
SUBSTITUTE SENATE BILL 5717

State of Washington

58th Legislature

2003 Regular Session

By Senate Committee on Financial Services, Insurance & Housing
(originally sponsored by Senators Winsley, Prentice and Benton)

READ FIRST TIME 03/03/03.

1 AN ACT Relating to possession of instruments or equipment of
2 financial fraud; amending RCW 9A.56.280, 9A.56.290, and 9A.60.020;
3 reenacting and amending RCW 9A.82.010, 9.94A.515, and 9.94A.515; adding
4 new sections to chapter 9A.56 RCW; prescribing penalties; providing an
5 effective date; and providing an expiration date.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 9A.56 RCW
8 to read as follows:

9 (1) A person is guilty of unlawful production of payment
10 instruments if he or she prints or produces a check or other payment
11 instrument in the name of a person or entity, or with the routing
12 number or account number of a person or entity, without the permission
13 of the person or entity to manufacture or reproduce such payment
14 instrument with such name, routing number, or account number.

15 (2)(a) A person is guilty of unlawful possession of payment
16 instruments if he or she possesses two or more checks or other payment
17 instruments, alone or in combination:

18 (i) In the name of a person or entity, or with the routing number

1 or account number of a person or entity, without the permission of the
2 person or entity to possess such payment instrument; or

3 (ii) In the name of a fictitious person or entity, or with a
4 fictitious routing number or account number of a person or entity, with
5 intent to use the payment instruments to commit a crime.

6 (b) (a)(i) of this subsection does not apply to:

7 (i) A person, business, or other entity, who has lawful possession
8 of a check, which is endorsed to that person, business, or other
9 entity; and

10 (ii) A financial institution or other entity that processes checks
11 for a lawful business purpose.

12 (3) A person is guilty of unlawful possession of a personal
13 identification device if the person possesses a personal identification
14 device with intent to use such device to commit a crime. "Personal
15 identification device" includes any machine or instrument whose purpose
16 is to manufacture or print any driver's license or identification card
17 issued by any state or the federal government, or any employee
18 identification issued by any employer, public or private, including but
19 not limited to badges and identification cards, or any credit or debit
20 card.

21 (4) A person is guilty of unlawful possession of fictitious
22 identification if the person possesses a personal identification card
23 with a fictitious person's identification with intent to use such
24 identification card to commit a crime of theft, forgery, or any other
25 crime created in this act.

26 (5) A person is guilty of unlawful possession of instruments of
27 financial fraud if the person possesses a check-making machine,
28 equipment, or software, with intent to use or distribute checks for
29 purposes of defrauding an account holder, business, financial
30 institution, or any other person or organization.

31 (6) This section does not apply to:

32 (a) A person who obtains another person's personal identification
33 for the sole purpose of misrepresenting his or her age; and

34 (b) A law enforcement agency as defined in RCW 10.93.020 (1) and
35 (2) that produces or displays counterfeit credit or debit cards, checks
36 or other payment instruments, or personal identification devices for
37 investigative or educational purposes.

1 (7) In a proceeding under this section that is related to an
2 identity theft under RCW 9.35.020, the crime will be considered to have
3 been committed in any locality where the person whose means of
4 identification or financial information was appropriated resides, or in
5 which any part of the offense took place, regardless of whether the
6 defendant was ever actually in that locality.

7 (8) A violation of this section is a class C felony.

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

10 (1) A person is guilty of possession of another's identification if
11 the person possesses personal identification bearing another person's
12 identity, when the person possessing the personal identification does
13 not have the other person's permission to possess it, and when the
14 possession does not amount to a violation of RCW 9.35.020.

15 (2) This section does not apply to:

16 (a) A person who obtains another person's personal identification
17 for the sole purpose of misrepresenting his or her age; and

18 (b) A law enforcement agency that produces or displays counterfeit
19 credit or debit cards, checks or other payment instruments, or personal
20 identification for investigative or educational purposes.

21 (3) In a proceeding under this section that is related to an
22 identity theft under RCW 9.35.020, the crime will be considered to have
23 been committed in any locality where the person whose means of
24 identification or financial information was appropriated resides, or in
25 which any part of the offense took place, regardless of whether the
26 defendant was ever actually in that locality.

27 (4) A violation of this section is a gross misdemeanor.

28 **Sec. 3.** RCW 9A.56.280 and 1993 c 484 s 1 are each amended to read
29 as follows:

30 As used in RCW 9A.56.280 (~~and~~), 9A.56.290, 9A.60.020, and
31 sections 1 and 2 of this act, unless the context requires otherwise:

32 (1) "Cardholder" means a person to whom a credit card is issued or
33 a person who otherwise is authorized to use a credit card.

34 (2) "Check" means a negotiable instrument that meets the definition
35 of "check" under RCW 62A.3-104 or a blank form instrument that would

1 meet the definition of "check" under RCW 62A.3-104 if it were completed
2 and signed.

3 (3) "Credit card" means a card, plate, booklet, credit card number,
4 credit card account number, or other identifying symbol, instrument, or
5 device that can be used to pay for, or to obtain on credit, goods or
6 services.

7 ~~((3))~~ (4) "Credit card transaction" means a sale or other
8 transaction in which a credit card is used to pay for, or to obtain on
9 credit, goods or services.

