall assess the offender's risk of reoffense and may establish and
13 modify conditions of community custody, in addition to those imposed by
14 the court, based upon the risk to community safety.

15 (6) "Community custody range" means the minimum and maximum period
16 of community custody included as part of a sentence under RCW
17 9.94A.715, as established by the commission or the legislature under
18 RCW 9.94A.850, for crimes committed on or after July 1, 2000.

19 (7) "Community placement" means that period during which the
20 offender is subject to the conditions of community custody and/or
21 postrelease supervision, which begins either upon completion of the
22 term of confinement (postrelease supervision) or at such time as the
23 offender is transferred to community custody in lieu of earned release.
24 Community placement may consist of entirely community custody, entirely
25 postrelease supervision, or a combination of the two.

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

29 (9) "Community supervision" means a period of time during which a
30 convicted offender is subject to crime-related prohibitions and other
31 sentence conditions imposed by a court pursuant to this chapter or RCW
32 16.52.200(6) or 46.61.524. Where the court finds that any offender has
33 a chemical dependency that has contributed to his or her offense, the
34 conditions of supervision may, subject to available resources, include
35 treatment. For purposes of the interstate compact for out-of-state
36 supervision of parolees and probationers, RCW 9.95.270, community
37 supervision is the functional equivalent of probation and should be
38 considered the same as probation by other states.

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

1 (11) "Conviction" means an adjudication of guilt pursuant to Titles
2 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
3 acceptance of a plea of guilty.

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

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

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

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

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

27 (17) "Determinate sentence" means a sentence that states with
28 exactitude the number of actual years, months, or days of total
29 confinement, of partial confinement, of community supervision, the
30 number of actual hours or days of community service work, or dollars or
31 terms of a legal financial obligation. The fact that an offender
32 through earned release can reduce the actual period of confinement
33 shall not affect the classification of the sentence as a determinate
34 sentence.

35 (18) "Disposable earnings" means that part of the earnings of an
36 offender remaining after the deduction from those earnings of any
37 amount required by law to be withheld. For the purposes of this
38 definition, "earnings" means compensation paid or payable for personal
39 services, whether denominated as wages, salary, commission, bonuses, or

1 otherwise, and, notwithstanding any other provision of law making the
2 payments exempt from garnishment, attachment, or other process to
3 satisfy a court-ordered legal financial obligation, specifically
4 includes periodic payments pursuant to pension or retirement programs,
5 or insurance policies of any type, but does not include payments made
6 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
7 or Title 74 RCW.

8 (19) "Drug offender sentencing alternative" is a sentencing option
9 available to persons convicted of a felony offense other than a violent
10 offense or a sex offense and who are eligible for the option under RCW
11 9.94A.660.

12 (20) "Drug offense" means:

13 (a) Any felony violation of chapter 69.50 RCW except possession of
14 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
15 controlled substance (RCW 69.50.403);

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

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

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

24 (22) "Escape" means:

25 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the
26 first degree (RCW 9A.76.110), escape in the second degree (RCW
27 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
28 willful failure to return from work release (RCW 72.65.070), or willful
29 failure to be available for supervision by the department while in
30 community custody (RCW 72.09.310); or

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

34 (23) "Felony traffic offense" means:

35 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
36 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
37 and-run injury-accident (RCW 46.52.020(4)); or

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

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

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

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

13 (27) "Legal financial obligation" means a sum of money that is
14 ordered by a superior court of the state of Washington for legal
15 financial obligations which may include restitution to the victim,
16 statutorily imposed crime victims' compensation fees as assessed
17 pursuant to RCW 7.68.035, court costs, county or interlocal drug funds,
18 court-appointed attorneys' fees, and costs of defense, fines, and any
19 other financial obligation that is assessed to the offender as a result
20 of a felony conviction. Upon conviction for vehicular assault while
21 under the influence of intoxicating liquor or any drug, RCW
22 46.61.522(1)(b), or vehicular homicide while under the influence of
23 intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial
24 obligations may also include payment to a public agency of the expense
25 of an emergency response to the incident resulting in the conviction,
26 subject to RCW 38.52.430.

