

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1175

Chapter 267, Laws of 2003

58th Legislature
2003 Regular Session

TRAFFICKING

EFFECTIVE DATE: 7/27/03 - Except section 3, which becomes effective 7/1/04.

Passed by the House April 22, 2003
Yeas 97 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 17, 2003
Yeas 46 Nays 0

BRAD OWEN

President of the Senate

Approved May 14, 2003.

GARY LOCKE

Governor of the State of Washington

CERTIFICATE

I, Cynthia Zehnder, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1175** as passed by the House of Representatives and the Senate on the dates hereon set forth.

CYNTHIA ZEHNDER

Chief Clerk

FILED

May 14, 2003 - 2:42 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1175

AS AMENDED BY THE SENATE

Passed Legislature - 2003 Regular Session

State of Washington 58th Legislature 2003 Regular Session

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Veloria, Roach, O'Brien, Conway, Clements, Lantz, Linville, Moeller, Delvin, Benson, Darneille, Kenney, Kessler, Simpson, Chase, McMahan and Upthegrove)

READ FIRST TIME 02/11/03.

1 AN ACT Relating to trafficking persons; amending RCW 9.94A.535,
2 9A.82.090, 9A.82.100, and 9A.82.120; reenacting and amending RCW
3 9.94A.515 and 9.94A.515; adding a new section to chapter 9A.40 RCW;
4 prescribing penalties; providing an effective date; and providing an
5 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.40 RCW
8 to read as follows:

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

10 (i) Such person:

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

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

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

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

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

2 (C) Result in a death.

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

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

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

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

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

14 **Sec. 2.** RCW 9.94A.515 and 2002 c 340 s 2, 2002 c 324 s 2, 2002 c
15 290 s 2, 2002 c 253 s 4, 2002 c 229 s 2, 2002 c 134 s 2, and 2002 c 133
16 s 4 are each reenacted and amended to read as follows:

17

TABLE 2

CRIMES INCLUDED WITHIN

EACH SERIOUSNESS LEVEL

18

19

20	XVI	Aggravated Murder 1 (RCW
21		10.95.020)
22	XV	Homicide by abuse (RCW 9A.32.055)
23		Malicious explosion 1 (RCW
24		70.74.280(1))
25		Murder 1 (RCW 9A.32.030)
26	XIV	Murder 2 (RCW 9A.32.050)
27		<u>Trafficking 1 (section 1(1) of this act)</u>
28	XIII	Malicious explosion 2 (RCW
29		70.74.280(2))
30		Malicious placement of an explosive 1
31		(RCW 70.74.270(1))
32	XII	Assault 1 (RCW 9A.36.011)
33		Assault of a Child 1 (RCW 9A.36.120)
34		Malicious placement of an imitation
35		device 1 (RCW 70.74.272(1)(a))

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

1 Inciting Criminal Profiteering (RCW
2 9A.82.060(1)(b))
3 Malicious placement of an explosive 2
4 (RCW 70.74.270(2))
5 Over 18 and deliver narcotic from
6 Schedule III, IV, or V or a
7 nonnarcotic, except flunitrazepam
8 or methamphetamine, from
9 Schedule I-V to someone under 18
10 and 3 years junior (RCW
11 69.50.406)
12 Robbery 1 (RCW 9A.56.200)
13 Sexual Exploitation (RCW 9.68A.040)
14 Vehicular Homicide, by being under
15 the influence of intoxicating
16 liquor or any drug (RCW
17 46.61.520)
18 VIII Arson 1 (RCW 9A.48.020)
19 Deliver or possess with intent to
20 deliver methamphetamine (RCW
21 69.50.401(a)(1)(ii))
22 Homicide by Watercraft, by the
23 operation of any vessel in a
24 reckless manner (RCW
25 79A.60.050)
26 Manslaughter 2 (RCW 9A.32.070)
27 Manufacture, deliver, or possess with
28 intent to deliver amphetamine
29 (RCW 69.50.401(a)(1)(ii))
30 Manufacture, deliver, or possess with
31 intent to deliver heroin or cocaine
32 (when the offender has a criminal
33 history in this state or any other
34 state that includes a sex offense or
35 serious violent offense or the
36 Washington equivalent) (RCW
37 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 Use of Food Stamps (RCW
25 9.91.140 (2) and (3))
26 Vehicle Prowl 1 (RCW 9A.52.095)

