
SENATE BILL 6782

State of Washington 57th Legislature

2002 Regular Session

By Senators Kline and Hochstatter

Read first time 02/05/2002. Referred to Committee on Judiciary.

1 AN ACT Relating to robbery; amending RCW 9A.56.210, 9.41.010,
2 9A.32.030, 10.95.020, 13.40.0357, and 13.40.110; reenacting and
3 amending RCW 9.94A.030, 9.94A.411, 9.94A.515, and 9A.82.010; adding a
4 new section to chapter 9A.56 RCW; and prescribing penalties.

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

6 **Sec. 1.** RCW 9A.56.210 and 1975 1st ex.s. c 260 s 9A.56.210 are
7 each amended to read as follows:

8 (1) A person is guilty of robbery in the second degree if he or she
9 commits robbery within and against a financial institution as defined
10 in RCW 7.88.010 or 35.38.060 and under circumstances not amounting to
11 robbery in the first degree.

12 (2) Robbery in the second degree is a class B felony.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 9A.56 RCW
14 to read as follows:

15 (1) A person is guilty of robbery in the third degree if he or she
16 commits robbery under circumstances not amounting to robbery in the
17 first degree or robbery in the second degree.

18 (2) Robbery in the third degree is a class C felony.

1 **Sec. 3.** RCW 9.41.010 and 2001 c 300 s 2 are each amended to read
2 as follows:

3 Unless the context clearly requires otherwise, the definitions in
4 this section apply throughout this chapter.

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

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

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

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

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

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

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

36 (8) "Antique firearm" means a firearm or replica of a firearm not
37 designed or redesigned for using rim fire or conventional center fire
38 ignition with fixed ammunition and manufactured in or before 1898,
39 including any matchlock, flintlock, percussion cap, or similar type of

1 ignition system and also any firearm using fixed ammunition
2 manufactured in or before 1898, for which ammunition is no longer
3 manufactured in the United States and is not readily available in the
4 ordinary channels of commercial trade.

5 (9) "Loaded" means:

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

7 (b) Cartridges are in a clip that is locked in place in the
8 firearm;

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

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

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

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

23 (11) "Crime of violence" means:

24 (a) Any of the following felonies, as now existing or hereafter
25 amended: Any felony defined under any law as a class A felony or an
26 attempt to commit a class A felony, criminal solicitation of or
27 criminal conspiracy to commit a class A felony, manslaughter in the
28 first degree, manslaughter in the second degree, indecent liberties if
29 committed by forcible compulsion, kidnapping in the second degree,
30 arson in the second degree, assault in the second degree, assault of a
31 child in the second degree, extortion in the first degree, burglary in
32 the second degree, residential burglary, ~~((and))~~ robbery in the second
33 degree, and robbery in the third degree;

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

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

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

4 (a) Any crime of violence;

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

8 (c) Child molestation in the second degree;

9 (d) Incest when committed against a child under age fourteen;

10 (e) Indecent liberties;

11 (f) Leading organized crime;

12 (g) Promoting prostitution in the first degree;

13 (h) Rape in the third degree;

14 (i) Drive-by shooting;

15 (j) Sexual exploitation;

16 (k) Vehicular assault, when caused by the operation or driving of
17 a vehicle by a person while under the influence of intoxicating liquor
18 or any drug or by the operation or driving of a vehicle in a reckless
19 manner;

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

24 (m) Any other class B felony offense with a finding of sexual
25 motivation, as "sexual motivation" is defined under RCW 9.94A.030;

26 (n) Any other felony with a deadly weapon verdict under RCW
27 9.94A.602; or

28 (o) Any felony offense in effect at any time prior to June 6, 1996,
29 that is comparable to a serious offense, or any federal or out-of-state
30 conviction for an offense that under the laws of this state would be a
31 felony classified as a serious offense.

32 (13) "Law enforcement officer" includes a general authority
33 Washington peace officer as defined in RCW 10.93.020, or a specially
34 commissioned Washington peace officer as defined in RCW 10.93.020.
35 "Law enforcement officer" also includes a limited authority Washington
36 peace officer as defined in RCW 10.93.020 if such officer is duly
37 authorized by his or her employer to carry a concealed pistol.

1 (14) "Felony" means any felony offense under the laws of this state
2 or any federal or out-of-state offense comparable to a felony offense
3 under the laws of this state.

4 (15) "Sell" refers to the actual approval of the delivery of a
5 firearm in consideration of payment or promise of payment of a certain
6 price in money.

7 (16) "Barrel length" means the distance from the bolt face of a
8 closed action down the length of the axis of the bore to the crown of
9 the muzzle, or in the case of a barrel with attachments to the end of
10 any legal device permanently attached to the end of the muzzle.

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

13 **Sec. 4.** RCW 9.94A.030 and 2001 2nd sp.s. c 12 s 301, 2001 c 300 s
14 3, and 2001 c 7 s 2 are each reenacted and amended to read as follows:

15 Unless the context clearly requires otherwise, the definitions in
16 this section apply throughout this chapter.

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

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

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

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

32 (5) "Community custody" means that portion of an offender's
33 sentence of confinement in lieu of earned release time or imposed
34 pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670,
35 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545, served in the
36 community subject to controls placed on the offender's movement and
37 activities by the department. For offenders placed on community
38 custody for crimes committed on or after July 1, 2000, the department

1 shall assess the offender's risk of reoffense and may establish and
2 modify conditions of community custody, in addition to those imposed by
3 the court, based upon the risk to community safety.

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

8 (7) "Community placement" means that period during which the
9 offender is subject to the conditions of community custody and/or
10 postrelease supervision, which begins either upon completion of the
11 term of confinement (postrelease supervision) or at such time as the
12 offender is transferred to community custody in lieu of earned release.
13 Community placement may consist of entirely community custody, entirely
14 postrelease supervision, or a combination of the two.

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

18 (9) "Community supervision" means a period of time during which a
19 convicted offender is subject to crime-related prohibitions and other
20 sentence conditions imposed by a court pursuant to this chapter or RCW
21 16.52.200(6) or 46.61.524. Where the court finds that any offender has
22 a chemical dependency that has contributed to his or her offense, the
23 conditions of supervision may, subject to available resources, include
24 treatment. For purposes of the interstate compact for out-of-state
25 supervision of parolees and probationers, RCW 9.95.270, community
26 supervision is the functional equivalent of probation and should be
27 considered the same as probation by other states.

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

29 (11) "Conviction" means an adjudication of guilt pursuant to Titles
30 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
31 acceptance of a plea of guilty.

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

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

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

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

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

17 (17) "Determinate sentence" means a sentence that states with
18 exactitude the number of actual years, months, or days of total
19 confinement, of partial confinement, of community supervision, the
20 number of actual hours or days of community service work, or dollars or
21 terms of a legal financial obligation. The fact that an offender
22 through earned release can reduce the actual period of confinement
23 shall not affect the classification of the sentence as a determinate
24 sentence.

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

37 (19) "Drug offender sentencing alternative" is a sentencing option
38 available to persons convicted of a felony offense other than a violent

1 offense or a sex offense and who are eligible for the option under RCW
2 9.94A.660.