10 ~~((4))~~ (5) "Credit card transaction record" means a record or
11 evidence of a credit card transaction, including, without limitation,
12 a paper, sales draft, instrument, or other writing and an electronic or
13 magnetic transmission or record.

14 ~~((5))~~ (6) "Debit card" means a card used to obtain goods or
15 services by a transaction that debits the cardholder's account, rather
16 than extending credit.

17 (7) "Financial information" means financial information as defined
18 in RCW 9.35.005.

19 (8) "Financial institution" means a bank, trust company, mutual
20 savings bank, savings and loan association, or credit union authorized
21 under state or federal law to do business and accept deposits in
22 Washington.

23 ~~((6))~~ (9) "Means of identification" means means of identification
24 as defined in RCW 9.35.005.

25 (10) "Merchant" means a person authorized by a financial
26 institution to honor or accept credit cards in payment for goods or
27 services.

28 ~~((7))~~ (11) "Person" means an individual, partnership,
29 corporation, trust, or unincorporated association, but does not include
30 a financial institution or its authorized employees, representatives,
31 or agents.

32 (12) "Personal identification" includes any document, card, or
33 other item that contains a means of identification.

34 **Sec. 4.** RCW 9A.56.290 and 1993 c 484 s 2 are each amended to read
35 as follows:

36 (1) A person commits the crime of unlawful factoring of a credit
37 card transaction if the person, with intent to commit fraud or theft

1 against a cardholder, credit card issuer, or financial institution,
2 causes any such party or parties to suffer actual monetary damages that
3 in the aggregate exceed one thousand dollars, by:

4 (a) Presenting to or depositing with, or causing another to present
5 to or deposit with, a financial institution for payment a credit card
6 transaction record that is not the result of a credit card transaction
7 between the cardholder and the person;

8 (b) Employing, soliciting, or otherwise causing a merchant or an
9 employee, representative, or agent of a merchant to present to or
10 deposit with a financial institution for payment a credit card
11 transaction record that is not the result of a credit card transaction
12 between the cardholder and the merchant; or

13 (c) Employing, soliciting, or otherwise causing another to become
14 a merchant for purposes of engaging in conduct made unlawful by this
15 section.

16 (2) Normal transactions conducted by or through airline reporting
17 corporation-appointed travel agents or cruise-only travel agents
18 recognized by passenger cruise lines are not considered factoring for
19 the purposes of this section.

20 (3) In a proceeding under this section that is related to an
21 identity theft under RCW 9.35.020, the crime will be considered to have
22 been committed in any locality where the person whose means of
23 identification or financial information was appropriated resides, or in
24 which any part of the offense took place, regardless of whether the
25 defendant was ever actually in that locality.

26 (4) Unlawful factoring of a credit card transaction is a class C
27 felony.

28 **Sec. 5.** RCW 9A.60.020 and 1975-'76 2nd ex.s. c 38 s 13 are each
29 amended to read as follows:

30 (1) A person is guilty of forgery if, with intent to injure or
31 defraud:

32 (a) He falsely makes, completes, or alters a written instrument or;

33 (b) He possesses, utters, offers, disposes of, or puts off as true
34 a written instrument which he knows to be forged.

35 (2) In a proceeding under this section that is related to an
36 identity theft under RCW 9.35.020, the crime will be considered to have
37 been committed in any locality where the person whose means of

1 identification or financial information was appropriated resides, or in
2 which any part of the offense took place, regardless of whether the
3 defendant was ever actually in that locality.

4 (3) Forgery is a class C felony.

5 **Sec. 6.** 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;
2 (c) Kidnapping, as defined in RCW 9A.40.020 and 9A.40.030;
3 (d) Forgery, as defined in RCW 9A.60.020 and 9A.60.030;
4 (e) Theft, as defined in RCW 9A.56.030, 9A.56.040, 9A.56.060, and
5 9A.56.080;
6 (f) Unlawful sale of subscription television services, as defined
7 in RCW 9A.56.230;
8 (g) Theft of telecommunication services or unlawful manufacture of
9 a telecommunication device, as defined in RCW 9A.56.262 and 9A.56.264;
10 (h) Child selling or child buying, as defined in RCW 9A.64.030;
11 (i) Bribery, as defined in RCW 9A.68.010, 9A.68.020, 9A.68.040, and
12 9A.68.050;
13 (j) Gambling, as defined in RCW 9.46.220 and 9.46.215 and 9.46.217;
14 (k) Extortion, as defined in RCW 9A.56.120 and 9A.56.130;
15 (l) Unlawful production of payment instruments, unlawful possession
16 of payment instruments, unlawful possession of a personal
17 identification device, unlawful possession of fictitious
18 identification, or unlawful possession of instruments of financial
19 fraud, as defined in section 1 of this act;
20 (m) Extortionate extension of credit, as defined in RCW 9A.82.020;
21 (~~(n)~~) (n) Advancing money for use in an extortionate extension of
22 credit, as defined in RCW 9A.82.030;
23 (~~(o)~~) (o) Collection of an extortionate extension of credit, as
24 defined in RCW 9A.82.040;
25 (~~(p)~~) (p) Collection of an unlawful debt, as defined in RCW
26 9A.82.045;
27 (~~(q)~~) (q) Delivery or manufacture of controlled substances or
28 possession with intent to deliver or manufacture controlled substances
29 under chapter 69.50 RCW;
30 (~~(r)~~) (r) Trafficking in stolen property, as defined in RCW
31 9A.82.050;
32 (~~(s)~~) (s) Leading organized crime, as defined in RCW 9A.82.060;
33 (~~(t)~~) (t) Money laundering, as defined in RCW 9A.83.020;
34 (~~(u)~~) (u) Obstructing criminal investigations or prosecutions in
35 violation of RCW 9A.72.090, 9A.72.100, 9A.72.110, 9A.72.120, 9A.72.130,
36 9A.76.070, or 9A.76.180;
37 (~~(v)~~) (v) Fraud in the purchase or sale of securities, as defined
38 in RCW 21.20.010;