27 **Sec. 3.** RCW 9.94A.515 and 2002 c 340 s 2, 2002 c 324 s 2, 2002 c
28 290 s 7, 2002 c 253 s 4, 2002 c 229 s 2, 2002 c 134 s 2, and 2002 c 133
29 s 4 are each reenacted and amended to read as follows:

30 TABLE 2
31 CRIMES INCLUDED WITHIN
32 EACH SERIOUSNESS LEVEL

33	XVI	Aggravated Murder 1 (RCW
34		10.95.020)
35	XV	Homicide by abuse (RCW 9A.32.055)

1 Malicious explosion 1 (RCW
2 70.74.280(1))
3 Murder 1 (RCW 9A.32.030)
4 XIV Murder 2 (RCW 9A.32.050)
5 Trafficking 1 (section 1(1) of this act)
6 XIII Malicious explosion 2 (RCW
7 70.74.280(2))
8 Malicious placement of an explosive 1
9 (RCW 70.74.270(1))
10 XII Assault 1 (RCW 9A.36.011)
11 Assault of a Child 1 (RCW 9A.36.120)
12 Malicious placement of an imitation
13 device 1 (RCW 70.74.272(1)(a))
14 Rape 1 (RCW 9A.44.040)
15 Rape of a Child 1 (RCW 9A.44.073)
16 Trafficking 2 (section 1(2) of this act)
17 XI Manslaughter 1 (RCW 9A.32.060)
18 Rape 2 (RCW 9A.44.050)
19 Rape of a Child 2 (RCW 9A.44.076)
20 X Child Molestation 1 (RCW 9A.44.083)
21 Indecent Liberties (with forcible
22 compulsion) (RCW
23 9A.44.100(1)(a))
24 Kidnapping 1 (RCW 9A.40.020)
25 Leading Organized Crime (RCW
26 9A.82.060(1)(a))
27 Malicious explosion 3 (RCW
28 70.74.280(3))
29 Sexually Violent Predator Escape
30 (RCW 9A.76.115)
31 IX Assault of a Child 2 (RCW 9A.36.130)
32 Explosive devices prohibited (RCW
33 70.74.180)
34 Hit and Run--Death (RCW
35 46.52.020(4)(a))

1 Homicide by Watercraft, by being
2 under the influence of intoxicating
3 liquor or any drug (RCW
4 79A.60.050)
5 Inciting Criminal Profiteering (RCW
6 9A.82.060(1)(b))
7 Malicious placement of an explosive 2
8 (RCW 70.74.270(2))
9 Robbery 1 (RCW 9A.56.200)
10 Sexual Exploitation (RCW 9.68A.040)
11 Vehicular Homicide, by being under
12 the influence of intoxicating
13 liquor or any drug (RCW
14 46.61.520)
15 VIII Arson 1 (RCW 9A.48.020)
16 Homicide by Watercraft, by the
17 operation of any vessel in a
18 reckless manner (RCW
19 79A.60.050)
20 Manslaughter 2 (RCW 9A.32.070)
21 Promoting Prostitution 1 (RCW
22 9A.88.070)
23 Theft of Ammonia (RCW 69.55.010)
24 Vehicular Homicide, by the operation
25 of any vehicle in a reckless
26 manner (RCW 46.61.520)
27 VII Burglary 1 (RCW 9A.52.020)
28 Child Molestation 2 (RCW 9A.44.086)
29 Civil Disorder Training (RCW
30 9A.48.120)
31 Dealing in depictions of minor
32 engaged in sexually explicit
33 conduct (RCW 9.68A.050)
34 Drive-by Shooting (RCW 9A.36.045)
35 Homicide by Watercraft, by disregard
36 for the safety of others (RCW
37 79A.60.050)