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

29 (a) Any felony defined under any law as a class A felony or
30 criminal solicitation of or criminal conspiracy to commit a class A
31 felony;

32 (b) Assault in the second degree;

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

34 (d) Child molestation in the second degree;

35 (e) Controlled substance homicide;

36 (f) Extortion in the first degree;

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

38 (h) Indecent liberties;

39 (i) Kidnapping in the second degree;

1 (j) Leading organized crime;
2 (k) Manslaughter in the first degree;
3 (l) Manslaughter in the second degree;
4 (m) Promoting prostitution in the first degree;
5 (n) Rape in the third degree;
6 (o) Robbery in the second degree;
7 (p) Sexual exploitation;
8 (q) Vehicular assault, when caused by the operation or driving of
9 a vehicle by a person while under the influence of intoxicating liquor
10 or any drug or by the operation or driving of a vehicle in a reckless
11 manner;
12 (r) Vehicular homicide, when proximately caused by the driving of
13 any vehicle by any person while under the influence of intoxicating
14 liquor or any drug as defined by RCW 46.61.502, or by the operation of
15 any vehicle in a reckless manner;
16 (s) Any other class B felony offense with a finding of sexual
17 motivation;
18 (t) Any other felony with a deadly weapon verdict under RCW
19 9.94A.602;
20 (u) Any felony offense in effect at any time prior to December 2,
21 1993, that is comparable to a most serious offense under this
22 subsection, or any federal or out-of-state conviction for an offense
23 that under the laws of this state would be a felony classified as a
24 most serious offense under this subsection;
25 (v)(i) A prior conviction for indecent liberties under RCW
26 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
27 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
28 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
29 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;
30 (ii) A prior conviction for indecent liberties under RCW
31 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
32 if: (A) The crime was committed against a child under the age of
33 fourteen; or (B) the relationship between the victim and perpetrator is
34 included in the definition of indecent liberties under RCW
35 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
36 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
37 through July 27, 1997.
38 (29) "Nonviolent offense" means an offense which is not a violent
39 offense.

1 (30) "Offender" means a person who has committed a felony
2 established by state law and is eighteen years of age or older or is
3 less than eighteen years of age but whose case is under superior court
4 jurisdiction under RCW 13.04.030 or has been transferred by the
5 appropriate juvenile court to a criminal court pursuant to RCW
6 13.40.110. Throughout this chapter, the terms "offender" and
7 "defendant" are used interchangeably.

8 (31) "Partial confinement" means confinement for no more than one
9 year in a facility or institution operated or utilized under contract
10 by the state or any other unit of government, or, if home detention or
11 work crew has been ordered by the court, in an approved residence, for
12 a substantial portion of each day with the balance of the day spent in
13 the community. Partial confinement includes work release, home
14 detention, work crew, and a combination of work crew and home
15 detention.

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

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

19 (ii) Has, before the commission of the offense under (a) of this
20 subsection, been convicted as an offender on at least two separate
21 occasions, whether in this state or elsewhere, of felonies that under
22 the laws of this state would be considered most serious offenses and
23 would be included in the offender score under RCW 9.94A.525; provided
24 that of the two or more previous convictions, at least one conviction
25 must have occurred before the commission of any of the other most
26 serious offenses for which the offender was previously convicted; or

27 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
28 of a child in the first degree, child molestation in the first degree,
29 rape in the second degree, rape of a child in the second degree, or
30 indecent liberties by forcible compulsion; (B) any of the following
31 offenses with a finding of sexual motivation: Murder in the first
32 degree, murder in the second degree, homicide by abuse, kidnapping in
33 the first degree, kidnapping in the second degree, assault in the first
34 degree, assault in the second degree, assault of a child in the first
35 degree, or burglary in the first degree; or (C) an attempt to commit
36 any crime listed in this subsection (32)(b)(i); and

