

SUBSTITUTE HOUSE BILL 2412

State of Washington 59th Legislature 2006 Regular Session

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives O'Brien, Rodne, Ericks, Lovick, Anderson, Jarrett, Nixon, McDonald, Williams, Darneille, Conway, P. Sullivan, Tom, Takko, Lantz, Kilmer, Fromhold, B. Sullivan, Morrell, Simpson, Springer, Green, Miloscia, Sells, Upthegrove and Ormsby)

READ FIRST TIME 02/08/06.

1 AN ACT Relating to increasing the penalty for violating the
2 registration statute by imposing a term of mandatory community custody
3 upon the first offense and assigning the second offense a seriousness
4 level; amending RCW 9.94A.545 and 9.94A.715; reenacting and amending
5 RCW 9.94A.515; prescribing penalties; and declaring an emergency.

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

7 **Sec. 1.** RCW 9.94A.515 and 2005 c 458 s 2 and 2005 c 183 s 9 are
8 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)

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 (RCW 9A.40.100(1))
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 (RCW 9A.40.100(2))
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 liquor
13 or any drug (RCW 46.61.520)
14 VIII Arson 1 (RCW 9A.48.020)
15 Homicide by Watercraft, by the
16 operation of any vessel in a
17 reckless manner (RCW
18 79A.60.050)
19 Manslaughter 2 (RCW 9A.32.070)
20 Promoting Prostitution 1 (RCW
21 9A.88.070)
22 Theft of Ammonia (RCW 69.55.010)
23 Vehicular Homicide, by the operation
24 of any vehicle in a reckless
25 manner (RCW 46.61.520)
26 VII Burglary 1 (RCW 9A.52.020)
27 Child Molestation 2 (RCW 9A.44.086)
28 Civil Disorder Training (RCW
29 9A.48.120)
30 Dealing in depictions of minor
31 engaged in sexually explicit
32 conduct (RCW 9.68A.050)
33 Drive-by Shooting (RCW 9A.36.045)
34 Homicide by Watercraft, by disregard
35 for the safety of others (RCW
36 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 Negligently Causing Death By Use of
9 a Signal Preemption Device
10 (RCW 46.37.675)
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))
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))
33 Rape of a Child 3 (RCW 9A.44.079)
34 Theft of a Firearm (RCW 9A.56.300)
35 Unlawful Storage of Ammonia (RCW
36 69.55.020)

1 V Abandonment of dependent person 1
2 (RCW 9A.42.060)
3 Advancing money or property for
4 extortionate extension of credit
5 (RCW 9A.82.030)
6 Bail Jumping with class A Felony
7 (RCW 9A.76.170(3)(b))
8 Child Molestation 3 (RCW 9A.44.089)
9 Criminal Mistreatment 1 (RCW
10 9A.42.020)
11 Custodial Sexual Misconduct 1 (RCW
12 9A.44.160)
13 Domestic Violence Court Order
14 Violation (RCW 10.99.040,
15 10.99.050, 26.09.300, 26.10.220,
16 26.26.138, 26.50.110, 26.52.070,
17 or 74.34.145)
18 Extortion 1 (RCW 9A.56.120)
19 Extortionate Extension of Credit
20 (RCW 9A.82.020)
21 Extortionate Means to Collect
22 Extensions of Credit (RCW
23 9A.82.040)
24 Incest 2 (RCW 9A.64.020(2))
25 Kidnapping 2 (RCW 9A.40.030)
26 Perjury 1 (RCW 9A.72.020)
27 Persistent prison misbehavior (RCW
28 9.94.070)
29 Possession of a Stolen Firearm (RCW
30 9A.56.310)
31 Rape 3 (RCW 9A.44.060)
32 Rendering Criminal Assistance 1
33 (RCW 9A.76.070)
34 Sexual Misconduct with a Minor 1
35 (RCW 9A.44.093)
36 Sexually Violating Human Remains
37 (RCW 9A.44.105)