3 (20) "Drug offense" means:

4 (a) Any felony violation of chapter 69.50 RCW except possession of
5 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
6 controlled substance (RCW 69.50.403);

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

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

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

15 (22) "Escape" means:

16 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the
17 first degree (RCW 9A.76.110), escape in the second degree (RCW
18 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
19 willful failure to return from work release (RCW 72.65.070), or willful
20 failure to be available for supervision by the department while in
21 community custody (RCW 72.09.310); or

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

25 (23) "Felony traffic offense" means:

26 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
27 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
28 and-run injury-accident (RCW 46.52.020(4)); or

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

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

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

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

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

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

20 (a) Any felony defined under any law as a class A felony or
21 criminal solicitation of or criminal conspiracy to commit a class A
22 felony;

23 (b) Assault in the second degree;

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

25 (d) Child molestation in the second degree;

26 (e) Controlled substance homicide;

27 (f) Extortion in the first degree;

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

29 (h) Indecent liberties;

30 (i) Kidnapping in the second degree;

31 (j) Leading organized crime;

32 (k) Manslaughter in the first degree;

33 (l) Manslaughter in the second degree;

34 (m) Promoting prostitution in the first degree;

35 (n) Rape in the third degree;

36 (o) Robbery in the second degree;

37 (p) Sexual exploitation;

38 (q) Vehicular assault, when caused by the operation or driving of
39 a vehicle by a person while under the influence of intoxicating liquor

1 or any drug or by the operation or driving of a vehicle in a reckless
2 manner;

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

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

9 (t) Any other felony with a deadly weapon verdict under RCW
10 9.94A.602;

11 (u) Any felony offense in effect at any time prior to December 2,
12 1993, that is comparable to a most serious offense under this
13 subsection, or any federal or out-of-state conviction for an offense
14 that under the laws of this state would be a felony classified as a
15 most serious offense under this subsection;

16 (v)(i) A prior conviction for indecent liberties under RCW
17 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
18 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
19 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
20 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

21 (ii) A prior conviction for indecent liberties under RCW
22 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
23 if: (A) The crime was committed against a child under the age of
24 fourteen; or (B) the relationship between the victim and perpetrator is
25 included in the definition of indecent liberties under RCW
26 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
27 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
28 through July 27, 1997.

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

31 (30) "Offender" means a person who has committed a felony
32 established by state law and is eighteen years of age or older or is
33 less than eighteen years of age but whose case is under superior court
34 jurisdiction under RCW 13.04.030 or has been transferred by the
35 appropriate juvenile court to a criminal court pursuant to RCW
36 13.40.110. Throughout this chapter, the terms "offender" and
37 "defendant" are used interchangeably.

38 (31) "Partial confinement" means confinement for no more than one
39 year in a facility or institution operated or utilized under contract

1 by the state or any other unit of government, or, if home detention or
2 work crew has been ordered by the court, in an approved residence, for
3 a substantial portion of each day with the balance of the day spent in
4 the community. Partial confinement includes work release, home
5 detention, work crew, and a combination of work crew and home
6 detention.

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

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

10 (ii) Has, before the commission of the offense under (a) of this
11 subsection, been convicted as an offender on at least two separate
12 occasions, whether in this state or elsewhere, of felonies that under
13 the laws of this state would be considered most serious offenses and
14 would be included in the offender score under RCW 9.94A.525; provided
15 that of the two or more previous convictions, at least one conviction
16 must have occurred before the commission of any of the other most
17 serious offenses for which the offender was previously convicted; or

18 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
19 of a child in the first degree, child molestation in the first degree,
20 rape in the second degree, rape of a child in the second degree, or
21 indecent liberties by forcible compulsion; (B) any of the following
22 offenses with a finding of sexual motivation: Murder in the first
23 degree, murder in the second degree, homicide by abuse, kidnapping in
24 the first degree, kidnapping in the second degree, assault in the first
25 degree, assault in the second degree, assault of a child in the first
26 degree, or burglary in the first degree; or (C) an attempt to commit
27 any crime listed in this subsection (32)(b)(i); and

28 (ii) Has, before the commission of the offense under (b)(i) of this
29 subsection, been convicted as an offender on at least one occasion,
30 whether in this state or elsewhere, of an offense listed in (b)(i) of
31 this subsection or any federal or out-of-state offense or offense under
32 prior Washington law that is comparable to the offenses listed in
33 (b)(i) of this subsection. A conviction for rape of a child in the
34 first degree constitutes a conviction under (b)(i) of this subsection
35 only when the offender was sixteen years of age or older when the
36 offender committed the offense. A conviction for rape of a child in
37 the second degree constitutes a conviction under (b)(i) of this
38 subsection only when the offender was eighteen years of age or older
39 when the offender committed the offense.

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

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

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

15 (36) "Serious traffic offense" means:

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

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

24 (37) "Serious violent offense" is a subcategory of violent offense
25 and means:

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

27 (ii) Homicide by abuse;

28 (iii) Murder in the second degree;

29 (iv) Manslaughter in the first degree;

30 (v) Assault in the first degree;

31 (vi) Kidnapping in the first degree;

32 (vii) Rape in the first degree;

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

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

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

39 (38) "Sex offense" means:

1 (a)(i) A felony that is a violation of chapter 9A.44 RCW other than
2 RCW 9A.44.130(11);
3 (ii) A violation of RCW 9A.64.020;
4 (iii) A felony that is a violation of chapter 9.68A RCW other than
5 RCW 9.68A.070 or 9.68A.080; or
6 (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt,
7 criminal solicitation, or criminal conspiracy to commit such crimes;
8 (b) Any conviction for a felony offense in effect at any time prior
9 to July 1, 1976, that is comparable to a felony classified as a sex
10 offense in (a) of this subsection;
11 (c) A felony with a finding of sexual motivation under RCW
12 9.94A.835 or 13.40.135; or
13 (d) Any federal or out-of-state conviction for an offense that
14 under the laws of this state would be a felony classified as a sex
15 offense under (a) of this subsection.
16 (39) "Sexual motivation" means that one of the purposes for which
17 the defendant committed the crime was for the purpose of his or her
18 sexual gratification.
19 (40) "Standard sentence range" means the sentencing court's
20 discretionary range in imposing a nonappealable sentence.
21 (41) "Statutory maximum sentence" means the maximum length of time
22 for which an offender may be confined as punishment for a crime as
23 prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the
24 crime, or other statute defining the maximum penalty for a crime.
25 (42) "Total confinement" means confinement inside the physical
26 boundaries of a facility or institution operated or utilized under
27 contract by the state or any other unit of government for twenty-four
28 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.
29 (43) "Transition training" means written and verbal instructions
30 and assistance provided by the department to the offender during the
31 two weeks prior to the offender's successful completion of the work
32 ethic camp program. The transition training shall include instructions
33 in the offender's requirements and obligations during the offender's
34 period of community custody.
35 (44) "Victim" means any person who has sustained emotional,
36 psychological, physical, or financial injury to person or property as
37 a direct result of the crime charged.
38 (45) "Violent offense" means:
39 (a) Any of the following felonies:

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

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

5 (iii) Manslaughter in the first degree;

6 (iv) Manslaughter in the second degree;

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

8 (vi) Kidnapping in the second degree;

9 (vii) Arson in the second degree;

10 (viii) Assault in the second degree;

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

12 (x) Extortion in the first degree;

13 (xi) Robbery in the second degree;

14 (xii) Robbery in the third degree;

15 ~~(xiii)~~ Drive-by shooting;

16 ~~((~~xiii~~))~~ (xiv) Vehicular assault, when caused by the operation or
17 driving of a vehicle by a person while under the influence of
18 intoxicating liquor or any drug or by the operation or driving of a
19 vehicle in a reckless manner; and

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

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

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

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

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

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

4 **Sec. 5.** RCW 9.94A.411 and 2000 c 119 s 28 and 2000 c 28 s 17 are
5 each reenacted and amended to read as follows:

6 (1) Decision not to prosecute.

7 STANDARD: A prosecuting attorney may decline to prosecute, even
8 though technically sufficient evidence to prosecute exists, in
9 situations where prosecution would serve no public purpose, would
10 defeat the underlying purpose of the law in question or would result in
11 decreased respect for the law.