37 (ii) Has, before the commission of the offense under (b)(i) of this
38 subsection, been convicted as an offender on at least one occasion,
39 whether in this state or elsewhere, of an offense listed in (b)(i) of

1 this subsection or any federal or out-of-state offense or offense under
2 prior Washington law that is comparable to the offenses listed in
3 (b)(i) of this subsection. A conviction for rape of a child in the
4 first degree constitutes a conviction under (b)(i) of this subsection
5 only when the offender was sixteen years of age or older when the
6 offender committed the offense. A conviction for rape of a child in
7 the second degree constitutes a conviction under (b)(i) of this
8 subsection only when the offender was eighteen years of age or older
9 when the offender committed the offense.

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

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

16 (35) "Risk assessment" means the application of an objective
17 instrument supported by research and adopted by the department for the
18 purpose of assessing an offender's risk of reoffense, taking into
19 consideration the nature of the harm done by the offender, place and
20 circumstances of the offender related to risk, the offender's
21 relationship to any victim, and any information provided to the
22 department by victims. The results of a risk assessment shall not be
23 based on unconfirmed or unconfirmable allegations.

24 (36) "Serious traffic offense" means:

25 (a) Driving while under the influence of intoxicating liquor or any
26 drug (RCW 46.61.502), actual physical control while under the influence
27 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving
28 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));
29 or

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

33 (37) "Serious violent offense" is a subcategory of violent offense
34 and means:

- 35 (a)(i) Murder in the first degree;
- 36 (ii) Homicide by abuse;
- 37 (iii) Murder in the second degree;
- 38 (iv) Manslaughter in the first degree;
- 39 (v) Assault in the first degree;

1 (vi) Kidnapping in the first degree;
2 (vii) Rape in the first degree;
3 (viii) Assault of a child in the first degree; or
4 (ix) An attempt, criminal solicitation, or criminal conspiracy to
5 commit one of these felonies; or

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

9 (38) "Sex offense" means:

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

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

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

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

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

20 (c) A felony with a finding of sexual motivation under RCW
21 9.94A.835 or 13.40.135; or

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

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

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

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

34 (42) "Terrorist offender" means an offender who commits a felony
35 with terrorist intent as defined in section 2 of this act which felony
36 results in the death of one or more persons.

37 (43) "Total confinement" means confinement inside the physical
38 boundaries of a facility or institution operated or utilized under

1 contract by the state or any other unit of government for twenty-four
2 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

3 (~~(43)~~) (44) "Transition training" means written and verbal
4 instructions and assistance provided by the department to the offender
5 during the two weeks prior to the offender's successful completion of
6 the work ethic camp program. The transition training shall include
7 instructions in the offender's requirements and obligations during the
8 offender's period of community custody.

9 (~~(44)~~) (45) "Victim" means any person who has sustained
10 emotional, psychological, physical, or financial injury to person or
11 property as a direct result of the crime charged.

12 (~~(45)~~) (46) "Violent offense" means:

13 (a) Any of the following felonies:

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

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

18 (iii) Manslaughter in the first degree;

19 (iv) Manslaughter in the second degree;

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

21 (vi) Kidnapping in the second degree;

22 (vii) Arson in the second degree;

23 (viii) Assault in the second degree;

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

25 (x) Extortion in the first degree;

26 (xi) Robbery in the second degree;

27 (xii) Drive-by shooting;

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

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

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 violent
38 offense in (a) of this subsection; and

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

4 (~~(46)~~) (47) "Work crew" means a program of partial confinement
5 consisting of civic improvement tasks for the benefit of the community
6 that complies with RCW 9.94A.725.