1 Indecent Liberties (without forcible
2 compulsion) (RCW 9A.44.100(1)
3 (b) and (c))
4 Introducing Contraband 1 (RCW
5 9A.76.140)
6 Malicious placement of an explosive 3
7 (RCW 70.74.270(3))
8 Sending, bringing into state depictions
9 of minor engaged in sexually
10 explicit conduct (RCW
11 9.68A.060)
12 Unlawful Possession of a Firearm in
13 the first degree (RCW
14 9.41.040(1)(a))
15 Use of a Machine Gun in Commission
16 of a Felony (RCW 9.41.225)
17 Vehicular Homicide, by disregard for
18 the safety of others (RCW
19 46.61.520)
20 VI Bail Jumping with Murder 1 (RCW
21 9A.76.170(3)(a))
22 Bribery (RCW 9A.68.010)
23 Incest 1 (RCW 9A.64.020(1))
24 Intimidating a Judge (RCW
25 9A.72.160)
26 Intimidating a Juror/Witness (RCW
27 9A.72.110, 9A.72.130)
28 Malicious placement of an imitation
29 device 2 (RCW 70.74.272(1)(b))
30 Rape of a Child 3 (RCW 9A.44.079)
31 Theft of a Firearm (RCW 9A.56.300)
32 Unlawful Storage of Ammonia (RCW
33 69.55.020)
34 V Abandonment of dependent person 1
35 (RCW 9A.42.060)

1 Advancing money or property for
2 extortionate extension of credit
3 (RCW 9A.82.030)
4 Bail Jumping with class A Felony
5 (RCW 9A.76.170(3)(b))
6 Child Molestation 3 (RCW 9A.44.089)
7 Criminal Mistreatment 1 (RCW
8 9A.42.020)
9 Custodial Sexual Misconduct 1 (RCW
10 9A.44.160)
11 Domestic Violence Court Order
12 Violation (RCW 10.99.040,
13 10.99.050, 26.09.300, 26.10.220,
14 26.26.138, 26.50.110, 26.52.070,
15 or 74.34.145)
16 Extortion 1 (RCW 9A.56.120)
17 Extortionate Extension of Credit
18 (RCW 9A.82.020)
19 Extortionate Means to Collect
20 Extensions of Credit (RCW
21 9A.82.040)
22 Incest 2 (RCW 9A.64.020(2))
23 Kidnapping 2 (RCW 9A.40.030)
24 Perjury 1 (RCW 9A.72.020)
25 Persistent prison misbehavior (RCW
26 9.94.070)
27 Possession of a Stolen Firearm (RCW
28 9A.56.310)
29 Rape 3 (RCW 9A.44.060)
30 Rendering Criminal Assistance 1
31 (RCW 9A.76.070)
32 Sexual Misconduct with a Minor 1
33 (RCW 9A.44.093)
34 Sexually Violating Human Remains
35 (RCW 9A.44.105)
36 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)
32 Residential Burglary (RCW
33 9A.52.025)
34 Robbery 2 (RCW 9A.56.210)
35 Theft of Livestock 1 (RCW 9A.56.080)
36 Threats to Bomb (RCW 9.61.160)

1 Use of Proceeds of Criminal
2 Profiteering (RCW 9A.82.080 (1)
3 and (2))
4 Vehicular Assault, by being under the
5 influence of intoxicating liquor or
6 any drug, or by the operation or
7 driving of a vehicle in a reckless
8 manner (RCW 46.61.522)
9 Willful Failure to Return from
10 Furlough (RCW 72.66.060)
11 III Abandonment of dependent person 2
12 (RCW 9A.42.070)
13 Assault 3 (RCW 9A.36.031)
14 Assault of a Child 3 (RCW 9A.36.140)
15 Bail Jumping with class B or C Felony
16 (RCW 9A.76.170(3)(c))
17 Burglary 2 (RCW 9A.52.030)
18 Communication with a Minor for
19 Immoral Purposes (RCW
20 9.68A.090)
21 Criminal Gang Intimidation (RCW
22 9A.46.120)
23 Criminal Mistreatment 2 (RCW
24 9A.42.030)
25 Custodial Assault (RCW 9A.36.100)
26 Escape 2 (RCW 9A.76.120)
27 Extortion 2 (RCW 9A.56.130)
28 Harassment (RCW 9A.46.020)
29 Intimidating a Public Servant (RCW
30 9A.76.180)
31 Introducing Contraband 2 (RCW
32 9A.76.150)
33 Malicious Injury to Railroad Property
34 (RCW 81.60.070)
35 Patronizing a Juvenile Prostitute
36 (RCW 9.68A.100)
37 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 Vehicular Assault, by the operation or
24 driving of a vehicle with disregard
25 for the safety of others (RCW
26 46.61.522)
27 Willful Failure to Return from Work
28 Release (RCW 72.65.070)
29 II Computer Trespass 1 (RCW
30 9A.52.110)
31 Counterfeiting (RCW 9.16.035(3))
32 Escape from Community Custody
33 (RCW 72.09.310)
34 Health Care False Claims (RCW
35 48.80.030)
36 Identity Theft 2 (RCW 9.35.020(2)(b))