1 ~~((v))~~ (w) Promoting pornography, as defined in RCW 9.68.140;
2 ~~((w))~~ (x) Sexual exploitation of children, as defined in RCW
3 9.68A.040, 9.68A.050, and 9.68A.060;
4 ~~((x))~~ (y) Promoting prostitution, as defined in RCW 9A.88.070 and
5 9A.88.080;
6 ~~((y))~~ (z) Arson, as defined in RCW 9A.48.020 and 9A.48.030;
7 ~~((z))~~ (aa) Assault, as defined in RCW 9A.36.011 and 9A.36.021;
8 ~~((aa))~~ (bb) Assault of a child, as defined in RCW 9A.36.120 and
9 9A.36.130;
10 ~~((bb))~~ (cc) A pattern of equity skimming, as defined in RCW
11 61.34.020;
12 ~~((cc))~~ (dd) Commercial telephone solicitation in violation of RCW
13 19.158.040(1);
14 ~~((dd))~~ (ee) Trafficking in insurance claims, as defined in RCW
15 48.30A.015;
16 ~~((ee))~~ (ff) Unlawful practice of law, as defined in RCW 2.48.180;
17 ~~((ff))~~ (gg) Commercial bribery, as defined in RCW 9A.68.060;
18 ~~((gg))~~ (hh) Health care false claims, as defined in RCW
19 48.80.030;
20 ~~((hh))~~ (ii) Unlicensed practice of a profession or business, as
21 defined in RCW 18.130.190(7);
22 ~~((ii))~~ (jj) Improperly obtaining financial information, as
23 defined in RCW 9.35.010; or
24 ~~((jj))~~ (kk) Identity theft, as defined in RCW 9.35.020.
25 (5) "Dealer in property" means a person who buys and sells property
26 as a business.
27 (6) "Debtor" means a person to whom an extension of credit is made
28 or a person who guarantees the repayment of an extension of credit or
29 in any manner undertakes to indemnify the creditor against loss
30 resulting from the failure of a person to whom an extension is made to
31 repay the same.
32 (7) "Documentary material" means any book, paper, document,
33 writing, drawing, graph, chart, photograph, phonograph record, magnetic
34 tape, computer printout, other data compilation from which information
35 can be obtained or from which information can be translated into usable
36 form, or other tangible item.
37 (8) "Enterprise" includes any individual, sole proprietorship,
38 partnership, corporation, business trust, or other profit or nonprofit

1 legal entity, and includes any union, association, or group of
2 individuals associated in fact although not a legal entity, and both
3 illicit and licit enterprises and governmental and nongovernmental
4 entities.

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

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

14 (11) "Financial institution" means any bank, trust company, savings
15 and loan association, savings bank, mutual savings bank, credit union,
16 or loan company under the jurisdiction of the state or an agency of the
17 United States.

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

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

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

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

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

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

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

18 (19) "Traffic" means to sell, transfer, distribute, dispense, or
19 otherwise dispose of stolen property to another person, or to buy,
20 receive, possess, or obtain control of stolen property, with intent to
21 sell, transfer, distribute, dispense, or otherwise dispose of the
22 property to another person.

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

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

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

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

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

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

33 (ii) A trustee of any testamentary trust;

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

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

37 (21) "Unlawful debt" means any money or other thing of value

1 constituting principal or interest of a debt that is legally
2 unenforceable in the state in full or in part because the debt was
3 incurred or contracted:

- 4 (a) In violation of any one of the following:
 - 5 (i) Chapter 67.16 RCW relating to horse racing;
 - 6 (ii) Chapter 9.46 RCW relating to gambling;
- 7 (b) In a gambling activity in violation of federal law; or
- 8 (c) In connection with the business of lending money or a thing of
9 value at a rate that is at least twice the permitted rate under the
10 applicable state or federal law relating to usury.