12 GUIDELINE/COMMENTARY:

13 Examples

14 The following are examples of reasons not to prosecute which could
15 satisfy the standard.

16 (a) Contrary to Legislative Intent - It may be proper to decline to
17 charge where the application of criminal sanctions would be clearly
18 contrary to the intent of the legislature in enacting the particular
19 statute.

20 (b) Antiquated Statute - It may be proper to decline to charge
21 where the statute in question is antiquated in that:

22 (i) It has not been enforced for many years; and

23 (ii) Most members of society act as if it were no longer in
24 existence; and

25 (iii) It serves no deterrent or protective purpose in today's
26 society; and

27 (iv) The statute has not been recently reconsidered by the
28 legislature.

29 This reason is not to be construed as the basis for declining cases
30 because the law in question is unpopular or because it is difficult to
31 enforce.

32 (c) De Minimis Violation - It may be proper to decline to charge
33 where the violation of law is only technical or insubstantial and where
34 no public interest or deterrent purpose would be served by prosecution.

35 (d) Confinement on Other Charges - It may be proper to decline to
36 charge because the accused has been sentenced on another charge to a
37 lengthy period of confinement; and

1 (i) Conviction of the new offense would not merit any additional
2 direct or collateral punishment;

3 (ii) The new offense is either a misdemeanor or a felony which is
4 not particularly aggravated; and

5 (iii) Conviction of the new offense would not serve any significant
6 deterrent purpose.

7 (e) Pending Conviction on Another Charge - It may be proper to
8 decline to charge because the accused is facing a pending prosecution
9 in the same or another county; and

10 (i) Conviction of the new offense would not merit any additional
11 direct or collateral punishment;

12 (ii) Conviction in the pending prosecution is imminent;

13 (iii) The new offense is either a misdemeanor or a felony which is
14 not particularly aggravated; and

15 (iv) Conviction of the new offense would not serve any significant
16 deterrent purpose.

17 (f) High Disproportionate Cost of Prosecution - It may be proper to
18 decline to charge where the cost of locating or transporting, or the
19 burden on, prosecution witnesses is highly disproportionate to the
20 importance of prosecuting the offense in question. This reason should
21 be limited to minor cases and should not be relied upon in serious
22 cases.

23 (g) Improper Motives of Complainant - It may be proper to decline
24 charges because the motives of the complainant are improper and
25 prosecution would serve no public purpose, would defeat the underlying
26 purpose of the law in question or would result in decreased respect for
27 the law.

28 (h) Immunity - It may be proper to decline to charge where immunity
29 is to be given to an accused in order to prosecute another where the
30 accused's information or testimony will reasonably lead to the
31 conviction of others who are responsible for more serious criminal
32 conduct or who represent a greater danger to the public interest.

33 (i) Victim Request - It may be proper to decline to charge because
34 the victim requests that no criminal charges be filed and the case
35 involves the following crimes or situations:

36 (i) Assault cases where the victim has suffered little or no
37 injury;

38 (ii) Crimes against property, not involving violence, where no
39 major loss was suffered;

1 (iii) Where doing so would not jeopardize the safety of society.
2 Care should be taken to insure that the victim's request is freely
3 made and is not the product of threats or pressure by the accused.

4 The presence of these factors may also justify the decision to
5 dismiss a prosecution which has been commenced.

6 Notification

7 The prosecutor is encouraged to notify the victim, when practical,
8 and the law enforcement personnel, of the decision not to prosecute.

9 (2) Decision to prosecute.

10 (a) STANDARD:

11 Crimes against persons will be filed if sufficient admissible
12 evidence exists, which, when considered with the most plausible,
13 reasonably foreseeable defense that could be raised under the evidence,
14 would justify conviction by a reasonable and objective fact-finder.
15 With regard to offenses prohibited by RCW 9A.44.040, 9A.44.050,
16 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, 9A.44.089, and
17 9A.64.020 the prosecutor should avoid pre-filing agreements or
18 diversions intended to place the accused in a program of treatment or
19 counseling, so that treatment, if determined to be beneficial, can be
20 provided pursuant to RCW 9.94A.670.

21 Crimes against property/other crimes will be filed if the
22 admissible evidence is of such convincing force as to make it probable
23 that a reasonable and objective fact-finder would convict after hearing
24 all the admissible evidence and the most plausible defense that could
25 be raised.

26 See table below for the crimes within these categories.

27 CATEGORIZATION OF CRIMES FOR PROSECUTING STANDARDS

28 CRIMES AGAINST PERSONS

29 Aggravated Murder

30 1st Degree Murder

31 2nd Degree Murder

32 1st Degree Manslaughter

33 2nd Degree Manslaughter

34 1st Degree Kidnapping

35 2nd Degree Kidnapping

36 1st Degree Assault

37 2nd Degree Assault

38 3rd Degree Assault

1 1st Degree Assault of a Child
2 2nd Degree Assault of a Child
3 3rd Degree Assault of a Child
4 1st Degree Rape
5 2nd Degree Rape
6 3rd Degree Rape
7 1st Degree Rape of a Child
8 2nd Degree Rape of a Child
9 3rd Degree Rape of a Child
10 1st Degree Robbery
11 2nd Degree Robbery
12 3rd Degree Robbery
13 1st Degree Arson
14 1st Degree Burglary
15 1st Degree Extortion
16 2nd Degree Extortion
17 Indecent Liberties
18 Incest
19 Vehicular Homicide
20 Vehicular Assault
21 1st Degree Child Molestation
22 2nd Degree Child Molestation
23 3rd Degree Child Molestation
24 1st Degree Promoting Prostitution
25 Intimidating a Juror
26 Communication with a Minor
27 Intimidating a Witness
28 Intimidating a Public Servant
29 Bomb Threat (if against person)
30 Unlawful Imprisonment
31 Promoting a Suicide Attempt
32 Riot (if against person)
33 Stalking
34 Custodial Assault
35 Domestic Violence Court Order Violation (RCW 10.99.040, 10.99.050,
36 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145)
37 Counterfeiting (if a violation of RCW 9.16.035(4))

1 CRIMES AGAINST PROPERTY/OTHER CRIMES
2 2nd Degree Arson
3 1st Degree Escape
4 2nd Degree Escape
5 2nd Degree Burglary
6 1st Degree Theft
7 2nd Degree Theft
8 1st Degree Perjury
9 2nd Degree Perjury
10 1st Degree Introducing Contraband
11 2nd Degree Introducing Contraband
12 1st Degree Possession of Stolen Property
13 2nd Degree Possession of Stolen Property
14 Bribery
15 Bribing a Witness
16 Bribe received by a Witness
17 Bomb Threat (if against property)
18 1st Degree Malicious Mischief
19 2nd Degree Malicious Mischief
20 1st Degree Reckless Burning
21 Taking a Motor Vehicle without Authorization
22 Forgery
23 2nd Degree Promoting Prostitution
24 Tampering with a Witness
25 Trading in Public Office
26 Trading in Special Influence
27 Receiving/Granting Unlawful Compensation
28 Bigamy
29 Eluding a Pursuing Police Vehicle
30 Willful Failure to Return from Furlough
31 Escape from Community Custody
32 Riot (if against property)
33 1st Degree Theft of Livestock
34 2nd Degree Theft of Livestock

35 ALL OTHER UNCLASSIFIED FELONIES

36 Selection of Charges/Degree of Charge

37 (i) The prosecutor should file charges which adequately describe
38 the nature of defendant's conduct. Other offenses may be charged only
39 if they are necessary to ensure that the charges:

1 (A) Will significantly enhance the strength of the state's case at
2 trial; or

3 (B) Will result in restitution to all victims.