7 (~~(47)~~) (48) "Work ethic camp" means an alternative incarceration
8 program as provided in RCW 9.94A.690 designed to reduce recidivism and
9 lower the cost of corrections by requiring offenders to complete a
10 comprehensive array of real-world job and vocational experiences,
11 character-building work ethics training, life management skills
12 development, substance abuse rehabilitation, counseling, literacy
13 training, and basic adult education.

14 (~~(48)~~) (49) "Work release" means a program of partial confinement
15 available to offenders who are employed or engaged as a student in a
16 regular course of study at school.

17 NEW SECTION. **Sec. 6.** A new section is added to chapter 9.94A RCW
18 to read as follows:

19 Notwithstanding the statutory maximum sentence or any other
20 provision of this chapter, a terrorist offender shall be sentenced to
21 a term of total confinement for life without the possibility of
22 release. In addition, no offender subject to this section may be
23 eligible for community custody, earned release time, furlough, home
24 detention, partial confinement, work crew, work release, or any other
25 form of release as defined under RCW 9.94A.728 (1), (2), (3), (4), (6),
26 (8), or (9), or any other form of authorized leave from a correctional
27 facility while not in the direct custody of a corrections officer or
28 officers, except in the case of an offender in need of emergency
29 medical treatment.

30 **Sec. 7.** RCW 9.94A.515 and 2001 2nd sp.s. c 12 s 361, 2001 c 300 s
31 4, 2001 c 217 s 12, and 2001 c 17 s 1 are each reenacted and amended to
32 read as follows:

33 TABLE 2

34 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

35 XVI Aggravated Murder 1 (RCW 10.95.020)

1 XV Homicide by abuse (RCW 9A.32.055)
2 Malicious explosion 1 (RCW 70.74.280(1))
3 Murder 1 (RCW 9A.32.030)
4 Releasing radioactive material (section 10
5 of this act)
6 Unlawful use of agents for terrorist
7 purposes (section 9 of this act)
8 XIV Murder 2 (RCW 9A.32.050)
9 XIII Malicious explosion 2 (RCW 70.74.280(2))
10 Malicious placement of an explosive 1 (RCW
11 70.74.270(1))
12 XII Assault 1 (RCW 9A.36.011)
13 Assault of a Child 1 (RCW 9A.36.120)
14 Malicious placement of an imitation device
15 1 (RCW 70.74.272(1)(a))
16 Rape 1 (RCW 9A.44.040)
17 Rape of a Child 1 (RCW 9A.44.073)
18 XI Manslaughter 1 (RCW 9A.32.060)
19 Rape 2 (RCW 9A.44.050)
20 Rape of a Child 2 (RCW 9A.44.076)
21 X Child Molestation 1 (RCW 9A.44.083)
22 Indecent Liberties (with forcible
23 compulsion) (RCW 9A.44.100(1)(a))
24 Kidnapping 1 (RCW 9A.40.020)
25 Leading Organized Crime (RCW
26 9A.82.060(1)(a))
27 Malicious explosion 3 (RCW 70.74.280(3))
28 Manufacture of methamphetamine (RCW
29 69.50.401(a)(1)(ii))
30 Over 18 and deliver heroin,
31 methamphetamine, a narcotic from
32 Schedule I or II, or flunitrazepam
33 from Schedule IV to someone under 18
34 (RCW 69.50.406)
35 Sexually Violent Predator Escape (RCW
36 9A.76.115)