11 **Sec. 7.** RCW 9.94A.515 and 2002 c 340 s 2, 2002 c 324 s 2, 2002 c
12 290 s 2, 2002 c 253 s 4, 2002 c 229 s 2, 2002 c 134 s 2, and 2002 c 133
13 s 4 are each reenacted and amended to read as follows:

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	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)
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)
XI	Manslaughter 1 (RCW 9A.32.060) Rape 2 (RCW 9A.44.050)

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

1 Over 18 and deliver narcotic from
2 Schedule III, IV, or V or a
3 nonnarcotic, except flunitrazepam
4 or methamphetamine, from
5 Schedule I-V to someone under 18
6 and 3 years junior (RCW
7 69.50.406)
8 Robbery 1 (RCW 9A.56.200)
9 Sexual Exploitation (RCW 9.68A.040)
10 Vehicular Homicide, by being under
11 the influence of intoxicating
12 liquor or any drug (RCW
13 46.61.520)
14 VIII Arson 1 (RCW 9A.48.020)
15 Deliver or possess with intent to
16 deliver methamphetamine (RCW
17 69.50.401(a)(1)(ii))
18 Homicide by Watercraft, by the
19 operation of any vessel in a
20 reckless manner (RCW
21 79A.60.050)
22 Manslaughter 2 (RCW 9A.32.070)
23 Manufacture, deliver, or possess with
24 intent to deliver amphetamine
25 (RCW 69.50.401(a)(1)(ii))
26 Manufacture, deliver, or possess with
27 intent to deliver heroin or cocaine
28 (when the offender has a criminal
29 history in this state or any other
30 state that includes a sex offense or
31 serious violent offense or the
32 Washington equivalent) (RCW
33 69.50.401(a)(1)(i))

1 Possession of Ephedrine or any of its
2 Salts or Isomers or Salts of
3 Isomers, Pseudoephedrine or any
4 of its Salts or Isomers or Salts of
5 Isomers, Pressurized Ammonia
6 Gas, or Pressurized Ammonia Gas
7 Solution with intent to
8 manufacture methamphetamine
9 (RCW 69.50.440)

10 Promoting Prostitution 1 (RCW
11 9A.88.070)

12 Selling for profit (controlled or
13 counterfeit) any controlled
14 substance (RCW 69.50.410)

15 Theft of Ammonia (RCW 69.55.010)

16 Vehicular Homicide, by the operation
17 of any vehicle in a reckless
18 manner (RCW 46.61.520)

19 VII Burglary 1 (RCW 9A.52.020)

20 Child Molestation 2 (RCW 9A.44.086)

21 Civil Disorder Training (RCW
22 9A.48.120)

23 Dealing in depictions of minor
24 engaged in sexually explicit
25 conduct (RCW 9.68A.050)

26 Drive-by Shooting (RCW 9A.36.045)

27 Homicide by Watercraft, by disregard
28 for the safety of others (RCW
29 79A.60.050)

30 Indecent Liberties (without forcible
31 compulsion) (RCW 9A.44.100(1)
32 (b) and (c))

33 Introducing Contraband 1 (RCW
34 9A.76.140)

35 Involving a minor in drug dealing
36 (RCW 69.50.401(f))

1 Malicious placement of an explosive 3
2 (RCW 70.74.270(3))
3 Manufacture, deliver, or possess with
4 intent to deliver heroin or cocaine
5 (except when the offender has a
6 criminal history in this state or
7 any other state that includes a sex
8 offense or serious violent offense
9 or the Washington equivalent)
10 (RCW 69.50.401(a)(1)(i))
11 Sending, bringing into state depictions
12 of minor engaged in sexually
13 explicit conduct (RCW
14 9.68A.060)
15 Unlawful Possession of a Firearm in
16 the first degree (RCW
17 9.41.040(1)(a))
18 Use of a Machine Gun in Commission
19 of a Felony (RCW 9.41.225)
20 Vehicular Homicide, by disregard for
21 the safety of others (RCW
22 46.61.520)
23 VI Bail Jumping with Murder 1 (RCW
24 9A.76.170(3)(a))
25 Bribery (RCW 9A.68.010)
26 Incest 1 (RCW 9A.64.020(1))
27 Intimidating a Judge (RCW
28 9A.72.160)
29 Intimidating a Juror/Witness (RCW
30 9A.72.110, 9A.72.130)
31 Malicious placement of an imitation
32 device 2 (RCW 70.74.272(1)(b))

1 Manufacture, deliver, or possess with
2 intent to deliver narcotics from
3 Schedule I or II (except heroin or
4 cocaine) or flunitrazepam from
5 Schedule IV (RCW
6 69.50.401(a)(1)(i))
7 Rape of a Child 3 (RCW 9A.44.079)
8 Theft of a Firearm (RCW 9A.56.300)
9 Unlawful Storage of Ammonia (RCW
10 69.55.020)
11 V Abandonment of dependent person 1
12 (RCW 9A.42.060)
13 Advancing money or property for
14 extortionate extension of credit
15 (RCW 9A.82.030)
16 Bail Jumping with class A Felony
17 (RCW 9A.76.170(3)(b))
18 Child Molestation 3 (RCW 9A.44.089)
19 Criminal Mistreatment 1 (RCW
20 9A.42.020)
21 Custodial Sexual Misconduct 1 (RCW
22 9A.44.160)
23 Delivery of imitation controlled
24 substance by person eighteen or
25 over to person under eighteen
26 (RCW 69.52.030(2))
27 Domestic Violence Court Order
28 Violation (RCW 10.99.040,
29 10.99.050, 26.09.300, 26.10.220,
30 26.26.138, 26.50.110, 26.52.070,
31 or 74.34.145)
32 Extortion 1 (RCW 9A.56.120)
33 Extortionate Extension of Credit
34 (RCW 9A.82.020)
35 Extortionate Means to Collect
36 Extensions of Credit (RCW
37 9A.82.040)