4 (ii) The prosecutor should not overcharge to obtain a guilty plea.
5 Overcharging includes:

6 (A) Charging a higher degree;

7 (B) Charging additional counts.

8 This standard is intended to direct prosecutors to charge those
9 crimes which demonstrate the nature and seriousness of a defendant's
10 criminal conduct, but to decline to charge crimes which are not
11 necessary to such an indication. Crimes which do not merge as a matter
12 of law, but which arise from the same course of conduct, do not all
13 have to be charged.

14 (b) GUIDELINES/COMMENTARY:

15 (i) Police Investigation

16 A prosecuting attorney is dependent upon law enforcement agencies
17 to conduct the necessary factual investigation which must precede the
18 decision to prosecute. The prosecuting attorney shall ensure that a
19 thorough factual investigation has been conducted before a decision to
20 prosecute is made. In ordinary circumstances the investigation should
21 include the following:

22 (A) The interviewing of all material witnesses, together with the
23 obtaining of written statements whenever possible;

24 (B) The completion of necessary laboratory tests; and

25 (C) The obtaining, in accordance with constitutional requirements,
26 of the suspect's version of the events.

27 If the initial investigation is incomplete, a prosecuting attorney
28 should insist upon further investigation before a decision to prosecute
29 is made, and specify what the investigation needs to include.

30 (ii) Exceptions

31 In certain situations, a prosecuting attorney may authorize filing
32 of a criminal complaint before the investigation is complete if:

33 (A) Probable cause exists to believe the suspect is guilty; and

34 (B) The suspect presents a danger to the community or is likely to
35 flee if not apprehended; or

36 (C) The arrest of the suspect is necessary to complete the
37 investigation of the crime.

38 In the event that the exception to the standard is applied, the
39 prosecuting attorney shall obtain a commitment from the law enforcement

1 agency involved to complete the investigation in a timely manner. If
2 the subsequent investigation does not produce sufficient evidence to
3 meet the normal charging standard, the complaint should be dismissed.

4 (iii) Investigation Techniques

5 The prosecutor should be fully advised of the investigatory
6 techniques that were used in the case investigation including:

7 (A) Polygraph testing;

8 (B) Hypnosis;

9 (C) Electronic surveillance;

10 (D) Use of informants.

11 (iv) Pre-Filing Discussions with Defendant

12 Discussions with the defendant or his/her representative regarding
13 the selection or disposition of charges may occur prior to the filing
14 of charges, and potential agreements can be reached.

15 (v) Pre-Filing Discussions with Victim(s)

16 Discussions with the victim(s) or victims' representatives
17 regarding the selection or disposition of charges may occur before the
18 filing of charges. The discussions may be considered by the prosecutor
19 in charging and disposition decisions, and should be considered before
20 reaching any agreement with the defendant regarding these decisions.

21 **Sec. 6.** RCW 9.94A.515 and 2001 2nd sp.s. c 12 s 361, 2001 c 300 s
22 4, 2001 c 217 s 12, and 2001 c 17 s 1 are each reenacted and amended to
23 read as follows:

24 TABLE 2

25 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

26	XVI	Aggravated Murder 1 (RCW 10.95.020)
27	XV	Homicide by abuse (RCW 9A.32.055)
28		Malicious explosion 1 (RCW 70.74.280(1))
29		Murder 1 (RCW 9A.32.030)
30	XIV	Murder 2 (RCW 9A.32.050)
31	XIII	Malicious explosion 2 (RCW 70.74.280(2))
32		Malicious placement of an explosive 1 (RCW
33		70.74.270(1))
34	XII	Assault 1 (RCW 9A.36.011)
35		Assault of a Child 1 (RCW 9A.36.120)

1 Malicious placement of an imitation device
2 1 (RCW 70.74.272(1)(a))
3 Rape 1 (RCW 9A.44.040)
4 Rape of a Child 1 (RCW 9A.44.073)
5 XI Manslaughter 1 (RCW 9A.32.060)
6 Rape 2 (RCW 9A.44.050)
7 Rape of a Child 2 (RCW 9A.44.076)
8 X Child Molestation 1 (RCW 9A.44.083)
9 Indecent Liberties (with forcible
10 compulsion) (RCW 9A.44.100(1)(a))
11 Kidnapping 1 (RCW 9A.40.020)
12 Leading Organized Crime (RCW
13 9A.82.060(1)(a))
14 Malicious explosion 3 (RCW 70.74.280(3))
15 Manufacture of methamphetamine (RCW
16 69.50.401(a)(1)(ii))
17 Over 18 and deliver heroin,
18 methamphetamine, a narcotic from
19 Schedule I or II, or flunitrazepam
20 from Schedule IV to someone under 18
21 (RCW 69.50.406)
22 Sexually Violent Predator Escape (RCW
23 9A.76.115)
24 IX Assault of a Child 2 (RCW 9A.36.130)
25 Controlled Substance Homicide (RCW
26 69.50.415)
27 Explosive devices prohibited (RCW
28 70.74.180)
29 Hit and Run--Death (RCW 46.52.020(4)(a))
30 Homicide by Watercraft, by being under the
31 influence of intoxicating liquor or
32 any drug (RCW 79A.60.050)
33 Inciting Criminal Profiteering (RCW
34 9A.82.060(1)(b))
35 Malicious placement of an explosive 2 (RCW
36 70.74.270(2))
37 Over 18 and deliver narcotic from Schedule
38 III, IV, or V or a nonnarcotic, except

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

9 VIII Arson 1 (RCW 9A.48.020)
10 Deliver or possess with intent to deliver
11 m e t h a m p h e t a m i n e (R C W
12 69.50.401(a)(1)(ii))
13 Homicide by Watercraft, by the operation of
14 any vessel in a reckless manner (RCW
15 79A.60.050)
16 Manslaughter 2 (RCW 9A.32.070)
17 Manufacture, deliver, or possess with
18 intent to deliver amphetamine (RCW
19 69.50.401(a)(1)(ii))
20 Manufacture, deliver, or possess with
21 intent to deliver heroin or cocaine
22 (RCW 69.50.401(a)(1)(i))
23 Possession of Ephedrine, Pseudoephedrine,
24 or Anhydrous Ammonia with intent to
25 manufacture methamphetamine (RCW
26 69.50.440)
27 Promoting Prostitution 1 (RCW 9A.88.070)
28 Selling for profit (controlled or
29 counterfeit) any controlled substance
30 (RCW 69.50.410)
31 Theft of Anhydrous Ammonia (RCW 69.55.010)
32 Vehicular Homicide, by the operation of any
33 vehicle in a reckless manner (RCW
34 46.61.520)

35 VII Burglary 1 (RCW 9A.52.020)
36 Child Molestation 2 (RCW 9A.44.086)

1 Dealing in depictions of minor engaged in
2 sexually explicit conduct (RCW
3 9.68A.050)
4 Drive-by Shooting (RCW 9A.36.045)
5 Homicide by Watercraft, by disregard for
6 the safety of others (RCW 79A.60.050)
7 Indecent Liberties (without forcible
8 compulsion) (RCW 9A.44.100(1) (b) and
9 (c))
10 Introducing Contraband 1 (RCW 9A.76.140)
11 Involving a minor in drug dealing (RCW
12 69.50.401(f))
13 Malicious placement of an explosive 3 (RCW
14 70.74.270(3))
15 Sending, bringing into state depictions of
16 minor engaged in sexually explicit
17 conduct (RCW 9.68A.060)
18 Unlawful Possession of a Firearm in the
19 first degree (RCW 9.41.040(1)(a))
20 Use of a Machine Gun in Commission of a
21 Felony (RCW 9.41.225)
22 Vehicular Homicide, by disregard for the
23 safety of others (RCW 46.61.520)
24 VI Bail Jumping with Murder 1 (RCW
25 9A.76.170(3)(a))
26 Bribery (RCW 9A.68.010)
27 Incest 1 (RCW 9A.64.020(1))
28 Intimidating a Judge (RCW 9A.72.160)
29 Intimidating a Juror/Witness (RCW
30 9A.72.110, 9A.72.130)
31 Malicious placement of an imitation device
32 2 (RCW 70.74.272(1)(b))
33 Manufacture, deliver, or possess with
34 intent to deliver narcotics from
35 Schedule I or II (except heroin or
36 cocaine) or flunitrazepam from
37 Schedule IV (RCW 69.50.401(a)(1)(i))
38 Rape of a Child 3 (RCW 9A.44.079)
39 Robbery 2 (RCW 9A.56.210)