1 Improperly Obtaining Financial
2 Information (RCW 9.35.010)
3 Malicious Mischief 1 (RCW
4 9A.48.070)
5 Possession of Stolen Property 1 (RCW
6 9A.56.150)
7 Theft 1 (RCW 9A.56.030)
8 Theft of Rental, Leased, or Lease-
9 purchased Property (valued at one
10 thousand five hundred dollars or
11 more) (RCW 9A.56.096(4))
12 Trafficking in Insurance Claims (RCW
13 48.30A.015)
14 Unlawful Practice of Law (RCW
15 2.48.180)
16 Unlicensed Practice of a Profession or
17 Business (RCW 18.130.190(7))
18 I Attempting to Elude a Pursuing Police
19 Vehicle (RCW 46.61.024)
20 False Verification for Welfare (RCW
21 74.08.055)
22 Forgery (RCW 9A.60.020)
23 Malicious Mischief 2 (RCW
24 9A.48.080)
25 Possession of Stolen Property 2 (RCW
26 9A.56.160)
27 Reckless Burning 1 (RCW 9A.48.040)
28 Taking Motor Vehicle Without
29 Permission 2 (RCW
30 9A.56.070(2))
31 Theft 2 (RCW 9A.56.040)
32 Theft of Rental, Leased, or Lease-
33 purchased Property (valued at two
34 hundred fifty dollars or more but
35 less than one thousand five
36 hundred dollars) (RCW
37 9A.56.096(4))

1 Unlawful Issuance of Checks or Drafts
2 (RCW 9A.56.060)
3 Unlawful Use of Food Stamps (RCW
4 9.91.140 (2) and (3))
5 Vehicle Prowl 1 (RCW 9A.52.095)

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

8 The court may impose a sentence outside the standard sentence range
9 for an offense if it finds, considering the purpose of this chapter,
10 that there are substantial and compelling reasons justifying an
11 exceptional sentence. Whenever a sentence outside the standard
12 sentence range is imposed, the court shall set forth the reasons for
13 its decision in written findings of fact and conclusions of law. A
14 sentence outside the standard sentence range shall be a determinate
15 sentence unless it is imposed on an offender sentenced under RCW
16 9.94A.712. An exceptional sentence imposed on an offender sentenced
17 under RCW 9.94A.712 shall be to a minimum term set by the court and a
18 maximum term equal to the statutory maximum sentence for the offense of
19 conviction under chapter 9A.20 RCW.

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

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

28 The following are illustrative factors which the court may consider
29 in the exercise of its discretion to impose an exceptional sentence.
30 The following are illustrative only and are not intended to be
31 exclusive reasons for exceptional sentences.

32 (1) Mitigating Circumstances

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

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

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

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

6 (e) The defendant's capacity to appreciate the wrongfulness of his
7 or her conduct, or to conform his or her conduct to the requirements of
8 the law, was significantly impaired. Voluntary use of drugs or alcohol
9 is excluded.

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

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

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

19 (2) Aggravating Circumstances

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

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

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

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

30 (i) The current offense involved multiple victims or multiple
31 incidents per victim;

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

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

36 (iv) The defendant used his or her position of trust, confidence,
37 or fiduciary responsibility to facilitate the commission of the current
38 offense.

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (i) The operation of the multiple offense policy of RCW 9.94A.589

1 results in a presumptive sentence that is clearly too lenient in light
2 of the purpose of this chapter, as expressed in RCW 9.94A.010.