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

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

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

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

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

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

1 Extortionate Means to Collect Extensions of
2 Credit (RCW 9A.82.040)
3 Incest 2 (RCW 9A.64.020(2))
4 Kidnapping 2 (RCW 9A.40.030)
5 Perjury 1 (RCW 9A.72.020)
6 Persistent prison misbehavior (RCW
7 9.94.070)
8 Possession of a Stolen Firearm (RCW
9 9A.56.310)
10 Rape 3 (RCW 9A.44.060)
11 Rendering Criminal Assistance 1 (RCW
12 9A.76.070)
13 Sexual Misconduct with a Minor 1 (RCW
14 9A.44.093)
15 Sexually Violating Human Remains (RCW
16 9A.44.105)
17 Stalking (RCW 9A.46.110)
18 IV Arson 2 (RCW 9A.48.030)
19 Assault 2 (RCW 9A.36.021)
20 Assault by Watercraft (RCW 79A.60.060)
21 Bribing a Witness/Bribe Received by Witness
22 (RCW 9A.72.090, 9A.72.100)
23 Commercial Bribery (RCW 9A.68.060)
24 Counterfeiting (RCW 9.16.035(4))
25 Escape 1 (RCW 9A.76.110)
26 Hit and Run--Injury (RCW 46.52.020(4)(b))
27 Hit and Run with Vessel--Injury Accident
28 (RCW 79A.60.200(3))
29 Identity Theft 1 (RCW 9.35.020(2)(a))
30 Indecent Exposure to Person Under Age
31 Fourteen (subsequent sex offense) (RCW
32 9A.88.010)
33 Influencing Outcome of Sporting Event (RCW
34 9A.82.070)
35 Knowingly Trafficking in Stolen Property
36 (RCW 9A.82.050(2))
37 Malicious Harassment (RCW 9A.36.080)
38 Manufacture, deliver, or possess with
39 intent to deliver narcotics from

1 Schedule III, IV, or V or nonnarcotics
2 from Schedule I-V (except marijuana,
3 amphetamine, methamphetamines, or
4 flunitrazepam) (RCW 69.50.401(a)(1)
5 (iii) through (v))
6 Residential Burglary (RCW 9A.52.025)
7 Robbery 2 (RCW 9A.56.210)
8 Theft of Livestock 1 (RCW 9A.56.080)
9 Threats to Bomb (RCW 9.61.160)
10 Use of Proceeds of Criminal Profiteering
11 (RCW 9A.82.080 (1) and (2))
12 Vehicular Assault, by being under the
13 influence of intoxicating liquor or
14 any drug, or by the operation or
15 driving of a vehicle in a reckless
16 manner (RCW 46.61.522)
17 Willful Failure to Return from Furlough
18 (RCW 72.66.060)

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

1 Maintaining a Dwelling or Place for
2 Controlled Substances (RCW
3 69.50.402(a)(6))
4 Malicious Injury to Railroad Property (RCW
5 81.60.070)
6 Manufacture, deliver, or possess with
7 intent to deliver marijuana (RCW
8 69.50.401(a)(1)(iii))
9 Manufacture, distribute, or possess with
10 intent to distribute an imitation
11 controlled substance (RCW
12 69.52.030(1))
13 Patronizing a Juvenile Prostitute (RCW
14 9.68A.100)
15 Perjury 2 (RCW 9A.72.030)
16 Possession of Incendiary Device (RCW
17 9.40.120)
18 Possession of Machine Gun or Short-Barreled
19 Shotgun or Rifle (RCW 9.41.190)
20 Promoting Prostitution 2 (RCW 9A.88.080)
21 Recklessly Trafficking in Stolen Property
22 (RCW 9A.82.050(1))
23 Securities Act violation (RCW 21.20.400)
24 Tampering with a Witness (RCW 9A.72.120)
25 Telephone Harassment (subsequent conviction
26 or threat of death) (RCW 9.61.230)
27 Theft of Livestock 2 (RCW 9A.56.080)
28 Unlawful Imprisonment (RCW 9A.40.040)
29 Unlawful possession of firearm in the
30 second degree (RCW 9.41.040(1)(b))
31 Unlawful Use of Building for Drug Purposes
32 (RCW 69.53.010)
33 Vehicular Assault, by the operation or
34 driving of a vehicle with disregard
35 for the safety of others (RCW
36 46.61.522)
37 Willful Failure to Return from Work Release
38 (RCW 72.65.070)
39 II Computer Trespass 1 (RCW 9A.52.110)