1 Stalking (RCW 9A.46.110)
2 Taking Motor Vehicle Without
3 Permission 1 (RCW 9A.56.070)
4 IV Arson 2 (RCW 9A.48.030)
5 Assault 2 (RCW 9A.36.021)
6 Assault 3 (of a Peace Officer with a
7 Projectile Stun Gun) (RCW
8 9A.36.031(1)(h))
9 Assault by Watercraft (RCW
10 79A.60.060)
11 Bribing a Witness/Bribe Received by
12 Witness (RCW 9A.72.090,
13 9A.72.100)
14 Cheating 1 (RCW 9.46.1961)
15 Commercial Bribery (RCW
16 9A.68.060)
17 Counterfeiting (RCW 9.16.035(4))
18 Endangerment with a Controlled
19 Substance (RCW 9A.42.100)
20 Escape 1 (RCW 9A.76.110)
21 Hit and Run--Injury (RCW
22 46.52.020(4)(b))
23 Hit and Run with Vessel--Injury
24 Accident (RCW 79A.60.200(3))
25 Identity Theft 1 (RCW 9.35.020(2))
26 Indecent Exposure to Person Under
27 Age Fourteen (subsequent sex
28 offense) (RCW 9A.88.010)
29 Influencing Outcome of Sporting
30 Event (RCW 9A.82.070)
31 Malicious Harassment (RCW
32 9A.36.080)
33 Residential Burglary (RCW
34 9A.52.025)
35 Robbery 2 (RCW 9A.56.210)
36 Theft of Livestock 1 (RCW 9A.56.080)
37 Threats to Bomb (RCW 9.61.160)

1 Trafficking in Stolen Property 1 (RCW
2 9A.82.050)
3 Unlawful factoring of a credit card or
4 payment card transaction (RCW
5 9A.56.290(4)(b))
6 Unlawful transaction of health
7 coverage as a health care service
8 contractor (RCW 48.44.016(3))
9 Unlawful transaction of health
10 coverage as a health maintenance
11 organization (RCW 48.46.033(3))
12 Unlawful transaction of insurance
13 business (RCW 48.15.023(3))
14 Unlicensed practice as an insurance
15 professional (RCW 48.17.063(3))
16 Use of Proceeds of Criminal
17 Profiteering (RCW 9A.82.080 (1)
18 and (2))
19 Vehicular Assault, by being under the
20 influence of intoxicating liquor or
21 any drug, or by the operation or
22 driving of a vehicle in a reckless
23 manner (RCW 46.61.522)
24 Willful Failure to Return from
25 Furlough (RCW 72.66.060)
26 III Abandonment of dependent person 2
27 (RCW 9A.42.070)
28 Assault 3 (Except Assault 3 of a Peace
29 Officer With a Projectile Stun
30 Gun) (RCW 9A.36.031 except
31 subsection (1)(h))
32 Assault of a Child 3 (RCW 9A.36.140)
33 Bail Jumping with class B or C Felony
34 (RCW 9A.76.170(3)(c))
35 Burglary 2 (RCW 9A.52.030)

1 Communication with a Minor for
2 Immoral Purposes (RCW
3 9.68A.090)
4 Criminal Gang Intimidation (RCW
5 9A.46.120)
6 Criminal Mistreatment 2 (RCW
7 9A.42.030)
8 Custodial Assault (RCW 9A.36.100)
9 Cyberstalking (subsequent conviction
10 or threat of death) (RCW
11 9.61.260(3))
12 Escape 2 (RCW 9A.76.120)
13 Extortion 2 (RCW 9A.56.130)
14 Harassment (RCW 9A.46.020)
15 Intimidating a Public Servant (RCW
16 9A.76.180)
17 Introducing Contraband 2 (RCW
18 9A.76.150)
19 Malicious Injury to Railroad Property
20 (RCW 81.60.070)
21 Negligently Causing Substantial Bodily
22 Harm By Use of a Signal
23 Preemption Device (RCW
24 46.37.674)
25 Patronizing a Juvenile Prostitute
26 (RCW 9.68A.100)
27 Perjury 2 (RCW 9A.72.030)
28 Possession of Incendiary Device (RCW
29 9.40.120)
30 Possession of Machine Gun or Short-
31 Barreled Shotgun or Rifle (RCW
32 9.41.190)
33 Promoting Prostitution 2 (RCW
34 9A.88.080)
35 Securities Act violation (RCW
36 21.20.400)

