

1 a request for proposal to implement five pilot projects throughout the
2 state that focus on combating criminal street gangs and violence.

3 (a) The projects shall be designed to have a three-prong approach
4 to preventing, intervening, and suppressing gang-related violence.

5 (b) Consideration for grant awards shall primarily be given to, but
6 is not limited to, those applicants that show that gang violence is an
7 increasing problem in their respective community and that addressing
8 the impact of street gangs is a high priority within their local
9 community.

10 (c) Grant applications shall include project processes and
11 protocols for defining objectives and measurable results.

12 (d) The costs of administration shall not exceed four percent of
13 appropriated funding.

14 (e) Grants awarded under this section shall be used to supplement,
15 not supplant, other moneys that are available for combating criminal
16 street gangs and violence.

17 (2) The governor's juvenile justice advisory committee shall
18 convene a state gang work group. The committee, working in
19 collaboration with the work group, shall meet quarterly each year to
20 provide oversight of the pilot projects established in subsection (1)
21 of this section. The work group shall include a total of twenty
22 members that consist of the following:

23 (a) One member from each of the two largest caucuses of the senate,
24 appointed by the president of the senate;

25 (b) One member from each of the two largest caucuses of the house
26 of representatives, appointed by the speaker of the house of
27 representatives;

28 (c) The attorney general or the attorney general's designee;

29 (d) A prosecutor appointed by the Washington association of
30 prosecuting attorneys;

31 (e) A defender appointed by the Washington defender association or
32 the Washington association of criminal defense lawyers;

33 (f) The state superintendent of public instruction or the
34 superintendent's designee;

35 (g) The secretary of the department of corrections or the
36 secretary's designee;

37 (h) The secretary of the department of social and health services
38 or the secretary's designee;

1 (i) The chief of the Washington state patrol or the chief's
2 designee;

3 (j) A representative of the association of cities;

4 (k) A representative of the Washington state association of
5 counties; and

6 (l) Representatives, appointed by the governor, that shall include,
7 but are not limited to:

8 (i) City law enforcement;

9 (ii) County law enforcement;

10 (iii) Court administrators; and

11 (iv) Experts in gang or delinquency prevention.

12 (3) The members of the state gang work group shall be reimbursed
13 for travel expenses as provided in RCW 43.03.050 and 43.03.060, within
14 available resources.

15 NEW SECTION. **Sec. 102.** The sum of ten million dollars, or as much
16 thereof as may be necessary, is appropriated for the biennium ending
17 June 30, 2011, from the general fund to the department of social and
18 health services for the purposes of section 101 of this act.

19 **PART II**

20 **NEAR-TERM RELIEF FOR 2008**

21 **Two Million Dollar Washington Association Of Sheriffs And Police**
22 **Chiefs Grant Program To Communities**

23 NEW SECTION. **Sec. 201.** A new section is added to chapter 36.28A
24 RCW to read as follows:

25 (1) When funded, the Washington association of sheriffs and police
26 chiefs shall establish a grant program to assist local law enforcement
27 agencies in the support of special enforcement emphasis targeting gang
28 crime. Grant applications shall be reviewed and awarded through peer
29 review panels. Grant applicants are encouraged to utilize
30 multijurisdictional efforts.

31 (2) Each grant applicant shall:

32 (a) Show a significant gang problem in the jurisdiction or
33 jurisdictions receiving the grant;

1 (b) Verify that grant awards are sufficient to cover increased
2 prosecution and jail costs;

3 (c) Design an enforcement program that best suits the specific gang
4 problem in the jurisdiction or jurisdictions receiving the grant; and

5 (d) Demonstrate community coordination focusing on prevention,
6 intervention, and suppression.

7 (3) The cost of administering the grants shall not exceed four
8 percent of appropriated funding.

9 **One Million Dollar Graffiti/Tagging Abatement Grant**

10 NEW SECTION. **Sec. 202.** A new section is added to chapter 36.28A
11 RCW to read as follows:

12 (1) When funded, the Washington association of sheriffs and police
13 chiefs shall establish a grant program to assist local law enforcement
14 agencies in the support of graffiti and tagging abatement programs
15 located in local communities. Grant applicants are encouraged to
16 utilize multijurisdictional efforts.

