

SHB 1175 - S COMM AMD

By Committee on Children & Family Services & Corrections

ADOPTED AS AMENDED 04/17/2003

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 9A.40 RCW
4 to read as follows:

5 (1)(a) A person is guilty of trafficking in the first degree when:

6 (i) Such person:

7 (A) Recruits, harbors, transports, provides, or obtains by any
8 means another person knowing that force, fraud, or coercion as defined
9 in RCW 9A.36.070 will be used to cause the person to engage in forced
10 labor or involuntary servitude; or

11 (B) Benefits financially or by receiving anything of value from
12 participation in a venture that has engaged in acts set forth in
13 (a)(i)(A) of this subsection; and

14 (ii) The acts or venture set forth in (a)(i) of this subsection:

15 (A) Involve committing or attempting to commit kidnapping;

16 (B) Involve a finding of sexual motivation under RCW 9.94A.835; or

17 (C) Result in a death.

18 (b) Trafficking in the first degree is a class A felony.

19 (2)(a) A person is guilty of trafficking in the second degree when
20 such person:

21 (i) Recruits, harbors, transports, provides, or obtains by any
22 means another person knowing that force, fraud, or coercion as defined
23 in RCW 9A.36.070 will be used to cause the person to engage in forced
24 labor or involuntary servitude; or

25 (ii) Benefits financially or by receiving anything of value from
26 participation in a venture that has engaged in acts set forth in (a)(i)
27 of this subsection.

28 (b) Trafficking in the second degree is a class A felony.

1 **Sec. 2.** RCW 9.94A.515 and 2002 c 340 s 2, 2002 c 324 s 2, 2002 c
2 290 s 2, 2002 c 253 s 4, 2002 c 229 s 2, 2002 c 134 s 2, and 2002 c 133
3 s 4 are each reenacted and amended to read as follows:

	TABLE 2
	CRIMES INCLUDED WITHIN
	EACH SERIOUSNESS LEVEL
XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055) Malicious explosion 1 (RCW 70.74.280(1)) Murder 1 (RCW 9A.32.030)
XIV	Murder 2 (RCW 9A.32.050) <u>Trafficking 1 (section 1(1) of this act)</u>
XIII	Malicious explosion 2 (RCW 70.74.280(2)) Malicious placement of an explosive 1 (RCW 70.74.270(1))
XII	Assault 1 (RCW 9A.36.011) Assault of a Child 1 (RCW 9A.36.120) Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a)) Rape 1 (RCW 9A.44.040) Rape of a Child 1 (RCW 9A.44.073) <u>Trafficking 2 (section 1(2) of this act)</u>
XI	Manslaughter 1 (RCW 9A.32.060) Rape 2 (RCW 9A.44.050) Rape of a Child 2 (RCW 9A.44.076)
X	Child Molestation 1 (RCW 9A.44.083) Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a)) Kidnapping 1 (RCW 9A.40.020) Leading Organized Crime (RCW 9A.82.060(1)(a))

1 Malicious explosion 3 (RCW
2 70.74.280(3))
3 Manufacture of methamphetamine
4 (RCW 69.50.401(a)(1)(ii))
5 Over 18 and deliver heroin,
6 methamphetamine, a narcotic
7 from Schedule I or II, or
8 flunitrazepam from Schedule IV
9 to someone under 18 (RCW
10 69.50.406)
11 Sexually Violent Predator Escape
12 (RCW 9A.76.115)
13 IX Assault of a Child 2 (RCW 9A.36.130)
14 Controlled Substance Homicide (RCW
15 69.50.415)
16 Explosive devices prohibited (RCW
17 70.74.180)
18 Hit and Run--Death (RCW
19 46.52.020(4)(a))
20 Homicide by Watercraft, by being
21 under the influence of intoxicating
22 liquor or any drug (RCW
23 79A.60.050)
24 Inciting Criminal Profiteering (RCW
25 9A.82.060(1)(b))
26 Malicious placement of an explosive 2
27 (RCW 70.74.270(2))
28 Over 18 and deliver narcotic from
29 Schedule III, IV, or V or a
30 nonnarcotic, except flunitrazepam
31 or methamphetamine, from
32 Schedule I-V to someone under 18
33 and 3 years junior (RCW
34 69.50.406)
35 Robbery 1 (RCW 9A.56.200)
36 Sexual Exploitation (RCW 9.68A.040)

1 Vehicular Homicide, by being under
2 the influence of intoxicating
3 liquor or any drug (RCW
4 46.61.520)

5 VIII Arson 1 (RCW 9A.48.020)

6 Deliver or possess with intent to
7 deliver methamphetamine (RCW
8 69.50.401(a)(1)(ii))

9 Homicide by Watercraft, by the
10 operation of any vessel in a
11 reckless manner (RCW
12 79A.60.050)

13 Manslaughter 2 (RCW 9A.32.070)

14 Manufacture, deliver, or possess with
15 intent to deliver amphetamine
16 (RCW 69.50.401(a)(1)(ii))

17 Manufacture, deliver, or possess with
18 intent to deliver heroin or cocaine
19 (when the offender has a criminal
20 history in this state or any other
21 state that includes a sex offense or
22 serious violent offense or the
23 Washington equivalent) (RCW
24 69.50.401(a)(1)(i))