1 Theft of a Firearm (RCW 9A.56.300)
2 Unlawful Storage of Anhydrous Ammonia (RCW
3 69.55.020)
4 V Abandonment of dependent person 1 (RCW
5 9A.42.060)
6 Advancing money or property for
7 extortionate extension of credit (RCW
8 9A.82.030)
9 Bail Jumping with class A Felony (RCW
10 9A.76.170(3)(b))
11 Child Molestation 3 (RCW 9A.44.089)
12 Criminal Mistreatment 1 (RCW 9A.42.020)
13 Custodial Sexual Misconduct 1 (RCW
14 9A.44.160)
15 Delivery of imitation controlled substance
16 by person eighteen or over to person
17 under eighteen (RCW 69.52.030(2))
18 Domestic Violence Court Order Violation
19 (RCW 10.99.040, 10.99.050, 26.09.300,
20 26.10.220, 26.26.138, 26.50.110,
21 26.52.070, or 74.34.145)
22 Extortion 1 (RCW 9A.56.120)
23 Extortionate Extension of Credit (RCW
24 9A.82.020)
25 Extortionate Means to Collect Extensions of
26 Credit (RCW 9A.82.040)
27 Incest 2 (RCW 9A.64.020(2))
28 Kidnapping 2 (RCW 9A.40.030)
29 Perjury 1 (RCW 9A.72.020)
30 Persistent prison misbehavior (RCW
31 9.94.070)
32 Possession of a Stolen Firearm (RCW
33 9A.56.310)
34 Rape 3 (RCW 9A.44.060)
35 Rendering Criminal Assistance 1 (RCW
36 9A.76.070)
37 Sexual Misconduct with a Minor 1 (RCW
38 9A.44.093)

1 Sexually Violating Human Remains (RCW
2 9A.44.105)
3 Stalking (RCW 9A.46.110)

4 IV Arson 2 (RCW 9A.48.030)
5 Assault 2 (RCW 9A.36.021)
6 Assault by Watercraft (RCW 79A.60.060)
7 Bribing a Witness/Bribe Received by Witness
8 (RCW 9A.72.090, 9A.72.100)
9 Commercial Bribery (RCW 9A.68.060)
10 Counterfeiting (RCW 9.16.035(4))
11 Escape 1 (RCW 9A.76.110)
12 Hit and Run--Injury (RCW 46.52.020(4)(b))
13 Hit and Run with Vessel--Injury Accident
14 (RCW 79A.60.200(3))
15 Identity Theft 1 (RCW 9.35.020(2)(a))
16 Indecent Exposure to Person Under Age
17 Fourteen (subsequent sex offense) (RCW
18 9A.88.010)
19 Influencing Outcome of Sporting Event (RCW
20 9A.82.070)
21 Knowingly Trafficking in Stolen Property
22 (RCW 9A.82.050(2))
23 Malicious Harassment (RCW 9A.36.080)
24 Manufacture, deliver, or possess with
25 intent to deliver narcotics from
26 Schedule III, IV, or V or nonnarcotics
27 from Schedule I-V (except marijuana,
28 amphetamine, methamphetamines, or
29 flunitrazepam) (RCW 69.50.401(a)(1)
30 (iii) through (v))
31 Residential Burglary (RCW 9A.52.025)
32 Robbery ((~~2~~(RCW ~~9A.56.210~~)) 3 (section 2
33 of this act))
34 Theft of Livestock 1 (RCW 9A.56.080)
35 Threats to Bomb (RCW 9.61.160)
36 Use of Proceeds of Criminal Profiteering
37 (RCW 9A.82.080 (1) and (2))
38 Vehicular Assault, by being under the
39 influence of intoxicating liquor or

1 any drug, or by the operation or
2 driving of a vehicle in a reckless
3 manner (RCW 46.61.522)
4 Willful Failure to Return from Furlough
5 (RCW 72.66.060)

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

1 Patronizing a Juvenile Prostitute (RCW
2 9.68A.100)
3 Perjury 2 (RCW 9A.72.030)
4 Possession of Incendiary Device (RCW
5 9.40.120)
6 Possession of Machine Gun or Short-Barreled
7 Shotgun or Rifle (RCW 9.41.190)
8 Promoting Prostitution 2 (RCW 9A.88.080)
9 Recklessly Trafficking in Stolen Property
10 (RCW 9A.82.050(1))
11 Securities Act violation (RCW 21.20.400)
12 Tampering with a Witness (RCW 9A.72.120)
13 Telephone Harassment (subsequent conviction
14 or threat of death) (RCW 9.61.230)
15 Theft of Livestock 2 (RCW 9A.56.080)
16 Unlawful Imprisonment (RCW 9A.40.040)
17 Unlawful possession of firearm in the
18 second degree (RCW 9.41.040(1)(b))
19 Unlawful Use of Building for Drug Purposes
20 (RCW 69.53.010)
21 Vehicular Assault, by the operation or
22 driving of a vehicle with disregard
23 for the safety of others (RCW
24 46.61.522)
25 Willful Failure to Return from Work Release
26 (RCW 72.65.070)

27 II Computer Trespass 1 (RCW 9A.52.110)
28 Counterfeiting (RCW 9.16.035(3))
29 Create, deliver, or possess a counterfeit
30 controlled substance (RCW
31 69.50.401(b))
32 Escape from Community Custody (RCW
33 72.09.310)
34 Health Care False Claims (RCW 48.80.030)
35 Identity Theft 2 (RCW 9.35.020(2)(b))
36 Improperly Obtaining Financial Information
37 (RCW 9.35.010)
38 Malicious Mischief 1 (RCW 9A.48.070)

1 Possession of controlled substance that is
2 either heroin or narcotics from
3 Schedule I or II or flunitrazepam from
4 Schedule IV (RCW 69.50.401(d))
5 Possession of phencyclidine (PCP) (RCW
6 69.50.401(d))
7 Possession of Stolen Property 1 (RCW
8 9A.56.150)
9 Theft 1 (RCW 9A.56.030)
10 Theft of Rental, Leased, or Lease-purchased
11 Property (valued at one thousand five
12 hundred dollars or more) (RCW
13 9A.56.096(4))
14 Trafficking in Insurance Claims (RCW
15 48.30A.015)
16 Unlawful Practice of Law (RCW 2.48.180)
17 Unlicensed Practice of a Profession or
18 Business (RCW 18.130.190(7))

19 I Attempting to Elude a Pursuing Police
20 Vehicle (RCW 46.61.024)
21 False Verification for Welfare (RCW
22 74.08.055)
23 Forged Prescription (RCW 69.41.020)
24 Forged Prescription for a Controlled
25 Substance (RCW 69.50.403)
26 Forgery (RCW 9A.60.020)
27 Malicious Mischief 2 (RCW 9A.48.080)
28 Possess Controlled Substance that is a
29 Narcotic from Schedule III, IV, or V
30 or Non-narcotic from Schedule I-V
31 (except phencyclidine or
32 flunitrazepam) (RCW 69.50.401(d))
33 Possession of Stolen Property 2 (RCW
34 9A.56.160)
35 Reckless Burning 1 (RCW 9A.48.040)
36 Taking Motor Vehicle Without Permission
37 (RCW 9A.56.070)
38 Theft 2 (RCW 9A.56.040)