17 (2) Each graffiti or tagging abatement grant applicant shall:

18 (a) Demonstrate that a significant gang problem exists in the
19 jurisdiction or jurisdictions receiving the grant;

20 (b) Show how the funds will be used to dispose or eliminate any
21 current or ongoing tagging or graffiti within a specified time period;

22 (c) Specify how the funds will be used to reduce gang-related
23 graffiti or tagging within its community; and

24 (d) Show how the local citizens and business owners of the
25 community will benefit from the proposed graffiti or tagging abatement
26 process being presented in the grant application.

27 (3) The cost of administering the grants shall not exceed four
28 percent of funding.

29 NEW SECTION. **Sec. 203.** (1) The sum of two million dollars, or as
30 much thereof as may be necessary, is appropriated for the fiscal year
31 ending June 30, 2009, from the public safety and education account to
32 the criminal justice training commission for the purposes of section
33 201 of this act.

34 (2) The funds appropriated in this section shall be distributed to

1 local law enforcement agencies by the Washington association of
2 sheriffs and police chiefs.

3 NEW SECTION. **Sec. 204.** (1) The sum of one million dollars, or as
4 much thereof as may be necessary, is appropriated for the fiscal year
5 ending June 30, 2009, from the general fund to the criminal justice
6 training commission for the purposes of section 202 of this act.

7 (2) The funds appropriated in this section shall be distributed to
8 local law enforcement agencies by the Washington association of
9 sheriffs and police chiefs.

10 **PART III**

11 **STATEWIDE GANG INFORMATION DATABASE**

12 NEW SECTION. **Sec. 301.** A new section is added to chapter 43.43
13 RCW to read as follows:

14 When funded, the Washington state patrol shall, or contract with a
15 vendor to, create, administer, and maintain a statewide gang database
16 for assessing and addressing the problems associated with criminal
17 street gangs.

18 (1) Information in the gang database shall be available to all
19 local, state, and federal general authority law enforcement agencies,
20 the Washington department of corrections, and the juvenile
21 rehabilitation administration of the Washington department of social
22 and health services solely for gang enforcement and for tracking gangs,
23 gang members, and gang incidents. Information in the database shall
24 not be available for public use.

25 (2) The database shall provide an internet-based multiagency,
26 multilocation, information-sharing application that operates in a
27 network fashion.

28 (3) The database shall be used solely as a law enforcement
29 intelligence tool and shall not be used as evidence in any criminal,
30 civil, or administrative proceeding.

31 (4) Access to the database shall be determined by the chief
32 executive officer of each participating agency. Information about
33 specific individuals in the database shall be automatically expunged
34 every five years if: (a) The individual's file in the database has
35 been inactive for a minimum of five years; (b) no new or updated

1 information has been entered into the database within the previous five
2 years; (c) there are no pending criminal charges against such person in
3 any court in this state or another state or in any federal court; (d)
4 the person has not been convicted of a new crime in this state, another
5 state, or federal court; and (e) it has been five years since the
6 person completed his or her sentence, including all legal financial
7 obligations and community supervision requirements.

8 (5) Each law enforcement and criminal justice agency using the
9 database is required to:

10 (a) Identify a system administrator that is responsible for
11 annually auditing the use of the system within his or her respective
12 agency to ensure agency compliance with policies established for the
13 use of the database;

14 (b) Ensure that all users of the database receive training on the
15 use of the database before granting the users access to the database;

16 (c) Ensure that any information being entered into the database
17 about a criminal street gang associate or gang member, as defined in
18 RCW 9.94A.030, is twelve years old or older;

19 (d) Annually produce a gang threat assessment report including
20 available data sources, uniform crime reports, record management
21 systems, and entries into the statewide gang database. Local public
22 schools shall also be encouraged to provide data to the local gang
23 threat assessment report.

24 (6) The statewide gang database and all contents in the database
25 are confidential and exempt from public disclosure under chapter 42.56
26 RCW.