25 Possession of Ephedrine or any of its
26 Salts or Isomers or Salts of
27 Isomers, Pseudoephedrine or any
28 of its Salts or Isomers or Salts of
29 Isomers, Pressurized Ammonia
30 Gas, or Pressurized Ammonia Gas
31 Solution with intent to
32 manufacture methamphetamine
33 (RCW 69.50.440)

34 Promoting Prostitution 1 (RCW
35 9A.88.070)

1 Selling for profit (controlled or
2 counterfeit) any controlled
3 substance (RCW 69.50.410)
4 Theft of Ammonia (RCW 69.55.010)
5 Vehicular Homicide, by the operation
6 of any vehicle in a reckless
7 manner (RCW 46.61.520)
8 VII Burglary 1 (RCW 9A.52.020)
9 Child Molestation 2 (RCW 9A.44.086)
10 Civil Disorder Training (RCW
11 9A.48.120)
12 Dealing in depictions of minor
13 engaged in sexually explicit
14 conduct (RCW 9.68A.050)
15 Drive-by Shooting (RCW 9A.36.045)
16 Homicide by Watercraft, by disregard
17 for the safety of others (RCW
18 79A.60.050)
19 Indecent Liberties (without forcible
20 compulsion) (RCW 9A.44.100(1)
21 (b) and (c))
22 Introducing Contraband 1 (RCW
23 9A.76.140)
24 Involving a minor in drug dealing
25 (RCW 69.50.401(f))
26 Malicious placement of an explosive 3
27 (RCW 70.74.270(3))
28 Manufacture, deliver, or possess with
29 intent to deliver heroin or cocaine
30 (except when the offender has a
31 criminal history in this state or
32 any other state that includes a sex
33 offense or serious violent offense
34 or the Washington equivalent)
35 (RCW 69.50.401(a)(1)(i))

1 Sending, bringing into state depictions
2 of minor engaged in sexually
3 explicit conduct (RCW
4 9.68A.060)
5 Unlawful Possession of a Firearm in
6 the first degree (RCW
7 9.41.040(1)(a))
8 Use of a Machine Gun in Commission
9 of a Felony (RCW 9.41.225)
10 Vehicular Homicide, by disregard for
11 the safety of others (RCW
12 46.61.520)
13 VI Bail Jumping with Murder 1 (RCW
14 9A.76.170(3)(a))
15 Bribery (RCW 9A.68.010)
16 Incest 1 (RCW 9A.64.020(1))
17 Intimidating a Judge (RCW
18 9A.72.160)
19 Intimidating a Juror/Witness (RCW
20 9A.72.110, 9A.72.130)
21 Malicious placement of an imitation
22 device 2 (RCW 70.74.272(1)(b))
23 Manufacture, deliver, or possess with
24 intent to deliver narcotics from
25 Schedule I or II (except heroin or
26 cocaine) or flunitrazepam from
27 Schedule IV (RCW
28 69.50.401(a)(1)(i))
29 Rape of a Child 3 (RCW 9A.44.079)
30 Theft of a Firearm (RCW 9A.56.300)
31 Unlawful Storage of Ammonia (RCW
32 69.55.020)
33 V Abandonment of dependent person 1
34 (RCW 9A.42.060)
35 Advancing money or property for
36 extortionate extension of credit
37 (RCW 9A.82.030)

1 Bail Jumping with class A Felony
2 (RCW 9A.76.170(3)(b))
3 Child Molestation 3 (RCW 9A.44.089)
4 Criminal Mistreatment 1 (RCW
5 9A.42.020)
6 Custodial Sexual Misconduct 1 (RCW
7 9A.44.160)
8 Delivery of imitation controlled
9 substance by person eighteen or
10 over to person under eighteen
11 (RCW 69.52.030(2))
12 Domestic Violence Court Order
13 Violation (RCW 10.99.040,
14 10.99.050, 26.09.300, 26.10.220,
15 26.26.138, 26.50.110, 26.52.070,
16 or 74.34.145)
17 Extortion 1 (RCW 9A.56.120)
18 Extortionate Extension of Credit
19 (RCW 9A.82.020)
20 Extortionate Means to Collect
21 Extensions of Credit (RCW
22 9A.82.040)
23 Incest 2 (RCW 9A.64.020(2))
24 Kidnapping 2 (RCW 9A.40.030)
25 Perjury 1 (RCW 9A.72.020)
26 Persistent prison misbehavior (RCW
27 9.94.070)
28 Possession of a Stolen Firearm (RCW
29 9A.56.310)
30 Rape 3 (RCW 9A.44.060)
31 Rendering Criminal Assistance 1
32 (RCW 9A.76.070)
33 Sexual Misconduct with a Minor 1
34 (RCW 9A.44.093)
35 Sexually Violating Human Remains
36 (RCW 9A.44.105)
37 Stalking (RCW 9A.46.110)