1 Theft of Rental, Leased, or Lease-purchased
2 Property (valued at two hundred fifty
3 dollars or more but less than one
4 thousand five hundred dollars) (RCW
5 9A.56.096(4))
6 Unlawful Issuance of Checks or Drafts (RCW
7 9A.56.060)
8 Unlawful Use of Food Stamps (RCW 9.91.140
9 (2) and (3))
10 Vehicle Prowl 1 (RCW 9A.52.095)

11 **Sec. 7.** RCW 9A.32.030 and 1990 c 200 s 1 are each amended to read
12 as follows:

13 (1) A person is guilty of murder in the first degree when:

14 (a) With a premeditated intent to cause the death of another
15 person, he or she causes the death of such person or of a third person;
16 or

17 (b) Under circumstances manifesting an extreme indifference to
18 human life, he or she engages in conduct which creates a grave risk of
19 death to any person, and thereby causes the death of a person; or

20 (c) He or she commits or attempts to commit the crime of either (1)
21 robbery in the first (~~(or)~~), second, or third degree, (2) rape in the
22 first or second degree, (3) burglary in the first degree, (4) arson in
23 the first or second degree, or (5) kidnapping in the first or second
24 degree, and in the course of or in furtherance of such crime or in
25 immediate flight therefrom, he or she, or another participant, causes
26 the death of a person other than one of the participants: Except that
27 in any prosecution under this subdivision (1)(c) in which the defendant
28 was not the only participant in the underlying crime, if established by
29 the defendant by a preponderance of the evidence, it is a defense that
30 the defendant:

31 (i) Did not commit the homicidal act or in any way solicit,
32 request, command, importune, cause, or aid the commission thereof; and

33 (ii) Was not armed with a deadly weapon, or any instrument,
34 article, or substance readily capable of causing death or serious
35 physical injury; and

36 (iii) Had no reasonable grounds to believe that any other
37 participant was armed with such a weapon, instrument, article, or
38 substance; and

1 (iv) Had no reasonable grounds to believe that any other
2 participant intended to engage in conduct likely to result in death or
3 serious physical injury.

4 (2) Murder in the first degree is a class A felony.

5 **Sec. 8.** RCW 9A.82.010 and 2001 c 222 s 3 and 2001 c 217 s 11 are
6 each reenacted and amended to read as follows:

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

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

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

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

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

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

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

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

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

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

37 (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, and
2 section 2 of this act;

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

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

5 (e) Theft, as defined in RCW 9A.56.030, 9A.56.040, 9A.56.060, and
6 9A.56.080;

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

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

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

12 (i) Bribery, as defined in RCW 9A.68.010, 9A.68.020, 9A.68.040, and
13 9A.68.050;

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

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

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

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

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

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

22 (p) Delivery or manufacture of controlled substances or possession
23 with intent to deliver or manufacture controlled substances under
24 chapter 69.50 RCW;

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

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

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

28 (t) Obstructing criminal investigations or prosecutions in
29 violation of RCW 9A.72.090, 9A.72.100, 9A.72.110, 9A.72.120, 9A.72.130,
30 9A.76.070, or 9A.76.180;

31 (u) Fraud in the purchase or sale of securities, as defined in RCW
32 21.20.010;

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

34 (w) Sexual exploitation of children, as defined in RCW 9.68A.040,
35 9.68A.050, and 9.68A.060;

36 (x) Promoting prostitution, as defined in RCW 9A.88.070 and
37 9A.88.080;

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

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

1 (aa) Assault of a child, as defined in RCW 9A.36.120 and 9A.36.130;
2 (bb) A pattern of equity skimming, as defined in RCW 61.34.020;
3 (cc) Commercial telephone solicitation in violation of RCW
4 19.158.040(1);
5 (dd) Trafficking in insurance claims, as defined in RCW 48.30A.015;
6 (ee) Unlawful practice of law, as defined in RCW 2.48.180;
7 (ff) Commercial bribery, as defined in RCW 9A.68.060;
8 (gg) Health care false claims, as defined in RCW 48.80.030;
9 (hh) Unlicensed practice of a profession or business, as defined in
10 RCW 18.130.190(7);
11 (ii) Improperly obtaining financial information, as defined in RCW
12 9.35.010; or
13 (jj) Identity theft, as defined in RCW 9.35.020.
14 (5) "Dealer in property" means a person who buys and sells property
15 as a business.
16 (6) "Debtor" means a person to whom an extension of credit is made
17 or a person who guarantees the repayment of an extension of credit or
18 in any manner undertakes to indemnify the creditor against loss
19 resulting from the failure of a person to whom an extension is made to
20 repay the same.
21 (7) "Documentary material" means any book, paper, document,
22 writing, drawing, graph, chart, photograph, phonograph record, magnetic
23 tape, computer printout, other data compilation from which information
24 can be obtained or from which information can be translated into usable
25 form, or other tangible item.
26 (8) "Enterprise" includes any individual, sole proprietorship,
27 partnership, corporation, business trust, or other profit or nonprofit
28 legal entity, and includes any union, association, or group of
29 individuals associated in fact although not a legal entity, and both
30 illicit and licit enterprises and governmental and nongovernmental
31 entities.
32 (9) "Extortionate extension of credit" means an extension of credit
33 with respect to which it is the understanding of the creditor and the
34 debtor at the time the extension is made that delay in making repayment
35 or failure to make repayment could result in the use of violence or
36 other criminal means to cause harm to the person, reputation, or
37 property of any person.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (ii) A trustee of any testamentary trust;

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

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

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

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

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

32 (ii) Chapter 9.46 RCW relating to gambling;

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

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

37 **Sec. 9.** RCW 10.95.020 and 1998 c 305 s 1 are each amended to read
38 as follows:

1 A person is guilty of aggravated first degree murder if he or she
2 commits first degree murder as defined by RCW 9A.32.030(1)(a), as now
3 or hereafter amended, and one or more of the following aggravating
4 circumstances exist:

5 (1) The victim was a law enforcement officer, corrections officer,
6 or fire fighter who was performing his or her official duties at the
7 time of the act resulting in death and the victim was known or
8 reasonably should have been known by the person to be such at the time
9 of the killing;

10 (2) At the time of the act resulting in the death, the person was
11 serving a term of imprisonment, had escaped, or was on authorized or
12 unauthorized leave in or from a state facility or program for the
13 incarceration or treatment of persons adjudicated guilty of crimes;

14 (3) At the time of the act resulting in death, the person was in
15 custody in a county or county-city jail as a consequence of having been
16 adjudicated guilty of a felony;

17 (4) The person committed the murder pursuant to an agreement that
18 he or she would receive money or any other thing of value for
19 committing the murder;

20 (5) The person solicited another person to commit the murder and
21 had paid or had agreed to pay money or any other thing of value for
22 committing the murder;

23 (6) The person committed the murder to obtain or maintain his or
24 her membership or to advance his or her position in the hierarchy of an
25 organization, association, or identifiable group;

26 (7) The murder was committed during the course of or as a result of
27 a shooting where the discharge of the firearm, as defined in RCW
28 9.41.010, is either from a motor vehicle or from the immediate area of
29 a motor vehicle that was used to transport the shooter or the firearm,
30 or both, to the scene of the discharge;