27 (7) Any public employee or public agency as defined in RCW
28 4.24.470, or units of local government and its employees, as provided
29 in RCW 36.28A.010, and the Washington association of sheriffs and
30 police chiefs and its employees are immune from civil liability for
31 damages arising from incidents involving a person who has been included
32 in the statewide gang database, unless it is shown that an employee
33 acted with gross negligence or bad faith.

34 **PART IV**
35 **CIVIL INJUNCTIONS**

1 NEW SECTION. **Sec. 401.** The definitions in this section apply
2 throughout this chapter unless the context clearly requires otherwise.

3 (1) "Gang" means "criminal street gang" as defined in RCW
4 9.94A.030.

5 (2) "Pattern of criminal street gang activity" has the same meaning
6 as that term is defined in RCW 9.94A.030.

7 NEW SECTION. **Sec. 402.** (1) Equitable relief is authorized to
8 enjoin, abate, and prevent criminal street gang activity, whether it is
9 a private or public nuisance. Relief is authorized to enjoin gang-
10 related criminal acts described in RCW 9.94A.030(36) and associated
11 noncriminal acts or acts which are known precursors to gang-related
12 criminal acts as specified in subsection (2) of this section, upon a
13 showing of the following elements by a preponderance of the evidence:

14 (a) A gang is named as a defendant and contains at least five
15 members, at least two of whom possess active leadership roles at the
16 time of application, and that any person sought to be enjoined is an
17 active or current member of the gang;

18 (b) The gang is a cohesive organization with a historical
19 relationship to the described geographical area for the past five years
20 or more immediately prior to the filing, and with known leadership,
21 membership, and criminal practices;

22 (c) The defendants and other gang members have committed, during
23 the five years immediately prior to the filing of the petition, a
24 pattern of criminal street gang activity within the described
25 geographical area. It is necessary to demonstrate a nexus between
26 criminal gang activity and crime in the area;

27 (d) As a result of the criminal activity of the gang or members, a
28 significant number of nongang members residing within the described
29 geographical area are in reasonable fear of their physical security or
30 that of their family members, or of significant damage to their
31 property to such an extent that they are intimidated or terrorized, and
32 are effectively prevented from living normal lives; and

33 (e) The plaintiffs have engaged in prevention and intervention
34 planning to serve a reasonable number of the gang's total membership
35 with prevention and intervention services to divert them from gang
36 activity.

1 (2) The complaint for equitable relief shall contain a statement of
2 specific relief requested and activities sought to be enjoined, which
3 may include:

4 (a) Associating with other gang members;

5 (b) Confronting, intimidating, annoying, harassing, threatening,
6 challenging, provoking, or assaulting any person;

7 (c) Confronting, intimidating, annoying, harassing, threatening,
8 challenging, provoking, or assaulting any person known to be a victim
9 or witness to gang activity;

10 (d) Possessing or knowingly remaining in the presence of anyone who
11 is in possession of any firearm, ammunition, or deadly weapon in a
12 public place;

13 (e) Possessing or knowingly remaining in the presence of anyone who
14 is in possession of any controlled substance or drug paraphernalia;

15 (f) Consuming alcohol in public;

16 (g) Being present on any private property without the written
17 consent of the owner;

18 (h) Defacing any public or private property or possessing graffiti
19 or tagging tools;

20 (i) Violating any court defined curfew;

21 (j) Using hand or other gestures associated with the gang;

22 (k) Wearing colors or symbols associated with the gang; or

23 (l) Any other activity or behavior contributing to an atmosphere
24 that has in the past caused the intimidation of nongang members within
25 the described geographical area.

26 (3) The attorney general, the prosecuting attorney, or city
27 attorney or city prosecutor may maintain an action of an equitable
28 nature in the name of the state under this act. If a city applies for
29 equitable relief under this act, the city shall seek and obtain
30 approval of the prosecuting attorney of the county in which the city is
31 located to maintain the action.

32 (4) A court of competent jurisdiction shall conduct an evidentiary
33 hearing on the complaint for equitable relief filed under this act.
34 The plaintiff must prove by a preponderance of the evidence: (a) The
35 elements set forth in subsection (1) of this section; and (b) the
36 specific remedies requested are reasonable and necessary. The hearing
37 may be conducted ex parte. However, the injunction is not effective as

1 to any person unless that person has been personally served with a copy
2 of the summons.