1 Taking Motor Vehicle Without
2 Permission 1 (RCW
3 9A.56.070(1))
4 IV Arson 2 (RCW 9A.48.030)
5 Assault 2 (RCW 9A.36.021)
6 Assault by Watercraft (RCW
7 79A.60.060)
8 Bribing a Witness/Bribe Received by
9 Witness (RCW 9A.72.090,
10 9A.72.100)
11 Cheating 1 (RCW 9.46.1961)
12 Commercial Bribery (RCW
13 9A.68.060)
14 Counterfeiting (RCW 9.16.035(4))
15 Endangerment with a Controlled
16 Substance (RCW 9A.42.100)
17 Escape 1 (RCW 9A.76.110)
18 Hit and Run--Injury (RCW
19 46.52.020(4)(b))
20 Hit and Run with Vessel--Injury
21 Accident (RCW 79A.60.200(3))
22 Identity Theft 1 (RCW 9.35.020(2)(a))
23 Indecent Exposure to Person Under
24 Age Fourteen (subsequent sex
25 offense) (RCW 9A.88.010)
26 Influencing Outcome of Sporting
27 Event (RCW 9A.82.070)
28 Knowingly Trafficking in Stolen
29 Property (RCW 9A.82.050(2))
30 Malicious Harassment (RCW
31 9A.36.080)

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

1 Custodial Assault (RCW 9A.36.100)
2 Delivery of a material in lieu of a
3 controlled substance (RCW
4 69.50.401(c))
5 Escape 2 (RCW 9A.76.120)
6 Extortion 2 (RCW 9A.56.130)
7 Harassment (RCW 9A.46.020)
8 Intimidating a Public Servant (RCW
9 9A.76.180)
10 Introducing Contraband 2 (RCW
11 9A.76.150)
12 Maintaining a Dwelling or Place for
13 Controlled Substances (RCW
14 69.50.402(a)(6))
15 Malicious Injury to Railroad Property
16 (RCW 81.60.070)
17 Manufacture, deliver, or possess with
18 intent to deliver marijuana (RCW
19 69.50.401(a)(1)(iii))
20 Manufacture, distribute, or possess
21 with intent to distribute an
22 imitation controlled substance
23 (RCW 69.52.030(1))
24 Patronizing a Juvenile Prostitute
25 (RCW 9.68A.100)
26 Perjury 2 (RCW 9A.72.030)
27 Possession of Incendiary Device (RCW
28 9.40.120)
29 Possession of Machine Gun or Short-
30 Barreled Shotgun or Rifle (RCW
31 9.41.190)
32 Promoting Prostitution 2 (RCW
33 9A.88.080)
34 Recklessly Trafficking in Stolen
35 Property (RCW 9A.82.050(1))
36 Securities Act violation (RCW
37 21.20.400)

1 Tampering with a Witness (RCW
2 9A.72.120)
3 Telephone Harassment (subsequent
4 conviction or threat of death)
5 (RCW 9.61.230)
6 Theft of Livestock 2 (RCW 9A.56.080)
7 Unlawful Imprisonment (RCW
8 9A.40.040)
9 Unlawful possession of firearm in the
10 second degree (RCW
11 9.41.040(1)(b))
12 Unlawful Use of Building for Drug
13 Purposes (RCW 69.53.010)
14 Vehicular Assault, by the operation or
15 driving of a vehicle with disregard
16 for the safety of others (RCW
17 46.61.522)
18 Willful Failure to Return from Work
19 Release (RCW 72.65.070)
20 II Computer Trespass 1 (RCW
21 9A.52.110)
22 Counterfeiting (RCW 9.16.035(3))
23 Create, deliver, or possess a counterfeit
24 controlled substance (RCW
25 69.50.401(b))
26 Escape from Community Custody
27 (RCW 72.09.310)
28 Health Care False Claims (RCW
29 48.80.030)
30 Identity Theft 2 (RCW 9.35.020(2)(b))
31 Improperly Obtaining Financial
32 Information (RCW 9.35.010)
33 Malicious Mischief 1 (RCW
34 9A.48.070)

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

1 Possession of Stolen Property 2 (RCW
 2 9A.56.160)
 3 Reckless Burning 1 (RCW 9A.48.040)
 4 Taking Motor Vehicle Without
 5 Permission 2 (RCW
 6 9A.56.070(2))
 7 Theft 2 (RCW 9A.56.040)
 8 Theft of Rental, Leased, or Lease-
 9 purchased Property (valued at two
 10 hundred fifty dollars or more but
 11 less than one thousand five
 12 hundred dollars) (RCW
 13 9A.56.096(4))
 14 Unlawful Issuance of Checks or Drafts
 15 (RCW 9A.56.060)
 16 Unlawful Use of Food Stamps (RCW
 17 9.91.140 (2) and (3))
 18 Vehicle Prowl 1 (RCW 9A.52.095)