31 (8) The victim was:

32 (a) A judge; juror or former juror; prospective, current, or former
33 witness in an adjudicative proceeding; prosecuting attorney; deputy
34 prosecuting attorney; defense attorney; a member of the indeterminate
35 sentence review board; or a probation or parole officer; and

36 (b) The murder was related to the exercise of official duties
37 performed or to be performed by the victim;

38 (9) The person committed the murder to conceal the commission of a
39 crime or to protect or conceal the identity of any person committing a

1 crime, including, but specifically not limited to, any attempt to avoid
2 prosecution as a persistent offender as defined in RCW 9.94A.030;

3 (10) There was more than one victim and the murders were part of a
4 common scheme or plan or the result of a single act of the person;

5 (11) The murder was committed in the course of, in furtherance of,
6 or in immediate flight from one of the following crimes:

7 (a) Robbery in the first (~~(or)~~), second, or third degree;

8 (b) Rape in the first or second degree;

9 (c) Burglary in the first or second degree or residential burglary;

10 (d) Kidnapping in the first degree; or

11 (e) Arson in the first degree;

12 (12) The victim was regularly employed or self-employed as a
13 newsreporter and the murder was committed to obstruct or hinder the
14 investigative, research, or reporting activities of the victim;

15 (13) At the time the person committed the murder, there existed a
16 court order, issued in this or any other state, which prohibited the
17 person from either contacting the victim, molesting the victim, or
18 disturbing the peace of the victim, and the person had knowledge of the
19 existence of that order;

20 (14) At the time the person committed the murder, the person and
21 the victim were "family or household members" as that term is defined
22 in RCW 10.99.020(1), and the person had previously engaged in a pattern
23 or practice of three or more of the following crimes committed upon the
24 victim within a five-year period, regardless of whether a conviction
25 resulted:

26 (a) Harassment as defined in RCW 9A.46.020; or

27 (b) Any criminal assault.

28 **Sec. 10.** RCW 13.40.0357 and 2001 c 217 s 13 are each amended to
29 read as follows:

30 **DESCRIPTION AND OFFENSE CATEGORY**

31	JUVENILE		JUVENILE DISPOSITION
32	DISPOSITION		CATEGORY FOR ATTEMPT,
33	OFFENSE		BAILJUMP, CONSPIRACY,
34	CATEGORY	DESCRIPTION (RCW CITATION)	OR SOLICITATION
35		

36 **Arson and Malicious Mischief**

37	A	Arson 1 (9A.48.020)	B+
38	B	Arson 2 (9A.48.030)	C

1	C	Reckless Burning 1 (9A.48.040)	D
2	D	Reckless Burning 2 (9A.48.050)	E
3	B	Malicious Mischief 1 (9A.48.070)	C
4	C	Malicious Mischief 2 (9A.48.080)	D
5	D	Malicious Mischief 3 (<\$50 is	
6		E class) (9A.48.090)	E
7	E	Tampering with Fire Alarm	
8		Apparatus (9.40.100)	E
9	A	Possession of Incendiary Device	
10		(9.40.120)	B+
11		Assault and Other Crimes	
12		Involving Physical Harm	
13	A	Assault 1 (9A.36.011)	B+
14	B+	Assault 2 (9A.36.021)	C+
15	C+	Assault 3 (9A.36.031)	D+
16	D+	Assault 4 (9A.36.041)	E
17	B+	Drive-By Shooting	
18		(9A.36.045)	C+
19	D+	Reckless Endangerment	
20		(9A.36.050)	E
21	C+	Promoting Suicide Attempt	
22		(9A.36.060)	D+
23	D+	Coercion (9A.36.070)	E
24	C+	Custodial Assault (9A.36.100)	D+
25		Burglary and Trespass	
26	B+	Burglary 1 (9A.52.020)	C+
27	B	Residential Burglary	
28		(9A.52.025)	C
29	B	Burglary 2 (9A.52.030)	C
30	D	Burglary Tools (Possession of)	
31		(9A.52.060)	E
32	D	Criminal Trespass 1 (9A.52.070)	E
33	E	Criminal Trespass 2 (9A.52.080)	E
34	C	Vehicle Prowling 1 (9A.52.095)	D
35	D	Vehicle Prowling 2 (9A.52.100)	E

1		Drugs	
2	E	Possession/Consumption of Alcohol	
3		(66.44.270)	E
4	C	Illegally Obtaining Legend Drug	
5		(69.41.020)	D
6	C+	Sale, Delivery, Possession of Legend	
7		Drug with Intent to Sell	
8		(69.41.030)	D+
9	E	Possession of Legend Drug	
10		(69.41.030)	E
11	B+	Violation of Uniform Controlled	
12		Substances Act - Narcotic,	
13		Methamphetamine, or Flunitrazepam	
14		Sale (69.50.401(a)(1) (i) or (ii))	B+
15	C	Violation of Uniform Controlled	
16		Substances Act - Nonnarcotic Sale	
17		(69.50.401(a)(1)(iii))	C
18	E	Possession of Marihuana <40 grams	
19		(69.50.401(e))	E
20	C	Fraudulently Obtaining Controlled	
21		Substance (69.50.403)	C
22	C+	Sale of Controlled Substance	
23		for Profit (69.50.410)	C+
24	E	Unlawful Inhalation (9.47A.020)	E
25	B	Violation of Uniform Controlled	
26		Substances Act - Narcotic,	
27		Methamphetamine, or Flunitrazepam	
28		Counterfeit Substances	
29		(69.50.401(b)(1) (i) or (ii))	B
30	C	Violation of Uniform Controlled	
31		Substances Act - Nonnarcotic	
32		Counterfeit Substances	
33		(69.50.401(b)(1) (iii), (iv), (v))	C
34	C	Violation of Uniform Controlled	
35		Substances Act - Possession of a	
36		Controlled Substance	
37		(69.50.401(d))	C
38	C	Violation of Uniform Controlled	
39		Substances Act - Possession of a	

1		Controlled Substance	
2		(69.50.401(c))	C
3		Firearms and Weapons	
4	B	Theft of Firearm (9A.56.300)	C
5	B	Possession of Stolen Firearm	
6		(9A.56.310)	C
7	E	Carrying Loaded Pistol Without	
8		Permit (9.41.050)	E
9	C	Possession of Firearms by Minor (<18)	
10		(9.41.040(1)(b)(iii))	C
11	D+	Possession of Dangerous Weapon	
12		(9.41.250)	E
13	D	Intimidating Another Person by use	
14		of Weapon (9.41.270)	E
15		Homicide	
16	A+	Murder 1 (9A.32.030)	A
17	A+	Murder 2 (9A.32.050)	B+
18	B+	Manslaughter 1 (9A.32.060)	C+
19	C+	Manslaughter 2 (9A.32.070)	D+
20	B+	Vehicular Homicide (46.61.520)	C+
21		Kidnapping	
22	A	Kidnap 1 (9A.40.020)	B+
23	B+	Kidnap 2 (9A.40.030)	C+
24	C+	Unlawful Imprisonment	
25		(9A.40.040)	D+
26		Obstructing Governmental Operation	
27	D	Obstructing a Law Enforcement	
28		Officer (9A.76.020)	E
29	E	Resisting Arrest (9A.76.040)	E
30	B	Introducing Contraband 1	
31		(9A.76.140)	C
32	C	Introducing Contraband 2	
33		(9A.76.150)	D
34	E	Introducing Contraband 3	
35		(9A.76.160)	E
36	B+	Intimidating a Public Servant	
37		(9A.76.180)	C+