1 Tampering with a Witness (RCW
2 9A.72.120)
3 Telephone Harassment (subsequent
4 conviction or threat of death)
5 (RCW 9.61.230(2))
6 Theft of Livestock 2 (RCW 9A.56.083)
7 Trafficking in Stolen Property 2 (RCW
8 9A.82.055)
9 Unlawful Imprisonment (RCW
10 9A.40.040)
11 Unlawful possession of firearm in the
12 second degree (RCW 9.41.040(2))
13 Vehicular Assault, by the operation or
14 driving of a vehicle with disregard
15 for the safety of others (RCW
16 46.61.522)
17 Willful Failure to Return from Work
18 Release (RCW 72.65.070)
19 II Computer Trespass 1 (RCW
20 9A.52.110)
21 Counterfeiting (RCW 9.16.035(3))
22 Escape from Community Custody
23 (RCW 72.09.310)
24 Failure to Register as a Sex Offender
25 (with one or more prior
26 convictions for Failure to Register
27 as a Sex Offender) (RCW
28 9A.44.130(10)(a))
29 Health Care False Claims (RCW
30 48.80.030)
31 Identity Theft 2 (RCW 9.35.020(3))
32 Improperly Obtaining Financial
33 Information (RCW 9.35.010)
34 Malicious Mischief 1 (RCW
35 9A.48.070)
36 Possession of Stolen Property 1 (RCW
37 9A.56.150)

1 Theft 1 (RCW 9A.56.030)
2 Theft of Rental, Leased, or Lease-
3 purchased Property (valued at one
4 thousand five hundred dollars or
5 more) (RCW 9A.56.096(5)(a))
6 Trafficking in Insurance Claims (RCW
7 48.30A.015)
8 Unlawful factoring of a credit card or
9 payment card transaction (RCW
10 9A.56.290(4)(a))
11 Unlawful Practice of Law (RCW
12 2.48.180)
13 Unlicensed Practice of a Profession or
14 Business (RCW 18.130.190(7))
15 I Attempting to Elude a Pursuing Police
16 Vehicle (RCW 46.61.024)
17 False Verification for Welfare (RCW
18 74.08.055)
19 Forgery (RCW 9A.60.020)
20 Fraudulent Creation or Revocation of a
21 Mental Health Advance Directive
22 (RCW 9A.60.060)
23 Malicious Mischief 2 (RCW
24 9A.48.080)
25 Mineral Trespass (RCW 78.44.330)
26 Possession of Stolen Property 2 (RCW
27 9A.56.160)
28 Reckless Burning 1 (RCW 9A.48.040)
29 Taking Motor Vehicle Without
30 Permission 2 (RCW 9A.56.075)
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(5)(b))

1 Transaction of insurance business
2 beyond the scope of licensure
3 (RCW 48.17.063(4))
4 Unlawful Issuance of Checks or Drafts
5 (RCW 9A.56.060)
6 Unlawful Possession of Fictitious
7 Identification (RCW 9A.56.320)
8 Unlawful Possession of Instruments of
9 Financial Fraud (RCW
10 9A.56.320)
11 Unlawful Possession of Payment
12 Instruments (RCW 9A.56.320)
13 Unlawful Possession of a Personal
14 Identification Device (RCW
15 9A.56.320)
16 Unlawful Production of Payment
17 Instruments (RCW 9A.56.320)
18 Unlawful Trafficking in Food Stamps
19 (RCW 9.91.142)
20 Unlawful Use of Food Stamps (RCW
21 9.91.144)
22 Vehicle Prowl 1 (RCW 9A.52.095)

23 **Sec. 2.** RCW 9.94A.545 and 2003 c 379 s 8 are each amended to read
24 as follows:

25 (1) Except as provided in RCW 9.94A.650 and in subsection (2) of
26 this section, on all sentences of confinement for one year or less, in
27 which the offender is convicted of a sex offense, a violent offense, a
28 crime against a person under RCW 9.94A.411, or felony violation of
29 chapter 69.50 or 69.52 RCW or an attempt, conspiracy, or solicitation
30 to commit such a crime, the court may impose up to one year of
31 community custody, subject to conditions and sanctions as authorized in
32 RCW 9.94A.715 and 9.94A.720. An offender shall be on community custody
33 as of the date of sentencing. However, during the time for which the
34 offender is in total or partial confinement pursuant to the sentence or
35 a violation of the sentence, the period of community custody shall
36 toll.

1 (2) If the sex offense is failure to register as a sex offender
2 under RCW 9A.44.130(10)(a), the court shall impose a term of community
3 custody under RCW 9.94A.715.