19 **Sec. 3.** RCW 9.94A.515 and 2002 c 340 s 2, 2002 c 324 s 2, 2002 c
 20 290 s 7, 2002 c 253 s 4, 2002 c 229 s 2, 2002 c 134 s 2, and 2002 c 133
 21 s 4 are each reenacted and amended to read as follows:

22 TABLE 2
 23 CRIMES INCLUDED WITHIN
 24 EACH SERIOUSNESS LEVEL

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

1 Malicious placement of an explosive 1
2 (RCW 70.74.270(1))
3 XII Assault 1 (RCW 9A.36.011)
4 Assault of a Child 1 (RCW 9A.36.120)
5 Malicious placement of an imitation
6 device 1 (RCW 70.74.272(1)(a))
7 Rape 1 (RCW 9A.44.040)
8 Rape of a Child 1 (RCW 9A.44.073)
9 Trafficking 2 (section 1(2) of this act)
10 XI Manslaughter 1 (RCW 9A.32.060)
11 Rape 2 (RCW 9A.44.050)
12 Rape of a Child 2 (RCW 9A.44.076)
13 X Child Molestation 1 (RCW 9A.44.083)
14 Indecent Liberties (with forcible
15 compulsion) (RCW
16 9A.44.100(1)(a))
17 Kidnapping 1 (RCW 9A.40.020)
18 Leading Organized Crime (RCW
19 9A.82.060(1)(a))
20 Malicious explosion 3 (RCW
21 70.74.280(3))
22 Sexually Violent Predator Escape
23 (RCW 9A.76.115)
24 IX Assault of a Child 2 (RCW 9A.36.130)
25 Explosive devices prohibited (RCW
26 70.74.180)
27 Hit and Run--Death (RCW
28 46.52.020(4)(a))
29 Homicide by Watercraft, by being
30 under the influence of intoxicating
31 liquor or any drug (RCW
32 79A.60.050)
33 Inciting Criminal Profiteering (RCW
34 9A.82.060(1)(b))
35 Malicious placement of an explosive 2
36 (RCW 70.74.270(2))
37 Robbery 1 (RCW 9A.56.200)

1 Sexual Exploitation (RCW 9.68A.040)
2 Vehicular Homicide, by being under
3 the influence of intoxicating
4 liquor or any drug (RCW
5 46.61.520)
6 VIII Arson 1 (RCW 9A.48.020)
7 Homicide by Watercraft, by the
8 operation of any vessel in a
9 reckless manner (RCW
10 79A.60.050)
11 Manslaughter 2 (RCW 9A.32.070)
12 Promoting Prostitution 1 (RCW
13 9A.88.070)
14 Theft of Ammonia (RCW 69.55.010)
15 Vehicular Homicide, by the operation
16 of any vehicle in a reckless
17 manner (RCW 46.61.520)
18 VII Burglary 1 (RCW 9A.52.020)
19 Child Molestation 2 (RCW 9A.44.086)
20 Civil Disorder Training (RCW
21 9A.48.120)
22 Dealing in depictions of minor
23 engaged in sexually explicit
24 conduct (RCW 9.68A.050)
25 Drive-by Shooting (RCW 9A.36.045)
26 Homicide by Watercraft, by disregard
27 for the safety of others (RCW
28 79A.60.050)
29 Indecent Liberties (without forcible
30 compulsion) (RCW 9A.44.100(1)
31 (b) and (c))
32 Introducing Contraband 1 (RCW
33 9A.76.140)
34 Malicious placement of an explosive 3
35 (RCW 70.74.270(3))

1 Sending, bringing into state depictions
2 of minor engaged in sexually
3 explicit conduct (RCW
4 9.68A.060)
5 Unlawful Possession of a Firearm in
6 the first degree (RCW
7 9.41.040(1)(a))
8 Use of a Machine Gun in Commission
9 of a Felony (RCW 9.41.225)
10 Vehicular Homicide, by disregard for
11 the safety of others (RCW
12 46.61.520)
13 VI Bail Jumping with Murder 1 (RCW
14 9A.76.170(3)(a))
15 Bribery (RCW 9A.68.010)
16 Incest 1 (RCW 9A.64.020(1))
17 Intimidating a Judge (RCW
18 9A.72.160)
19 Intimidating a Juror/Witness (RCW
20 9A.72.110, 9A.72.130)
21 Malicious placement of an imitation
22 device 2 (RCW 70.74.272(1)(b))
23 Rape of a Child 3 (RCW 9A.44.079)
24 Theft of a Firearm (RCW 9A.56.300)
25 Unlawful Storage of Ammonia (RCW
26 69.55.020)
27 V Abandonment of dependent person 1
28 (RCW 9A.42.060)
29 Advancing money or property for
30 extortionate extension of credit
31 (RCW 9A.82.030)
32 Bail Jumping with class A Felony
33 (RCW 9A.76.170(3)(b))
34 Child Molestation 3 (RCW 9A.44.089)
35 Criminal Mistreatment 1 (RCW
36 9A.42.020)