1 Incest 2 (RCW 9A.64.020(2))
2 Kidnapping 2 (RCW 9A.40.030)
3 Perjury 1 (RCW 9A.72.020)
4 Persistent prison misbehavior (RCW
5 9.94.070)
6 Possession of a Stolen Firearm (RCW
7 9A.56.310)
8 Rape 3 (RCW 9A.44.060)
9 Rendering Criminal Assistance 1
10 (RCW 9A.76.070)
11 Sexual Misconduct with a Minor 1
12 (RCW 9A.44.093)
13 Sexually Violating Human Remains
14 (RCW 9A.44.105)
15 Stalking (RCW 9A.46.110)
16 Taking Motor Vehicle Without
17 Permission 1 (RCW
18 9A.56.070(1))
19 IV Arson 2 (RCW 9A.48.030)
20 Assault 2 (RCW 9A.36.021)
21 Assault by Watercraft (RCW
22 79A.60.060)
23 Bribing a Witness/Bribe Received by
24 Witness (RCW 9A.72.090,
25 9A.72.100)
26 Cheating 1 (RCW 9.46.1961)
27 Commercial Bribery (RCW
28 9A.68.060)
29 Counterfeiting (RCW 9.16.035(4))
30 Endangerment with a Controlled
31 Substance (RCW 9A.42.100)
32 Escape 1 (RCW 9A.76.110)
33 Hit and Run--Injury (RCW
34 46.52.020(4)(b))
35 Hit and Run with Vessel--Injury
36 Accident (RCW 79A.60.200(3))
37 Identity Theft 1 (RCW 9.35.020(2)(a))

1 Indecent Exposure to Person Under
2 Age Fourteen (subsequent sex
3 offense) (RCW 9A.88.010)
4 Influencing Outcome of Sporting
5 Event (RCW 9A.82.070)
6 Knowingly Trafficking in Stolen
7 Property (RCW 9A.82.050(2))
8 Malicious Harassment (RCW
9 9A.36.080)
10 Manufacture, deliver, or possess with
11 intent to deliver narcotics from
12 Schedule III, IV, or V or
13 nonnarcotics from Schedule I-V
14 (except marijuana, amphetamine,
15 methamphetamines, or
16 flunitrazepam) (RCW
17 69.50.401(a)(1) (iii) through (v))
18 Residential Burglary (RCW
19 9A.52.025)
20 Robbery 2 (RCW 9A.56.210)
21 Theft of Livestock 1 (RCW 9A.56.080)
22 Threats to Bomb (RCW 9.61.160)
23 Use of Proceeds of Criminal
24 Profiteering (RCW 9A.82.080 (1)
25 and (2))
26 Vehicular Assault, by being under the
27 influence of intoxicating liquor or
28 any drug, or by the operation or
29 driving of a vehicle in a reckless
30 manner (RCW 46.61.522)
31 Willful Failure to Return from
32 Furlough (RCW 72.66.060)
33 III Abandonment of dependent person 2
34 (RCW 9A.42.070)
35 Assault 3 (RCW 9A.36.031)
36 Assault of a Child 3 (RCW 9A.36.140)

1 Bail Jumping with class B or C Felony
2 (RCW 9A.76.170(3)(c))
3 Burglary 2 (RCW 9A.52.030)
4 Communication with a Minor for
5 Immoral Purposes (RCW
6 9.68A.090)
7 Criminal Gang Intimidation (RCW
8 9A.46.120)
9 Criminal Mistreatment 2 (RCW
10 9A.42.030)
11 Custodial Assault (RCW 9A.36.100)
12 Delivery of a material in lieu of a
13 controlled substance (RCW
14 69.50.401(c))
15 Escape 2 (RCW 9A.76.120)
16 Extortion 2 (RCW 9A.56.130)
17 Harassment (RCW 9A.46.020)
18 Intimidating a Public Servant (RCW
19 9A.76.180)
20 Introducing Contraband 2 (RCW
21 9A.76.150)
22 Maintaining a Dwelling or Place for
23 Controlled Substances (RCW
24 69.50.402(a)(6))
25 Malicious Injury to Railroad Property
26 (RCW 81.60.070)
27 Manufacture, deliver, or possess with
28 intent to deliver marijuana (RCW
29 69.50.401(a)(1)(iii))
30 Manufacture, distribute, or possess
31 with intent to distribute an
32 imitation controlled substance
33 (RCW 69.52.030(1))
34 Patronizing a Juvenile Prostitute
35 (RCW 9.68A.100)
36 Perjury 2 (RCW 9A.72.030)