3 (5) A person served in the representative capacity of the gang, if
4 indigent, may request that an attorney be appointed to represent him or
5 her at public expense. If the court grants the request, the plaintiff
6 shall pay the cost of representation. The person shall receive notice
7 of this right to request counsel in the summons. The person need not
8 testify, but may testify and cross-examine witnesses and present
9 testimony and other evidence on his or her own behalf.

10 (6) The final order of injunction shall contain an opt out
11 provision, by which an alleged member previously included in the order
12 may petition at any time for removal from the injunction after a period
13 of five years in which no act by the alleged member has resulted in
14 either a contempt finding or a conviction of crime, and further that
15 there is no criminal charge pending at the time of the hearing. In the
16 petition, the alleged member may request a court hearing on the matter.

17 (7) All actions to punish any violation of the injunction shall be
18 by prosecution of the crime of contempt of court. If the person did
19 not contest the finding that he or she was a gang member when
20 originally served with notice of the injunction, then it is an
21 affirmative defense that he or she was no longer an active or current
22 member of the gang.

23 (8) No nonprofit or charitable organization which is conducting its
24 affairs with ordinary care and skill, and no governmental entity, shall
25 be enjoined or abated under this chapter.

26 **PART V**

27 **ADDITIONAL MEASURES TO COMBAT GANG-RELATED CRIME**

28 **Increase In Sentences For Adults Who Recruit Juveniles**

29 **Sec. 501.** RCW 9.94A.533 and 2007 c 368 s 9 are each amended to
30 read as follows:

31 (1) The provisions of this section apply to the standard sentence
32 ranges determined by RCW 9.94A.510 or 9.94A.517.

33 (2) For persons convicted of the anticipatory offenses of criminal
34 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the
35 standard sentence range is determined by locating the sentencing grid

1 sentence range defined by the appropriate offender score and the
2 seriousness level of the completed crime, and multiplying the range by
3 seventy-five percent.

4 (3) The following additional times shall be added to the standard
5 sentence range for felony crimes committed after July 23, 1995, if the
6 offender or an accomplice was armed with a firearm as defined in RCW
7 9.41.010 and the offender is being sentenced for one of the crimes
8 listed in this subsection as eligible for any firearm enhancements
9 based on the classification of the completed felony crime. If the
10 offender is being sentenced for more than one offense, the firearm
11 enhancement or enhancements must be added to the total period of
12 confinement for all offenses, regardless of which underlying offense is
13 subject to a firearm enhancement. If the offender or an accomplice was
14 armed with a firearm as defined in RCW 9.41.010 and the offender is
15 being sentenced for an anticipatory offense under chapter 9A.28 RCW to
16 commit one of the crimes listed in this subsection as eligible for any
17 firearm enhancements, the following additional times shall be added to
18 the standard sentence range determined under subsection (2) of this
19 section based on the felony crime of conviction as classified under RCW
20 9A.28.020:

21 (a) Five years for any felony defined under any law as a class A
22 felony or with a statutory maximum sentence of at least twenty years,
23 or both, and not covered under (f) of this subsection;

24 (b) Three years for any felony defined under any law as a class B
25 felony or with a statutory maximum sentence of ten years, or both, and
26 not covered under (f) of this subsection;

27 (c) Eighteen months for any felony defined under any law as a class
28 C felony or with a statutory maximum sentence of five years, or both,
29 and not covered under (f) of this subsection;

30 (d) If the offender is being sentenced for any firearm enhancements
31 under (a), (b), and/or (c) of this subsection and the offender has
32 previously been sentenced for any deadly weapon enhancements after July
33 23, 1995, under (a), (b), and/or (c) of this subsection or subsection
34 (4)(a), (b), and/or (c) of this section, or both, all firearm
35 enhancements under this subsection shall be twice the amount of the
36 enhancement listed;

37 (e) Notwithstanding any other provision of law, all firearm
38 enhancements under this section are mandatory, shall be served in total