1 Custodial Sexual Misconduct 1 (RCW
2 9A.44.160)
3 Domestic Violence Court Order
4 Violation (RCW 10.99.040,
5 10.99.050, 26.09.300, 26.10.220,
6 26.26.138, 26.50.110, 26.52.070,
7 or 74.34.145)
8 Extortion 1 (RCW 9A.56.120)
9 Extortionate Extension of Credit
10 (RCW 9A.82.020)
11 Extortionate Means to Collect
12 Extensions of Credit (RCW
13 9A.82.040)
14 Incest 2 (RCW 9A.64.020(2))
15 Kidnapping 2 (RCW 9A.40.030)
16 Perjury 1 (RCW 9A.72.020)
17 Persistent prison misbehavior (RCW
18 9.94.070)
19 Possession of a Stolen Firearm (RCW
20 9A.56.310)
21 Rape 3 (RCW 9A.44.060)
22 Rendering Criminal Assistance 1
23 (RCW 9A.76.070)
24 Sexual Misconduct with a Minor 1
25 (RCW 9A.44.093)
26 Sexually Violating Human Remains
27 (RCW 9A.44.105)
28 Stalking (RCW 9A.46.110)
29 Taking Motor Vehicle Without
30 Permission 1 (RCW
31 9A.56.070(1))
32 IV Arson 2 (RCW 9A.48.030)
33 Assault 2 (RCW 9A.36.021)
34 Assault by Watercraft (RCW
35 79A.60.060)

1 Bribing a Witness/Bribe Received by
2 Witness (RCW 9A.72.090,
3 9A.72.100)
4 Cheating 1 (RCW 9.46.1961)
5 Commercial Bribery (RCW
6 9A.68.060)
7 Counterfeiting (RCW 9.16.035(4))
8 Endangerment with a Controlled
9 Substance (RCW 9A.42.100)
10 Escape 1 (RCW 9A.76.110)
11 Hit and Run--Injury (RCW
12 46.52.020(4)(b))
13 Hit and Run with Vessel--Injury
14 Accident (RCW 79A.60.200(3))
15 Identity Theft 1 (RCW 9.35.020(2)(a))
16 Indecent Exposure to Person Under
17 Age Fourteen (subsequent sex
18 offense) (RCW 9A.88.010)
19 Influencing Outcome of Sporting
20 Event (RCW 9A.82.070)
21 Knowingly Trafficking in Stolen
22 Property (RCW 9A.82.050(2))
23 Malicious Harassment (RCW
24 9A.36.080)
25 Residential Burglary (RCW
26 9A.52.025)
27 Robbery 2 (RCW 9A.56.210)
28 Theft of Livestock 1 (RCW 9A.56.080)
29 Threats to Bomb (RCW 9.61.160)
30 Use of Proceeds of Criminal
31 Profiteering (RCW 9A.82.080 (1)
32 and (2))
33 Vehicular Assault, by being under the
34 influence of intoxicating liquor or
35 any drug, or by the operation or
36 driving of a vehicle in a reckless
37 manner (RCW 46.61.522)

1 Willful Failure to Return from
2 Furlough (RCW 72.66.060)
3 III Abandonment of dependent person 2
4 (RCW 9A.42.070)
5 Assault 3 (RCW 9A.36.031)
6 Assault of a Child 3 (RCW 9A.36.140)
7 Bail Jumping with class B or C Felony
8 (RCW 9A.76.170(3)(c))
9 Burglary 2 (RCW 9A.52.030)
10 Communication with a Minor for
11 Immoral Purposes (RCW
12 9.68A.090)
13 Criminal Gang Intimidation (RCW
14 9A.46.120)
15 Criminal Mistreatment 2 (RCW
16 9A.42.030)
17 Custodial Assault (RCW 9A.36.100)
18 Escape 2 (RCW 9A.76.120)
19 Extortion 2 (RCW 9A.56.130)
20 Harassment (RCW 9A.46.020)
21 Intimidating a Public Servant (RCW
22 9A.76.180)
23 Introducing Contraband 2 (RCW
24 9A.76.150)
25 Malicious Injury to Railroad Property
26 (RCW 81.60.070)
27 Patronizing a Juvenile Prostitute
28 (RCW 9.68A.100)
29 Perjury 2 (RCW 9A.72.030)
30 Possession of Incendiary Device (RCW
31 9.40.120)
32 Possession of Machine Gun or Short-
33 Barreled Shotgun or Rifle (RCW
34 9.41.190)
35 Promoting Prostitution 2 (RCW
36 9A.88.080)