1 Possession of Incendiary Device (RCW
2 9.40.120)
3 Possession of Machine Gun or Short-
4 Barreled Shotgun or Rifle (RCW
5 9.41.190)
6 Promoting Prostitution 2 (RCW
7 9A.88.080)
8 Recklessly Trafficking in Stolen
9 Property (RCW 9A.82.050(1))
10 Securities Act violation (RCW
11 21.20.400)
12 Tampering with a Witness (RCW
13 9A.72.120)
14 Telephone Harassment (subsequent
15 conviction or threat of death)
16 (RCW 9.61.230)
17 Theft of Livestock 2 (RCW 9A.56.080)
18 Unlawful Imprisonment (RCW
19 9A.40.040)
20 Unlawful possession of firearm in the
21 second degree (RCW
22 9.41.040(1)(b))
23 Unlawful Use of Building for Drug
24 Purposes (RCW 69.53.010)
25 Vehicular Assault, by the operation or
26 driving of a vehicle with disregard
27 for the safety of others (RCW
28 46.61.522)
29 Willful Failure to Return from Work
30 Release (RCW 72.65.070)
31 II Computer Trespass 1 (RCW
32 9A.52.110)
33 Counterfeiting (RCW 9.16.035(3))
34 Create, deliver, or possess a counterfeit
35 controlled substance (RCW
36 69.50.401(b))

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

1 Malicious Mischief 2 (RCW
2 9A.48.080)
3 Possess Controlled Substance that is a
4 Narcotic from Schedule III, IV, or
5 V or Non-narcotic from Schedule
6 I-V (except phencyclidine or
7 flunitrazepam) (RCW
8 69.50.401(d))
9 Possession of Stolen Property 2 (RCW
10 9A.56.160)
11 Reckless Burning 1 (RCW 9A.48.040)
12 Taking Motor Vehicle Without
13 Permission 2 (RCW
14 9A.56.070(2))
15 Theft 2 (RCW 9A.56.040)
16 Theft of Rental, Leased, or Lease-
17 purchased Property (valued at two
18 hundred fifty dollars or more but
19 less than one thousand five
20 hundred dollars) (RCW
21 9A.56.096(4))
22 Unlawful Issuance of Checks or Drafts
23 (RCW 9A.56.060)
24 Unlawful Possession of Fictitious
25 Identification (section 1 of this
26 act)
27 Unlawful Possession of Instruments of
28 Financial Fraud (section 1 of this
29 act)
30 Unlawful Possession of Payment
31 Instruments (section 1 of this act)
32 Unlawful Possession of a Personal
33 Identification Device (section 1 of
34 this act)
35 Unlawful Production of Payment
36 Instruments (section 1 of this act)

1 Unlawful Use of Food Stamps (RCW
2 9.91.140 (2) and (3))
3 Vehicle Prowl 1 (RCW 9A.52.095)

4 **Sec. 8.** RCW 9.94A.515 and 2002 c 340 s 2, 2002 c 324 s 2, 2002 c
5 290 s 7, 2002 c 253 s 4, 2002 c 229 s 2, 2002 c 134 s 2, and 2002 c 133
6 s 4 are each reenacted and amended to read as follows:

7 TABLE 2
8 CRIMES INCLUDED WITHIN
9 EACH SERIOUSNESS LEVEL

10 XVI	Aggravated Murder 1 (RCW 11 10.95.020)
12 XV	Homicide by abuse (RCW 9A.32.055) 13 Malicious explosion 1 (RCW 14 70.74.280(1)) 15 Murder 1 (RCW 9A.32.030)
16 XIV	Murder 2 (RCW 9A.32.050)
17 XIII	Malicious explosion 2 (RCW 18 70.74.280(2)) 19 Malicious placement of an explosive 1 20 (RCW 70.74.270(1))
21 XII	Assault 1 (RCW 9A.36.011) 22 Assault of a Child 1 (RCW 9A.36.120) 23 Malicious placement of an imitation 24 device 1 (RCW 70.74.272(1)(a)) 25 Rape 1 (RCW 9A.44.040) 26 Rape of a Child 1 (RCW 9A.44.073)
27 XI	Manslaughter 1 (RCW 9A.32.060) 28 Rape 2 (RCW 9A.44.050) 29 Rape of a Child 2 (RCW 9A.44.076)
30 X	Child Molestation 1 (RCW 9A.44.083) 31 Indecent Liberties (with forcible 32 compulsion) (RCW 33 9A.44.100(1)(a)) 34 Kidnapping 1 (RCW 9A.40.020)

1 Leading Organized Crime (RCW
2 9A.82.060(1)(a))
3 Malicious explosion 3 (RCW
4 70.74.280(3))
5 Sexually Violent Predator Escape
6 (RCW 9A.76.115)
7 IX Assault of a Child 2 (RCW 9A.36.130)
8 Explosive devices prohibited (RCW
9 70.74.180)
10 Hit and Run--Death (RCW
11 46.52.020(4)(a))
12 Homicide by Watercraft, by being
13 under the influence of intoxicating
14 liquor or any drug (RCW
15 79A.60.050)
16 Inciting Criminal Profiteering (RCW
17 9A.82.060(1)(b))
18 Malicious placement of an explosive 2
19 (RCW 70.74.270(2))
20 Robbery 1 (RCW 9A.56.200)
21 Sexual Exploitation (RCW 9.68A.040)
22 Vehicular Homicide, by being under
23 the influence of intoxicating
24 liquor or any drug (RCW
25 46.61.520)
26 VIII Arson 1 (RCW 9A.48.020)
27 Homicide by Watercraft, by the
28 operation of any vessel in a
29 reckless manner (RCW
30 79A.60.050)
31 Manslaughter 2 (RCW 9A.32.070)
32 Promoting Prostitution 1 (RCW
33 9A.88.070)
34 Theft of Ammonia (RCW 69.55.010)
35 Vehicular Homicide, by the operation
36 of any vehicle in a reckless
37 manner (RCW 46.61.520)