1 confinement, and shall run consecutively to all other sentencing
2 provisions, including other firearm or deadly weapon enhancements, for
3 all offenses sentenced under this chapter. However, whether or not a
4 mandatory minimum term has expired, an offender serving a sentence
5 under this subsection may be granted an extraordinary medical placement
6 when authorized under RCW 9.94A.728(4);

7 (f) The firearm enhancements in this section shall apply to all
8 felony crimes except the following: Possession of a machine gun,
9 possessing a stolen firearm, drive-by shooting, theft of a firearm,
10 unlawful possession of a firearm in the first and second degree, and
11 use of a machine gun in a felony;

12 (g) If the standard sentence range under this section exceeds the
13 statutory maximum sentence for the offense, the statutory maximum
14 sentence shall be the presumptive sentence unless the offender is a
15 persistent offender. If the addition of a firearm enhancement
16 increases the sentence so that it would exceed the statutory maximum
17 for the offense, the portion of the sentence representing the
18 enhancement may not be reduced.

19 (4) The following additional times shall be added to the standard
20 sentence range for felony crimes committed after July 23, 1995, if the
21 offender or an accomplice was armed with a deadly weapon other than a
22 firearm as defined in RCW 9.41.010 and the offender is being sentenced
23 for one of the crimes listed in this subsection as eligible for any
24 deadly weapon enhancements based on the classification of the completed
25 felony crime. If the offender is being sentenced for more than one
26 offense, the deadly weapon enhancement or enhancements must be added to
27 the total period of confinement for all offenses, regardless of which
28 underlying offense is subject to a deadly weapon enhancement. If the
29 offender or an accomplice was armed with a deadly weapon other than a
30 firearm as defined in RCW 9.41.010 and the offender is being sentenced
31 for an anticipatory offense under chapter 9A.28 RCW to commit one of
32 the crimes listed in this subsection as eligible for any deadly weapon
33 enhancements, the following additional times shall be added to the
34 standard sentence range determined under subsection (2) of this section
35 based on the felony crime of conviction as classified under RCW
36 9A.28.020:

37 (a) Two years for any felony defined under any law as a class A

1 felony or with a statutory maximum sentence of at least twenty years,
2 or both, and not covered under (f) of this subsection;

3 (b) One year for any felony defined under any law as a class B
4 felony or with a statutory maximum sentence of ten years, or both, and
5 not covered under (f) of this subsection;

6 (c) Six months for any felony defined under any law as a class C
7 felony or with a statutory maximum sentence of five years, or both, and
8 not covered under (f) of this subsection;

9 (d) If the offender is being sentenced under (a), (b), and/or (c)
10 of this subsection for any deadly weapon enhancements and the offender
11 has previously been sentenced for any deadly weapon enhancements after
12 July 23, 1995, under (a), (b), and/or (c) of this subsection or
13 subsection (3)(a), (b), and/or (c) of this section, or both, all deadly
14 weapon enhancements under this subsection shall be twice the amount of
15 the enhancement listed;

16 (e) Notwithstanding any other provision of law, all deadly weapon
17 enhancements under this section are mandatory, shall be served in total
18 confinement, and shall run consecutively to all other sentencing
19 provisions, including other firearm or deadly weapon enhancements, for
20 all offenses sentenced under this chapter. However, whether or not a
21 mandatory minimum term has expired, an offender serving a sentence
22 under this subsection may be granted an extraordinary medical placement
23 when authorized under RCW 9.94A.728(4);

24 (f) The deadly weapon enhancements in this section shall apply to
25 all felony crimes except the following: Possession of a machine gun,
26 possessing a stolen firearm, drive-by shooting, theft of a firearm,
27 unlawful possession of a firearm in the first and second degree, and
28 use of a machine gun in a felony;

29 (g) If the standard sentence range under this section exceeds the
30 statutory maximum sentence for the offense, the statutory maximum
31 sentence shall be the presumptive sentence unless the offender is a
32 persistent offender. If the addition of a deadly weapon enhancement
33 increases the sentence so that it would exceed the statutory maximum
34 for the offense, the portion of the sentence representing the
35 enhancement may not be reduced.