1 Counterfeiting (RCW 9.16.035(3))
2 Create, deliver, or possess a counterfeit
3 controlled substance (RCW
4 69.50.401(b))
5 Escape from Community Custody (RCW
6 72.09.310)
7 Health Care False Claims (RCW 48.80.030)
8 Identity Theft 2 (RCW 9.35.020(2)(b))
9 Improperly Obtaining Financial Information
10 (RCW 9.35.010)
11 Malicious Mischief 1 (RCW 9A.48.070)
12 Possession of controlled substance that is
13 either heroin or narcotics from
14 Schedule I or II or flunitrazepam from
15 Schedule IV (RCW 69.50.401(d))
16 Possession of phencyclidine (PCP) (RCW
17 69.50.401(d))
18 Possession of Stolen Property 1 (RCW
19 9A.56.150)
20 Theft 1 (RCW 9A.56.030)
21 Theft of Rental, Leased, or Lease-purchased
22 Property (valued at one thousand five
23 hundred dollars or more) (RCW
24 9A.56.096(4))
25 Trafficking in Insurance Claims (RCW
26 48.30A.015)
27 Unlawful Practice of Law (RCW 2.48.180)
28 Unlicensed Practice of a Profession or
29 Business (RCW 18.130.190(7))
30 I Attempting to Elude a Pursuing Police
31 Vehicle (RCW 46.61.024)
32 False Verification for Welfare (RCW
33 74.08.055)
34 Forged Prescription (RCW 69.41.020)
35 Forged Prescription for a Controlled
36 Substance (RCW 69.50.403)
37 Forgery (RCW 9A.60.020)
38 Malicious Mischief 2 (RCW 9A.48.080)

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

22 **Sec. 8.** RCW 9A.04.080 and 1998 c 221 s 2 are each amended to read
23 as follows:

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

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

28 (i) Murder;

29 (ii) Homicide by abuse;

30 (iii) Arson if a death results;

31 (iv) Vehicular homicide;

32 (v) Vehicular assault if a death results;

33 (vi) Hit-and-run injury-accident if a death results (RCW
34 46.52.020(4));

35 (vii) Any felony committed with terrorist intent, as defined in
36 section 2 of this act, if a death results.

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

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

4 (ii) Arson if no death results; ((or))

5 (iii) Violations of RCW 9A.44.040 or 9A.44.050 if the rape is
6 reported to a law enforcement agency within one year of its commission;
7 except that if the victim is under fourteen years of age when the rape
8 is committed and the rape is reported to a law enforcement agency
9 within one year of its commission, the violation may be prosecuted up
10 to three years after the victim's eighteenth birthday or up to ten
11 years after the rape's commission, whichever is later. If a violation
12 of RCW 9A.44.040 or 9A.44.050 is not reported within one year, the rape
13 may not be prosecuted: (A) More than three years after its commission
14 if the violation was committed against a victim fourteen years of age
15 or older; or (B) more than three years after the victim's eighteenth
16 birthday or more than seven years after the rape's commission,
17 whichever is later, if the violation was committed against a victim
18 under fourteen years of age; or

19 (iv) Any felony committed with terrorist intent, as defined in
20 section 2 of this act, if no death results.

21 (c) Violations of the following statutes shall not be prosecuted
22 more than three years after the victim's eighteenth birthday or more
23 than seven years after their commission, whichever is later: RCW
24 9A.44.073, 9A.44.076, 9A.44.083, 9A.44.086, 9A.44.070, 9A.44.080,
25 9A.44.100(1)(b), or 9A.64.020.

26 (d) The following offenses shall not be prosecuted more than six
27 years after their commission: Violations of RCW 9A.82.060 or
28 9A.82.080.

29 (e) The following offenses shall not be prosecuted more than five
30 years after their commission: Any class C felony under chapter 74.09,
31 82.36, or 82.38 RCW.