1 Recklessly Trafficking in Stolen
2 Property (RCW 9A.82.050(1))
3 Securities Act violation (RCW
4 21.20.400)
5 Tampering with a Witness (RCW
6 9A.72.120)
7 Telephone Harassment (subsequent
8 conviction or threat of death)
9 (RCW 9.61.230)
10 Theft of Livestock 2 (RCW 9A.56.080)
11 Unlawful Imprisonment (RCW
12 9A.40.040)
13 Unlawful possession of firearm in the
14 second degree (RCW
15 9.41.040(1)(b))
16 Vehicular Assault, by the operation or
17 driving of a vehicle with disregard
18 for the safety of others (RCW
19 46.61.522)
20 Willful Failure to Return from Work
21 Release (RCW 72.65.070)
22 II Computer Trespass 1 (RCW
23 9A.52.110)
24 Counterfeiting (RCW 9.16.035(3))
25 Escape from Community Custody
26 (RCW 72.09.310)
27 Health Care False Claims (RCW
28 48.80.030)
29 Identity Theft 2 (RCW 9.35.020(2)(b))
30 Improperly Obtaining Financial
31 Information (RCW 9.35.010)
32 Malicious Mischief 1 (RCW
33 9A.48.070)
34 Possession of Stolen Property 1 (RCW
35 9A.56.150)
36 Theft 1 (RCW 9A.56.030)

1 Theft of Rental, Leased, or Lease-
2 purchased Property (valued at one
3 thousand five hundred dollars or
4 more) (RCW 9A.56.096(4))
5 Trafficking in Insurance Claims (RCW
6 48.30A.015)
7 Unlawful Practice of Law (RCW
8 2.48.180)
9 Unlicensed Practice of a Profession or
10 Business (RCW 18.130.190(7))
11 I Attempting to Elude a Pursuing Police
12 Vehicle (RCW 46.61.024)
13 False Verification for Welfare (RCW
14 74.08.055)
15 Forgery (RCW 9A.60.020)
16 Malicious Mischief 2 (RCW
17 9A.48.080)
18 Possession of Stolen Property 2 (RCW
19 9A.56.160)
20 Reckless Burning 1 (RCW 9A.48.040)
21 Taking Motor Vehicle Without
22 Permission 2 (RCW
23 9A.56.070(2))
24 Theft 2 (RCW 9A.56.040)
25 Theft of Rental, Leased, or Lease-
26 purchased Property (valued at two
27 hundred fifty dollars or more but
28 less than one thousand five
29 hundred dollars) (RCW
30 9A.56.096(4))
31 Unlawful Issuance of Checks or Drafts
32 (RCW 9A.56.060)
33 Unlawful Use of Food Stamps (RCW
34 9.91.140 (2) and (3))
35 Vehicle Prowl 1 (RCW 9A.52.095)

1 **Sec. 4.** RCW 9.94A.535 and 2002 c 169 s 1 are each amended to read
2 as follows:

3 The court may impose a sentence outside the standard sentence range
4 for an offense if it finds, considering the purpose of this chapter,
5 that there are substantial and compelling reasons justifying an
6 exceptional sentence. Whenever a sentence outside the standard
7 sentence range is imposed, the court shall set forth the reasons for
8 its decision in written findings of fact and conclusions of law. A
9 sentence outside the standard sentence range shall be a determinate
10 sentence unless it is imposed on an offender sentenced under RCW
11 9.94A.712. An exceptional sentence imposed on an offender sentenced
12 under RCW 9.94A.712 shall be to a minimum term set by the court and a
13 maximum term equal to the statutory maximum sentence for the offense of
14 conviction under chapter 9A.20 RCW.

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

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

23 The following are illustrative factors which the court may consider
24 in the exercise of its discretion to impose an exceptional sentence.
25 The following are illustrative only and are not intended to be
26 exclusive reasons for exceptional sentences.

27 (1) Mitigating Circumstances

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

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

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

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

1 (e) The defendant's capacity to appreciate the wrongfulness of his
2 or her conduct, or to conform his or her conduct to the requirements of
3 the law, was significantly impaired. Voluntary use of drugs or alcohol
4 is excluded.

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

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

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

14 (2) Aggravating Circumstances

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

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

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

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

25 (i) The current offense involved multiple victims or multiple
26 incidents per victim;

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

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

31 (iv) The defendant used his or her position of trust, confidence,
32 or fiduciary responsibility to facilitate the commission of the current
33 offense.

34 (e) The current offense was a major violation of the Uniform
35 Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to
36 trafficking in controlled substances, which was more onerous than the

1 typical offense of its statutory definition: The presence of ANY of
2 the following may identify a current offense as a major VUCSA:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (k) The offense resulted in the pregnancy of a child victim of
6 rape.

7 (l) The defendant knew that the victim of the current offense was
8 a youth who was not residing with a legal custodian and the defendant
9 established or promoted the relationship for the primary purpose of
10 victimization.

11 (m) The offense was committed with the intent to obstruct or impair
12 human or animal health care or agricultural or forestry research or
13 commercial production.

14 (n) The current offense is trafficking in the first degree or
15 trafficking in the second degree and any victim was a minor at the time
16 of the offense.

17 **Sec. 5.** RCW 9A.82.090 and 2001 c 222 s 13 are each amended to read
18 as follows:

19 During the pendency of any criminal case charging a violation of
20 RCW 9A.82.060 or ~~((a violation of RCW))~~ 9A.82.080, or an offense
21 defined in section 1 of this act, the superior court may, in addition
22 to its other powers, issue an order pursuant to RCW 9A.82.100 (2) or
23 (3). Upon conviction of a person for a violation of RCW 9A.82.060 or
24 ~~((a violation of RCW))~~ 9A.82.080, or an offense defined in section 1 of
25 this act, the superior court may, in addition to its other powers of
26 disposition, issue an order pursuant to RCW 9A.82.100.