36 (5) The following additional times shall be added to the standard
37 sentence range if the offender or an accomplice committed the offense
38 while in a county jail or state correctional facility and the offender

1 is being sentenced for one of the crimes listed in this subsection. If
2 the offender or an accomplice committed one of the crimes listed in
3 this subsection while in a county jail or state correctional facility,
4 and the offender is being sentenced for an anticipatory offense under
5 chapter 9A.28 RCW to commit one of the crimes listed in this
6 subsection, the following additional times shall be added to the
7 standard sentence range determined under subsection (2) of this
8 section:

9 (a) Eighteen months for offenses committed under RCW 69.50.401(2)
10 (a) or (b) or 69.50.410;

11 (b) Fifteen months for offenses committed under RCW 69.50.401(2)
12 (c), (d), or (e);

13 (c) Twelve months for offenses committed under RCW 69.50.4013.

14 For the purposes of this subsection, all of the real property of a
15 state correctional facility or county jail shall be deemed to be part
16 of that facility or county jail.

17 (6) An additional twenty-four months shall be added to the standard
18 sentence range for any ranked offense involving a violation of chapter
19 69.50 RCW if the offense was also a violation of RCW 69.50.435 or
20 9.94A.605. All enhancements under this subsection shall run
21 consecutively to all other sentencing provisions, for all offenses
22 sentenced under this chapter.

23 (7) An additional two years shall be added to the standard sentence
24 range for vehicular homicide committed while under the influence of
25 intoxicating liquor or any drug as defined by RCW 46.61.502 for each
26 prior offense as defined in RCW 46.61.5055.

27 (8)(a) The following additional times shall be added to the
28 standard sentence range for felony crimes committed on or after July 1,
29 2006, if the offense was committed with sexual motivation, as that term
30 is defined in RCW 9.94A.030. If the offender is being sentenced for
31 more than one offense, the sexual motivation enhancement must be added
32 to the total period of total confinement for all offenses, regardless
33 of which underlying offense is subject to a sexual motivation
34 enhancement. If the offender committed the offense with sexual
35 motivation and the offender is being sentenced for an anticipatory
36 offense under chapter 9A.28 RCW, the following additional times shall
37 be added to the standard sentence range determined under subsection (2)

1 of this section based on the felony crime of conviction as classified
2 under RCW 9A.28.020:

3 (i) Two years for any felony defined under the law as a class A
4 felony or with a statutory maximum sentence of at least twenty years,
5 or both;

6 (ii) Eighteen months for any felony defined under any law as a
7 class B felony or with a statutory maximum sentence of ten years, or
8 both;

9 (iii) One year for any felony defined under any law as a class C
10 felony or with a statutory maximum sentence of five years, or both;

11 (iv) If the offender is being sentenced for any sexual motivation
12 enhancements under (i), (ii), and/or (iii) of this subsection and the
13 offender has previously been sentenced for any sexual motivation
14 enhancements on or after July 1, 2006, under (i), (ii), and/or (iii) of
15 this subsection, all sexual motivation enhancements under this
16 subsection shall be twice the amount of the enhancement listed;

17 (b) Notwithstanding any other provision of law, all sexual
18 motivation enhancements under this subsection are mandatory, shall be
19 served in total confinement, and shall run consecutively to all other
20 sentencing provisions, including other sexual motivation enhancements,
21 for all offenses sentenced under this chapter. However, whether or not
22 a mandatory minimum term has expired, an offender serving a sentence
23 under this subsection may be granted an extraordinary medical placement
24 when authorized under RCW 9.94A.728(4);

25 (c) The sexual motivation enhancements in this subsection apply to
26 all felony crimes;

27 (d) If the standard sentence range under this subsection exceeds
28 the statutory maximum sentence for the offense, the statutory maximum
29 sentence shall be the presumptive sentence unless the offender is a
30 persistent offender. If the addition of a sexual motivation
31 enhancement increases the sentence so that it would exceed the
32 statutory maximum for the offense, the portion of the sentence
33 representing the enhancement may not be reduced;

34 (e) The portion of the total confinement sentence which the
35 offender must serve under this subsection shall be calculated before
36 any earned early release time is credited to the offender;

37 (f) Nothing in this subsection prevents a sentencing court from

1 imposing a sentence outside the standard sentence range pursuant to RCW
2 9.94A.535.