1 VII Burglary 1 (RCW 9A.52.020)
2 Child Molestation 2 (RCW 9A.44.086)
3 Civil Disorder Training (RCW
4 9A.48.120)
5 Dealing in depictions of minor
6 engaged in sexually explicit
7 conduct (RCW 9.68A.050)
8 Drive-by Shooting (RCW 9A.36.045)
9 Homicide by Watercraft, by disregard
10 for the safety of others (RCW
11 79A.60.050)
12 Indecent Liberties (without forcible
13 compulsion) (RCW 9A.44.100(1)
14 (b) and (c))
15 Introducing Contraband 1 (RCW
16 9A.76.140)
17 Malicious placement of an explosive 3
18 (RCW 70.74.270(3))
19 Sending, bringing into state depictions
20 of minor engaged in sexually
21 explicit conduct (RCW
22 9.68A.060)
23 Unlawful Possession of a Firearm in
24 the first degree (RCW
25 9.41.040(1)(a))
26 Use of a Machine Gun in Commission
27 of a Felony (RCW 9.41.225)
28 Vehicular Homicide, by disregard for
29 the safety of others (RCW
30 46.61.520)
31 VI Bail Jumping with Murder 1 (RCW
32 9A.76.170(3)(a))
33 Bribery (RCW 9A.68.010)
34 Incest 1 (RCW 9A.64.020(1))
35 Intimidating a Judge (RCW
36 9A.72.160)

1 Intimidating a Juror/Witness (RCW
2 9A.72.110, 9A.72.130)
3 Malicious placement of an imitation
4 device 2 (RCW 70.74.272(1)(b))
5 Rape of a Child 3 (RCW 9A.44.079)
6 Theft of a Firearm (RCW 9A.56.300)
7 Unlawful Storage of Ammonia (RCW
8 69.55.020)
9 V Abandonment of dependent person 1
10 (RCW 9A.42.060)
11 Advancing money or property for
12 extortionate extension of credit
13 (RCW 9A.82.030)
14 Bail Jumping with class A Felony
15 (RCW 9A.76.170(3)(b))
16 Child Molestation 3 (RCW 9A.44.089)
17 Criminal Mistreatment 1 (RCW
18 9A.42.020)
19 Custodial Sexual Misconduct 1 (RCW
20 9A.44.160)
21 Domestic Violence Court Order
22 Violation (RCW 10.99.040,
23 10.99.050, 26.09.300, 26.10.220,
24 26.26.138, 26.50.110, 26.52.070,
25 or 74.34.145)
26 Extortion 1 (RCW 9A.56.120)
27 Extortionate Extension of Credit
28 (RCW 9A.82.020)
29 Extortionate Means to Collect
30 Extensions of Credit (RCW
31 9A.82.040)
32 Incest 2 (RCW 9A.64.020(2))
33 Kidnapping 2 (RCW 9A.40.030)
34 Perjury 1 (RCW 9A.72.020)
35 Persistent prison misbehavior (RCW
36 9.94.070)

1 Possession of a Stolen Firearm (RCW
2 9A.56.310)
3 Rape 3 (RCW 9A.44.060)
4 Rendering Criminal Assistance 1
5 (RCW 9A.76.070)
6 Sexual Misconduct with a Minor 1
7 (RCW 9A.44.093)
8 Sexually Violating Human Remains
9 (RCW 9A.44.105)
10 Stalking (RCW 9A.46.110)
11 Taking Motor Vehicle Without
12 Permission 1 (RCW
13 9A.56.070(1))
14 IV Arson 2 (RCW 9A.48.030)
15 Assault 2 (RCW 9A.36.021)
16 Assault by Watercraft (RCW
17 79A.60.060)
18 Bribing a Witness/Bribe Received by
19 Witness (RCW 9A.72.090,
20 9A.72.100)
21 Cheating 1 (RCW 9.46.1961)
22 Commercial Bribery (RCW
23 9A.68.060)
24 Counterfeiting (RCW 9.16.035(4))
25 Endangerment with a Controlled
26 Substance (RCW 9A.42.100)
27 Escape 1 (RCW 9A.76.110)
28 Hit and Run--Injury (RCW
29 46.52.020(4)(b))
30 Hit and Run with Vessel--Injury
31 Accident (RCW 79A.60.200(3))
32 Identity Theft 1 (RCW 9.35.020(2)(a))
33 Indecent Exposure to Person Under
34 Age Fourteen (subsequent sex
35 offense) (RCW 9A.88.010)
36 Influencing Outcome of Sporting
37 Event (RCW 9A.82.070)