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

7 (k) The offense resulted in the pregnancy of a child victim of
8 rape.

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

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

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

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

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

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

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

1 the costs of the suit, including reasonable investigative and
2 attorney's fees.

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

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

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

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

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

1 acquired or used in such a way as to be subject to forfeiture under RCW
2 9A.82.100(4)(f).

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

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

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

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

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

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

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

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

36 (ii) Any property, contractual right, or claim against property
37 used to influence any enterprise that a person has established,

1 operated, controlled, conducted, or participated in the conduct of, in
2 violation of RCW 9A.82.060 or 9A.82.080.

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

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

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

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

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

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

30 (6) A defendant convicted in any criminal proceeding is precluded
31 in any civil proceeding from denying the essential allegations of the
32 criminal offense proven in the criminal trial in which the defendant
33 was convicted. For the purposes of this subsection, a conviction shall
34 be deemed to have occurred upon a verdict, finding, or plea of guilty,
35 notwithstanding the fact that appellate review of the conviction and
36 sentence has been or may be sought. If a subsequent reversal of the
37 conviction occurs, any judgment that was based upon that conviction may
38 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
37 as amicus curiae in any proceeding in which a claim under this section

1 has been asserted or in which a court is interpreting RCW 9A.82.010,
2 9A.82.080, 9A.82.090, 9A.82.110, or 9A.82.120, or this section.

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

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

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

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

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

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

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

35 (b) In the discretion of the attorney general or county prosecuting
36 attorney filing the lien, any aliases or fictitious names of the
37 defendant named in the lien;

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

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

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

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

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

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

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

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

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

32 (5)(a) A criminal profiteering lien is perfected against interests
33 in personal property in the same manner as a security interest in like
34 property pursuant to RCW (~~62A.9-302, 62A.9-303, 62A.9-304, 62A.9-305,~~
35 ~~and 62A.9-306~~) 62A.9A-301 through 62A.9A-316 or as otherwise required
36 to perfect a security interest in like property under applicable law.
37 In the case of perfection by filing, the state shall file, in lieu of

1 a financing statement in the form prescribed by RCW ((~~62A.9-402~~))
2 62A.9A-502, a notice of lien in substantially the following form:

3 NOTICE OF LIEN

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

7 Name:

8 Address:

9

10 State of Washington

11

12 By (authorized signature)

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

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

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

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

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

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

32 (7) The lien created in favor of the state in accordance with this
33 section, when filed or otherwise perfected as provided in subsection
34 (5) of this section, has, with respect to any of the property described
35 in subsection (6) of this section, the same priority determined
36 pursuant to the laws of this state as a mortgage or security interest

1 given for value (but not a purchase money security interest) and
2 perfected in the same manner with respect to such property; except that
3 any lien perfected pursuant to Title 60 RCW by any person who, in the
4 ordinary course of his or her business, furnishes labor, services, or
5 materials, or rents, leases, or otherwise supplies equipment, without
6 knowledge of the criminal profiteering lien, is superior to the
7 criminal profiteering lien.

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

15 (9) Upon the entry of a final judgment in favor of the state
16 providing for forfeiture of property to the state, the title of the
17 state to the property:

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

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

30 (10) This section does not limit the right of the state to obtain
31 any order or injunction, receivership, writ, attachment, garnishment,
32 or other remedy authorized under RCW 9A.82.100 or appropriate to
33 protect the interests of the state or available under other applicable
34 law.

35 (11) In a civil or criminal action under this chapter, the superior
36 court shall provide for the protection of bona fide interests in
37 property, including community property, subject to liens of persons who

1 were not involved in the violation of this chapter, except to the
2 extent that such interests or property were acquired or used in such a
3 way as to be subject to forfeiture pursuant to RCW 9A.82.100(4)(f).

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

5 NEW SECTION. **Sec. 9.** Section 3 of this act takes effect July 1,
6 2004.

Passed by the House April 22, 2003.

Passed by the Senate April 17, 2003.

Approved by the Governor May 14, 2003.

Filed in Office of Secretary of State May 14, 2003.