3 (9) An additional one-year enhancement shall be added to the
4 standard sentence range for the felony crimes of RCW 9A.44.073,
5 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on
6 or after July 22, 2007, if the offender engaged, agreed, or offered to
7 engage the victim in the sexual conduct in return for a fee. If the
8 offender is being sentenced for more than one offense, the one-year
9 enhancement must be added to the total period of total confinement for
10 all offenses, regardless of which underlying offense is subject to the
11 enhancement. If the offender is being sentenced for an anticipatory
12 offense for the felony crimes of RCW 9A.44.073, 9A.44.076, 9A.44.079,
13 9A.44.083, 9A.44.086, or 9A.44.089, and the offender attempted,
14 solicited another, or conspired to engage, agree, or offer to engage
15 the victim in (~~{the}~~) the sexual conduct in return for a fee, an
16 additional one-year enhancement shall be added to the standard sentence
17 range determined under subsection (2) of this section. For purposes of
18 this subsection, "sexual conduct" means sexual intercourse or sexual
19 contact, both as defined in chapter 9A.44 RCW.

20 (10)(a) For a person age eighteen or older convicted of any felony
21 offense for which the person compensated, threatened, or solicited a
22 minor in order to involve the minor in the commission of the felony
23 offense, the standard sentence range is determined by locating the
24 sentencing grid sentence range defined by the appropriate offender
25 score and the seriousness level of the completed crime, and multiplying
26 the range by one hundred twenty-five percent. If the standard sentence
27 range under this subsection exceeds the statutory maximum sentence for
28 the offense, the statutory maximum sentence is the presumptive sentence
29 unless the offender is a persistent offender.

30 (b) This subsection does not apply to any felony offense for which
31 involving a minor in the commission of the felony offense is an element
32 of the offense.

33 NEW SECTION. Sec. 502. A new section is added to chapter 9.94A
34 RCW to read as follows:

35 (1) In a prosecution of a felony offense, the prosecution may file
36 a special allegation that the felony offense involved the compensation,

1 threatening, or solicitation of a minor in order to involve that minor
2 in the commission of the felony offense.

3 (2) The state has the burden of proving a special allegation made
4 under this section beyond a reasonable doubt. If a jury is had, the
5 jury shall, if it finds the defendant guilty, also find a special
6 verdict as to whether the felony offense involved the compensation,
7 threatening, or solicitation of a minor in order to involve that minor
8 in the commission of the felony offense. If no jury is had, the court
9 shall make a finding of fact as to whether the felony offense involved
10 the compensation, threatening, or solicitation of a minor in order to
11 involve that minor in the commission of the felony offense.

12 **Expansion Of The List Of Aggravating Factors**

13 **Sec. 503.** RCW 9.94A.535 and 2007 c 377 s 10 are each amended to
14 read as follows:

15 The court may impose a sentence outside the standard sentence range
16 for an offense if it finds, considering the purpose of this chapter,
17 that there are substantial and compelling reasons justifying an
18 exceptional sentence. Facts supporting aggravated sentences, other
19 than the fact of a prior conviction, shall be determined pursuant to
20 the provisions of RCW 9.94A.537.

21 Whenever a sentence outside the standard sentence range is imposed,
22 the court shall set forth the reasons for its decision in written
23 findings of fact and conclusions of law. A sentence outside the
24 standard sentence range shall be a determinate sentence.

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

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

33 (1) Mitigating Circumstances - Court to Consider

34 The court may impose an exceptional sentence below the standard
35 range if it finds that mitigating circumstances are established by a

1 preponderance of the evidence. The following are illustrative only and
2 are not intended to be exclusive reasons for exceptional sentences.

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

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

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

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

13 (e) The defendant's capacity to appreciate the wrongfulness of his
14 or her conduct, or to conform his or her conduct to the requirements of
15 the law, was significantly impaired. Voluntary use of drugs or alcohol
16 is excluded.