1 Knowingly Trafficking in Stolen
2 Property (RCW 9A.82.050(2))
3 Malicious Harassment (RCW
4 9A.36.080)
5 Residential Burglary (RCW
6 9A.52.025)
7 Robbery 2 (RCW 9A.56.210)
8 Theft of Livestock 1 (RCW 9A.56.080)
9 Threats to Bomb (RCW 9.61.160)
10 Use of Proceeds of Criminal
11 Profiteering (RCW 9A.82.080 (1)
12 and (2))
13 Vehicular Assault, by being under the
14 influence of intoxicating liquor or
15 any drug, or by the operation or
16 driving of a vehicle in a reckless
17 manner (RCW 46.61.522)
18 Willful Failure to Return from
19 Furlough (RCW 72.66.060)
20 III Abandonment of dependent person 2
21 (RCW 9A.42.070)
22 Assault 3 (RCW 9A.36.031)
23 Assault of a Child 3 (RCW 9A.36.140)
24 Bail Jumping with class B or C Felony
25 (RCW 9A.76.170(3)(c))
26 Burglary 2 (RCW 9A.52.030)
27 Communication with a Minor for
28 Immoral Purposes (RCW
29 9.68A.090)
30 Criminal Gang Intimidation (RCW
31 9A.46.120)
32 Criminal Mistreatment 2 (RCW
33 9A.42.030)
34 Custodial Assault (RCW 9A.36.100)
35 Escape 2 (RCW 9A.76.120)
36 Extortion 2 (RCW 9A.56.130)
37 Harassment (RCW 9A.46.020)

1 Intimidating a Public Servant (RCW
2 9A.76.180)
3 Introducing Contraband 2 (RCW
4 9A.76.150)
5 Malicious Injury to Railroad Property
6 (RCW 81.60.070)
7 Patronizing a Juvenile Prostitute
8 (RCW 9.68A.100)
9 Perjury 2 (RCW 9A.72.030)
10 Possession of Incendiary Device (RCW
11 9.40.120)
12 Possession of Machine Gun or Short-
13 Barreled Shotgun or Rifle (RCW
14 9.41.190)
15 Promoting Prostitution 2 (RCW
16 9A.88.080)
17 Recklessly Trafficking in Stolen
18 Property (RCW 9A.82.050(1))
19 Securities Act violation (RCW
20 21.20.400)
21 Tampering with a Witness (RCW
22 9A.72.120)
23 Telephone Harassment (subsequent
24 conviction or threat of death)
25 (RCW 9.61.230)
26 Theft of Livestock 2 (RCW 9A.56.080)
27 Unlawful Imprisonment (RCW
28 9A.40.040)
29 Unlawful possession of firearm in the
30 second degree (RCW
31 9.41.040(1)(b))
32 Vehicular Assault, by the operation or
33 driving of a vehicle with disregard
34 for the safety of others (RCW
35 46.61.522)
36 Willful Failure to Return from Work
37 Release (RCW 72.65.070)

1 II Computer Trespass 1 (RCW
2 9A.52.110)
3 Counterfeiting (RCW 9.16.035(3))
4 Escape from Community Custody
5 (RCW 72.09.310)
6 Health Care False Claims (RCW
7 48.80.030)
8 Identity Theft 2 (RCW 9.35.020(2)(b))
9 Improperly Obtaining Financial
10 Information (RCW 9.35.010)
11 Malicious Mischief 1 (RCW
12 9A.48.070)
13 Possession of Stolen Property 1 (RCW
14 9A.56.150)
15 Theft 1 (RCW 9A.56.030)
16 Theft of Rental, Leased, or Lease-
17 purchased Property (valued at one
18 thousand five hundred dollars or
19 more) (RCW 9A.56.096(4))
20 Trafficking in Insurance Claims (RCW
21 48.30A.015)
22 Unlawful Practice of Law (RCW
23 2.48.180)
24 Unlicensed Practice of a Profession or
25 Business (RCW 18.130.190(7))
26 I Attempting to Elude a Pursuing Police
27 Vehicle (RCW 46.61.024)
28 False Verification for Welfare (RCW
29 74.08.055)
30 Forgery (RCW 9A.60.020)
31 Malicious Mischief 2 (RCW
32 9A.48.080)
33 Possession of Stolen Property 2 (RCW
34 9A.56.160)
35 Reckless Burning 1 (RCW 9A.48.040)

1 Taking Motor Vehicle Without
2 Permission 2 (RCW
3 9A.56.070(2))
4 Theft 2 (RCW 9A.56.040)
5 Theft of Rental, Leased, or Lease-
6 purchased Property (valued at two
7 hundred fifty dollars or more but
8 less than one thousand five
9 hundred dollars) (RCW
10 9A.56.096(4))
11 Unlawful Issuance of Checks or Drafts
12 (RCW 9A.56.060)
13 Unlawful Possession of Fictitious
14 Identification (section 1 of this
15 act)
16 Unlawful Possession of Instruments of
17 Financial Fraud (section 1 of this
18 act)
19 Unlawful Possession of Payment
20 Instruments (section 1 of this act)
21 Unlawful Possession of a Personal
22 Identification Device (section 1 of
23 this act)
24 Unlawful Production of Payment
25 Instruments (section 1 of this act)
26 Unlawful Use of Food Stamps (RCW
27 9.91.140 (2) and (3))
28 Vehicle Prowl 1 (RCW 9A.52.095)

29 NEW SECTION. **Sec. 9.** Section 7 of this act expires July 1, 2004.

30 NEW SECTION. **Sec. 10.** Section 8 of this act takes effect July 1,
31 2004.

--- END ---