27 **Sec. 6.** RCW 9A.82.100 and 2001 c 222 s 14 are each amended to read
28 as follows:

29 (1)(a) A person who sustains injury to his or her person, business,
30 or property by an act of criminal profiteering that is part of a
31 pattern of criminal profiteering activity, or by an offense defined in
32 section 1 of this act, or by a violation of RCW 9A.82.060 or 9A.82.080
33 may file an action in superior court for the recovery of damages and
34 the costs of the suit, including reasonable investigative and
35 attorney's fees.

1 (b) The attorney general or county prosecuting attorney may file an
2 action: (i) On behalf of those persons injured or, respectively, on
3 behalf of the state or county if the entity has sustained damages, or
4 (ii) to prevent, restrain, or remedy a pattern of criminal profiteering
5 activity, or an offense defined in section 1 of this act, or a
6 violation of RCW 9A.82.060 or 9A.82.080.

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

11 (d) In an action filed to prevent, restrain, or remedy a pattern of
12 criminal profiteering activity, or an offense defined in section 1 of
13 this act, or a violation of RCW 9A.82.060 or 9A.82.080, the court, upon
14 proof of the violation, may impose a civil penalty not exceeding two
15 hundred fifty thousand dollars, in addition to awarding the cost of the
16 suit, including reasonable investigative and attorney's fees.

17 (2) The superior court has jurisdiction to prevent, restrain, and
18 remedy a pattern of criminal profiteering, or an offense defined in
19 section 1 of this act, or a violation of RCW 9A.82.060 or 9A.82.080
20 after making provision for the rights of all innocent persons affected
21 by the violation and after hearing or trial, as appropriate, by issuing
22 appropriate orders.

23 (3) Prior to a determination of liability, orders issued under
24 subsection (2) of this section may include, but are not limited to,
25 entering restraining orders or prohibitions or taking such other
26 actions, including the acceptance of satisfactory performance bonds, in
27 connection with any property or other interest subject to damages,
28 forfeiture, or other restraints pursuant to this section as the court
29 deems proper. The orders may also include attachment, receivership, or
30 injunctive relief in regard to personal or real property pursuant to
31 Title 7 RCW. In shaping the reach or scope of receivership,
32 attachment, or injunctive relief, the superior court shall provide for
33 the protection of bona fide interests in property, including community
34 property, of persons who were not involved in the violation of this
35 chapter, except to the extent that such interests or property were
36 acquired or used in such a way as to be subject to forfeiture under RCW
37 9A.82.100(4)(f).

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

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

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

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

11 (d) Ordering the payment of actual damages sustained to those
12 persons injured by a violation of RCW 9A.82.060 or 9A.82.080, or an
13 offense defined in section 1 of this act, or an act of criminal
14 profiteering that is part of a pattern of criminal profiteering, and in
15 the court's discretion, increasing the payment to an amount not
16 exceeding three times the actual damages sustained.

17 (e) Ordering the payment of all costs and expenses of the
18 prosecution and investigation of a pattern of criminal profiteering, or
19 an offense defined in section 1 of this act, activity or a violation of
20 RCW 9A.82.060 or 9A.82.080, civil and criminal, incurred by the state
21 or county, including any costs of defense provided at public expense,
22 as appropriate to the state general fund or the antiprofitteering
23 revolving fund of the county.

24 (f) Ordering forfeiture first as restitution to any person damaged
25 by an act of criminal profiteering that is part of a pattern of
26 criminal profiteering, or by an offense defined in section 1 of this
27 act, then to the state general fund or antiprofitteering revolving fund
28 of the county, as appropriate, to the extent not already ordered to be
29 paid in other damages, of the following:

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

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

1 (iii) All proceeds traceable to or derived from an offense included
2 in the pattern of criminal profiteering activity, or an offense defined
3 in section 1 of this act, and all moneys, negotiable instruments,
4 securities, and other things of value significantly used or intended to
5 be used significantly to facilitate commission of the offense.

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

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

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

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

23 (c) All proceeds traceable to or derived from an offense included
24 in the pattern of criminal profiteering activity, or an offense defined
25 in section 1 of this act, and all moneys, negotiable instruments,
26 securities, and other things of value significantly used or intended to
27 be used significantly to facilitate the commission of the offense.

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

1 (7) The initiation of civil proceedings under this section shall be
2 commenced within three years after discovery of the pattern of criminal
3 profiteering activity or after the pattern should reasonably have been
4 discovered or, in the case of an offense that is defined in section 1
5 of this act, within three years after the final disposition of any
6 criminal charges relating to the offense, whichever is later.