4 **Sec. 3.** RCW 9.94A.715 and 2003 c 379 s 6 are each amended to read
5 as follows:

6 (1) When a court sentences a person to the custody of the
7 department for a sex offense not sentenced under RCW 9.94A.712, a
8 violent offense, any crime against persons under RCW 9.94A.411(2), or
9 a felony offense under chapter 69.50 or 69.52 RCW, committed on or
10 after July 1, 2000, or when a court sentences a person to a term of
11 confinement of a year or less for a violation of RCW 9A.44.130(10)(a)
12 committed on or after the effective date of this act, the court shall
13 in addition to the other terms of the sentence, sentence the offender
14 to community custody for the community custody range established under
15 RCW 9.94A.850 or up to the period of earned release awarded pursuant to
16 RCW 9.94A.728 (1) and (2), whichever is longer. The community custody
17 shall begin: (a) Upon completion of the term of confinement; (b) at
18 such time as the offender is transferred to community custody in lieu
19 of earned release in accordance with RCW 9.94A.728 (1) and (2); or (c)
20 with regard to offenders sentenced under RCW 9.94A.660, upon failure to
21 complete or administrative termination from the special drug offender
22 sentencing alternative program. Except as provided in RCW 9.94A.501,
23 the department shall supervise any sentence of community custody
24 imposed under this section.

25 (2)(a) Unless a condition is waived by the court, the conditions of
26 community custody shall include those provided for in RCW 9.94A.700(4).
27 The conditions may also include those provided for in RCW 9.94A.700(5).
28 The court may also order the offender to participate in rehabilitative
29 programs or otherwise perform affirmative conduct reasonably related to
30 the circumstances of the offense, the offender's risk of reoffending,
31 or the safety of the community, and the department shall enforce such
32 conditions pursuant to subsection (6) of this section.

33 (b) As part of any sentence that includes a term of community
34 custody imposed under this subsection, the court shall also require the
35 offender to comply with any conditions imposed by the department under
36 RCW 9.94A.720. The department shall assess the offender's risk of
37 reoffense and may establish and modify additional conditions of the

1 offender's community custody based upon the risk to community safety.
2 In addition, the department may require the offender to participate in
3 rehabilitative programs, or otherwise perform affirmative conduct, and
4 to obey all laws.

5 (c) The department may not impose conditions that are contrary to
6 those ordered by the court and may not contravene or decrease court
7 imposed conditions. The department shall notify the offender in
8 writing of any such conditions or modifications. In setting,
9 modifying, and enforcing conditions of community custody, the
10 department shall be deemed to be performing a quasi-judicial function.

11 (3) If an offender violates conditions imposed by the court or the
12 department pursuant to this section during community custody, the
13 department may transfer the offender to a more restrictive confinement
14 status and impose other available sanctions as provided in RCW
15 9.94A.737 and 9.94A.740.

16 (4) Except for terms of community custody under RCW 9.94A.670, the
17 department shall discharge the offender from community custody on a
18 date determined by the department, which the department may modify,
19 based on risk and performance of the offender, within the range or at
20 the end of the period of earned release, whichever is later.

21 (5) At any time prior to the completion or termination of a sex
22 offender's term of community custody, if the court finds that public
23 safety would be enhanced, the court may impose and enforce an order
24 extending any or all of the conditions imposed pursuant to this section
25 for a period up to the maximum allowable sentence for the crime as it
26 is classified in chapter 9A.20 RCW, regardless of the expiration of the
27 offender's term of community custody. If a violation of a condition
28 extended under this subsection occurs after the expiration of the
29 offender's term of community custody, it shall be deemed a violation of
30 the sentence for the purposes of RCW 9.94A.631 and may be punishable as
31 contempt of court as provided for in RCW 7.21.040. If the court
32 extends a condition beyond the expiration of the term of community
33 custody, the department is not responsible for supervision of the
34 offender's compliance with the condition.

35 (6) Within the funds available for community custody, the
36 department shall determine conditions and duration of community custody
37 on the basis of risk to community safety, and shall supervise offenders

1 during community custody on the basis of risk to community safety and
2 conditions imposed by the court. The secretary shall adopt rules to
3 implement the provisions of this subsection.

4 (7) By the close of the next business day after receiving notice of
5 a condition imposed or modified by the department, an offender may
6 request an administrative review under rules adopted by the department.
7 The condition shall remain in effect unless the reviewing officer finds
8 that it is not reasonably related to any of the following: (a) The
9 crime of conviction; (b) the offender's risk of reoffending; or (c) the
10 safety of the community.

11 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
12 preservation of the public peace, health, or safety, or support of the
13 state government and its existing public institutions, and takes effect
14 immediately.

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