1	B+	Intimidating a Witness	
2		(9A.72.110)	C+
3		Public Disturbance	
4	C+	Riot with Weapon (9A.84.010)	D+
5	D+	Riot Without Weapon	
6		(9A.84.010)	E
7	E	Failure to Disperse (9A.84.020)	E
8	E	Disorderly Conduct (9A.84.030)	E
9		Sex Crimes	
10	A	Rape 1 (9A.44.040)	B+
11	A-	Rape 2 (9A.44.050)	B+
12	C+	Rape 3 (9A.44.060)	D+
13	A-	Rape of a Child 1 (9A.44.073)	B+
14	B+	Rape of a Child 2 (9A.44.076)	C+
15	B	Incest 1 (9A.64.020(1))	C
16	C	Incest 2 (9A.64.020(2))	D
17	D+	Indecent Exposure	
18		(Victim <14) (9A.88.010)	E
19	E	Indecent Exposure	
20		(Victim 14 or over) (9A.88.010)	E
21	B+	Promoting Prostitution 1	
22		(9A.88.070)	C+
23	C+	Promoting Prostitution 2	
24		(9A.88.080)	D+
25	E	O & A (Prostitution) (9A.88.030)	E
26	B+	Indecent Liberties (9A.44.100)	C+
27	A-	Child Molestation 1 (9A.44.083)	B+
28	B	Child Molestation 2 (9A.44.086)	C+
29		Theft, Robbery, Extortion, and Forgery	
30	B	Theft 1 (9A.56.030)	C
31	C	Theft 2 (9A.56.040)	D
32	D	Theft 3 (9A.56.050)	E
33	B	Theft of Livestock (9A.56.080)	C
34	C	Forgery (9A.60.020)	D
35	A	Robbery 1 (9A.56.200)	B+
36	((B+))		
37	<u>A-</u>	Robbery 2 (9A.56.210)	((C+))
38			<u>B+</u>

1	B+	<u>Robbery 3 (section 2 of this act)</u>	C+
2	B+	Extortion 1 (9A.56.120)	C+
3	C+	Extortion 2 (9A.56.130)	D+
4	C	Identity Theft 1 (9.35.020(2)(a))	D
5	D	Identity Theft 2 (9.35.020(2)(b))	E
6	D	Improperly Obtaining Financial	
7		Information (((9.35.010)))	
8		<u>9.35.010</u>	E
9	B	Possession of Stolen Property 1	
10		(9A.56.150)	C
11	C	Possession of Stolen Property 2	
12		(9A.56.160)	D
13	D	Possession of Stolen Property 3	
14		(9A.56.170)	E
15	C	Taking Motor Vehicle Without	
16		Owner's Permission (9A.56.070)	D
17		Motor Vehicle Related Crimes	
18	E	Driving Without a License	
19		(46.20.005)	E
20	B+	Hit and Run - Death	
21		(46.52.020(4)(a))	C+
22	C	Hit and Run - Injury	
23		(46.52.020(4)(b))	D
24	D	Hit and Run-Attended	
25		(46.52.020(5))	E
26	E	Hit and Run-Unattended	
27		(46.52.010)	E
28	C	Vehicular Assault (46.61.522)	D
29	C	Attempting to Elude Pursuing	
30		Police Vehicle (46.61.024)	D
31	E	Reckless Driving (46.61.500)	E
32	D	Driving While Under the Influence	
33		(46.61.502 and 46.61.504)	E
34		Other	
35	B	Bomb Threat (9.61.160)	C
36	C	Escape 1 (9A.76.110)	C
37	C	Escape 2 (9A.76.120)	C
38	D	Escape 3 (9A.76.130)	E

1	E	Obscene, Harassing, Etc.,	
2		Phone Calls (9.61.230)	E
3	A	Other Offense Equivalent to an	
4		Adult Class A Felony	B+
5	B	Other Offense Equivalent to an	
6		Adult Class B Felony	C
7	C	Other Offense Equivalent to an	
8		Adult Class C Felony	D
9	D	Other Offense Equivalent to an	
10		Adult Gross Misdemeanor	E
11	E	Other Offense Equivalent to an	
12		Adult Misdemeanor	E
13	V	Violation of Order of Restitution,	
14		Community Supervision, or	
15		Confinement (13.40.200)	V

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

18 1st escape or attempted escape during 12-month period - 4 weeks
19 confinement

20 2nd escape or attempted escape during 12-month period - 8 weeks
21 confinement

22 3rd and subsequent escape or attempted escape during 12-month
23 period - 12 weeks confinement

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

26 **JUVENILE SENTENCING STANDARDS**

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

OPTION A
JUVENILE OFFENDER SENTENCING GRID
STANDARD RANGE

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Current Offense Category	15-36 WEEKS	52-65 WEEKS	80-100 WEEKS	103-129 WEEKS	
A+	180 WEEKS TO AGE 21 YEARS				
A	103 WEEKS TO 129 WEEKS				
A-	15-36 WEEKS	52-65 WEEKS	80-100 WEEKS	103-129 WEEKS	
	EXCEPT 30-40 WEEKS FOR 15-17 YEAR OLDS				
B+	15-36 WEEKS	52-65 WEEKS	80-100 WEEKS	103-129 WEEKS	
B	LOCAL SANCTIONS (LS)	15-36 WEEKS	52-65 WEEKS		
C+	LS	15-36 WEEKS			
C	LS	15-36 WEEKS			
		Local Sanctions: 0 to 30 Days			
D+	LS	0 to 12 Months Community Supervision 0 to 150 Hours Community Service			
D	LS	\$0 to \$500 Fine			
E	LS				
	0	1	2	3	4 or more
	PRIOR ADJUDICATIONS				

36 NOTE: References in the grid to days or weeks mean periods of
37 confinement.

38 (1) The vertical axis of the grid is the current offense category.
39 The current offense category is determined by the offense of
40 adjudication.

41 (2) The horizontal axis of the grid is the number of prior
42 adjudications included in the juvenile's criminal history. Each prior
43 felony adjudication shall count as one point. Each prior violation,

1 misdemeanor, and gross misdemeanor adjudication shall count as 1/4
2 point. Fractional points shall be rounded down.

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

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

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

11 OR

12 OPTION B

13 CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE

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

18 OR

19 OPTION C

20 MANIFEST INJUSTICE

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

24 **Sec. 11.** RCW 13.40.110 and 1997 c 338 s 20 are each amended to
25 read as follows:

26 (1) The prosecutor, respondent, or the court on its own motion may,
27 before a hearing on the information on its merits, file a motion
28 requesting the court to transfer the respondent for adult criminal
29 prosecution and the matter shall be set for a hearing on the question
30 of declining jurisdiction. Unless waived by the court, the parties,
31 and their counsel, a decline hearing shall be held when:

32 (a) The respondent is fifteen, sixteen, or seventeen years of age
33 and the information alleges a class A felony or an attempt,
34 solicitation, or conspiracy to commit a class A felony;

1 (b) The respondent is seventeen years of age and the information
2 alleges assault in the second degree, extortion in the first degree,
3 indecent liberties, child molestation in the second degree, kidnapping
4 in the second degree, ((~~or~~)) robbery in the second degree, or robbery
5 in the third degree; or

6 (c) The information alleges an escape by the respondent and the
7 respondent is serving a minimum juvenile sentence to age twenty-one.

8 (2) The court after a decline hearing may order the case
9 transferred for adult criminal prosecution upon a finding that the
10 declination would be in the best interest of the juvenile or the
11 public. The court shall consider the relevant reports, facts,
12 opinions, and arguments presented by the parties and their counsel.

13 (3) When the respondent is transferred for criminal prosecution or
14 retained for prosecution in juvenile court, the court shall set forth
15 in writing its finding which shall be supported by relevant facts and
16 opinions produced at the hearing.

--- END ---