7 (8) The attorney general or county prosecuting attorney may, in a
8 civil action brought pursuant to this section, file with the clerk of
9 the superior court a certificate stating that the case is of special
10 public importance. A copy of that certificate shall be furnished
11 immediately by the clerk to the presiding chief judge of the superior
12 court in which the action is pending and, upon receipt of the copy, the
13 judge shall immediately designate a judge to hear and determine the
14 action. The judge so designated shall promptly assign the action for
15 hearing, participate in the hearings and determination, and cause the
16 action to be expedited.

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

19 (10) A person other than the attorney general or county prosecuting
20 attorney who files an action under this section shall serve notice and
21 one copy of the pleading on the attorney general within thirty days
22 after the action is filed with the superior court. The notice shall
23 identify the action, the person, and the person's attorney. Service of
24 the notice does not limit or otherwise affect the right of the state to
25 maintain an action under this section or intervene in a pending action
26 nor does it authorize the person to name the state or the attorney
27 general as a party to the action.

28 (11) Except in cases filed by a county prosecuting attorney, the
29 attorney general may, upon timely application, intervene in any civil
30 action or proceeding brought under this section if the attorney general
31 certifies that in the attorney general's opinion the action is of
32 special public importance. Upon intervention, the attorney general may
33 assert any available claim and is entitled to the same relief as if the
34 attorney general had instituted a separate action.

35 (12) In addition to the attorney general's right to intervene as a
36 party in any action under this section, the attorney general may appear

1 as amicus curiae in any proceeding in which a claim under this section
2 has been asserted or in which a court is interpreting RCW 9A.82.010,
3 9A.82.080, 9A.82.090, 9A.82.110, or 9A.82.120, or this section.

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

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

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

24 **Sec. 7.** RCW 9A.82.120 and 2001 c 222 s 16 are each amended to read
25 as follows:

26 (1) The state, upon filing a criminal action under RCW 9A.82.060 or
27 9A.82.080 or for an offense defined in section 1 of this act, or a
28 civil action under RCW 9A.82.100, may file in accordance with this
29 section a criminal profiteering lien. A filing fee or other charge is
30 not required for filing a criminal profiteering lien.

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

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

1 (b) In the discretion of the attorney general or county prosecuting
2 attorney filing the lien, any aliases or fictitious names of the
3 defendant named in the lien;

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

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

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

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

14 (g) The amount that the state claims in the action or, with respect
15 to property or other interests that the state has requested forfeiture
16 to the state or county, a description of the property or interests
17 sought to be paid or forfeited;

18 (h) If known to the attorney general or county prosecuting attorney
19 filing the lien, a description of property that is subject to
20 forfeiture to the state or property in which the defendant has an
21 interest that is available to satisfy a judgment entered in favor of
22 the state; and

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

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

29 (4) The attorney general or the county prosecuting attorney filing
30 the lien shall, as soon as practical after filing a criminal
31 profiteering lien, furnish to any person named in the lien a notice of
32 the filing of the lien. Failure to furnish notice under this
33 subsection does not invalidate or otherwise affect a criminal
34 profiteering lien filed in accordance with this section.

35 (5)(a) A criminal profiteering lien is perfected against interests
36 in personal property in the same manner as a security interest in like
37 property pursuant to RCW (~~62A.9-302, 62A.9-303, 62A.9-304, 62A.9-305,~~

1 and ~~62A.9-306~~) 62A.9A-301 through 62A.9A-316 or as otherwise required
2 to perfect a security interest in like property under applicable law.
3 In the case of perfection by filing, the state shall file, in lieu of
4 a financing statement in the form prescribed by RCW (~~62A.9-402~~)
5 62A.9A-502, a notice of lien in substantially the following form:

6 NOTICE OF LIEN

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

10 Name:
11 Address:
12

13 State of Washington

14
15 By (authorized signature)

16 On receipt of such a notice from the state, a filing officer shall,
17 without payment of filing fee, file and index the notice as if it were
18 a financing statement naming the state as secured party and the
19 defendant as debtor.

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

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

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

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

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

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

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

20 (9) Upon the entry of a final judgment in favor of the state
21 providing for forfeiture of property to the state, the title of the
22 state to the property:

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

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

35 (10) This section does not limit the right of the state to obtain
36 any order or injunction, receivership, writ, attachment, garnishment,

1 or other remedy authorized under RCW 9A.82.100 or appropriate to
2 protect the interests of the state or available under other applicable
3 law.

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

10 NEW SECTION. **Sec. 8.** Section 2 of this act expires July 1, 2004.

11 NEW SECTION. **Sec. 9.** Section 3 of this act takes effect July 1,
12 2004."

SHB 1175 - S COMM AMD
By Committee on Children & Family Services & Corrections

ADOPTED AS AMENDED 04/17/2003

13 On page 1, line 1 of the title, after "persons;" strike the
14 remainder of the title and insert "amending RCW 9.94A.535, 9A.82.090,
15 9A.82.100, and 9A.82.120; reenacting and amending RCW 9.94A.515 and
16 9.94A.515; adding a new section to chapter 9A.40 RCW; prescribing
17 penalties; providing an effective date; and providing an expiration
18 date."

--- END ---