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

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

37 (h) No other felony may be prosecuted more than three years after
38 its commission; except that in a prosecution under RCW 9A.44.115, if
39 the person who was viewed, photographed, or filmed did not realize at

1 the time that he or she was being viewed, photographed, or filmed, the
2 prosecution must be commenced within two years of the time the person
3 who was viewed or in the photograph or film first learns that he or she
4 was viewed, photographed, or filmed.

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

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

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

12 (3) If, before the end of a period of limitation prescribed in
13 subsection (1) of this section, an indictment has been found or a
14 complaint or an information has been filed, and the indictment,
15 complaint, or information is set aside, then the period of limitation
16 is extended by a period equal to the length of time from the finding or
17 filing to the setting aside.

18 NEW SECTION. **Sec. 9.** A new section is added to chapter 69.40 RCW
19 to read as follows:

20 (1) A person is guilty of unlawful use of agents for terrorist
21 purposes if the person willfully and with terrorist intent places,
22 introduces, broadcasts, disseminates, or releases any biological agent,
23 chemical agent, or toxin in: (a) The air; (b) any food prepared for
24 the use of a human being; (c) any water system; (d) any heating,
25 ventilation, or cooling system; (e) any habitable building; (f) any
26 motor vehicle, street car, or train, as defined in RCW 47.04.010; or
27 (g) any vessel, as defined in RCW 88.02.010.

28 (2) Unlawful use of agents for terrorist purposes is a class A
29 felony.

30 (3) For the purposes of this section:

31 (a) "Biological agent" means any microorganism, virus, infectious
32 substance, or biological product that may be engineered as a result of
33 biotechnology, or any naturally occurring or bioengineered component of
34 any such microorganism, virus, infectious substance, or biological
35 product, capable of causing:

36 (i) Death, disease, or other biological malfunction in a human, an
37 animal, a plant, or another living organism;

1 (ii) Deterioration of food, water equipment, supplies, or material
2 of any kind; or

3 (iii) Deleterious alteration of the environment.

4 (b) "Chemical agent" means any weapon, device, material, or
5 substance that is designed or intended to cause widespread death or
6 physical injury through the release, dissemination, or impact of toxic
7 or poisonous chemicals or precursors of toxic or poisonous chemicals.

8 (c) "Terrorist intent" means "terrorist intent" as defined in
9 section 2 of this act.

10 (d) "Toxin" means the toxic material of plants, animals,
11 microorganisms, viruses, fungi, or infectious substances, or a
12 recombinant molecule, whatever its origin or method of production,
13 including:

14 (i) Any poisonous substance or biological product that may be
15 engineered as a result of biotechnology produced by a living organism;
16 or

17 (ii) Any poisonous isomer or biological product, homolog, or
18 derivative of such a substance.

19 (e) "Habitable building" means any building in which persons may
20 reside or assemble for recreational or employment purposes.

21 NEW SECTION. **Sec. 10.** A new section is added to chapter 70.98 RCW
22 to read as follows:

23 (1) A person is guilty of releasing radioactive material with
24 terrorist intent if the person releases, broadcasts, or disseminates
25 ionizing radiation with terrorist intent as defined in section 2 of
26 this act.

27 (2) "Terrorist intent" means "terrorist intent" as defined in
28 section 2 of this act.

29 (3) Releasing radioactive material with terrorist intent is a class
30 A felony.

31 NEW SECTION. **Sec. 11.** The following acts or parts of acts are
32 each repealed:

33 (1) RCW 69.40.010 (Poison in edible products) and 1905 c 141 s 1;

34 (2) RCW 69.40.015 (Poison in edible products--Penalty) and 1905 c
35 141 s 2;

36 (3) RCW 69.40.020 (Poison in milk or food products--Penalty) and
37 1905 c 50 s 1; and

1 (4) RCW 69.40.025 (Supplementary to existing laws--Enforcement) and
2 1905 c 50 s 2.

3 NEW SECTION. **Sec. 12.** Sections 1 through 3 of this act constitute
4 a new chapter in Title 9A RCW.

--- END ---