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

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

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

26 (2) Aggravating Circumstances - Considered and Imposed by the Court
27 The trial court may impose an aggravated exceptional sentence
28 without a finding of fact by a jury under the following circumstances:

29 (a) The defendant and the state both stipulate that justice is best
30 served by the imposition of an exceptional sentence outside the
31 standard range, and the court finds the exceptional sentence to be
32 consistent with and in furtherance of the interests of justice and the
33 purposes of the sentencing reform act.

34 (b) The defendant's prior unscored misdemeanor or prior unscored
35 foreign criminal history results in a presumptive sentence that is
36 clearly too lenient in light of the purpose of this chapter, as
37 expressed in RCW 9.94A.010.

1 (c) The defendant has committed multiple current offenses and the
2 defendant's high offender score results in some of the current offenses
3 going unpunished.

4 (d) The failure to consider the defendant's prior criminal history
5 which was omitted from the offender score calculation pursuant to RCW
6 9.94A.525 results in a presumptive sentence that is clearly too
7 lenient.

8 (3) Aggravating Circumstances - Considered by a Jury -Imposed by
9 the Court

10 Except for circumstances listed in subsection (2) of this section,
11 the following circumstances are an exclusive list of factors that can
12 support a sentence above the standard range. Such facts should be
13 determined by procedures specified in RCW 9.94A.537.

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

16 (b) The defendant knew or should have known that the victim of the
17 current offense was particularly vulnerable or incapable of resistance.

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

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

23 (i) The current offense involved multiple victims or multiple
24 incidents per victim;

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

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

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

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

37 (i) The current offense involved at least three separate

1 transactions in which controlled substances were sold, transferred, or
2 possessed with intent to do so;

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

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

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

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

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

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

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

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

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

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

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

31 (i) The offense resulted in the pregnancy of a child victim of
32 rape.

33 (j) The defendant knew that the victim of the current offense was
34 a youth who was not residing with a legal custodian and the defendant
35 established or promoted the relationship for the primary purpose of
36 victimization.

37 (k) The offense was committed with the intent to obstruct or impair

1 human or animal health care or agricultural or forestry research or
2 commercial production.

3 (l) The current offense is trafficking in the first degree or
4 trafficking in the second degree and any victim was a minor at the time
5 of the offense.

6 (m) The offense involved a high degree of sophistication or
7 planning.

8 (n) The defendant used his or her position of trust, confidence, or
9 fiduciary responsibility to facilitate the commission of the current
10 offense.

11 (o) The defendant committed a current sex offense, has a history of
12 sex offenses, and is not amenable to treatment.

13 (p) The offense involved an invasion of the victim's privacy.

14 (q) The defendant demonstrated or displayed an egregious lack of
15 remorse.

16 (r) The offense involved a destructive and foreseeable impact on
17 persons other than the victim.

18 (s) The defendant committed the offense to obtain or maintain his
19 or her membership or to advance his or her position in the hierarchy of
20 an organization, association, or identifiable group.

21 (t) The defendant committed the current offense shortly after being
22 released from incarceration.

23 (u) The current offense is a burglary and the victim of the
24 burglary was present in the building or residence when the crime was
25 committed.

26 (v) The offense was committed against a law enforcement officer who
27 was performing his or her official duties at the time of the offense,
28 the offender knew that the victim was a law enforcement officer, and
29 the victim's status as a law enforcement officer is not an element of
30 the offense.

31 (w) The defendant committed the offense against a victim who was
32 acting as a good samaritan.

33 (x) The defendant committed the offense against a public official
34 or officer of the court in retaliation of the public official's
35 performance of his or her duty to the criminal justice system.

36 (y) The victim's injuries substantially exceed the level of bodily
37 harm necessary to satisfy the elements of the offense. This aggravator
38 is not an exception to RCW 9.94A.530(2).

1 (z)(i)(A) The current offense is theft in the first degree, theft
2 in the second degree, possession of stolen property in the first
3 degree, or possession of stolen property in the second degree; (B) the
4 stolen property involved is metal property; and (C) the property damage
5 to the victim caused in the course of the theft of metal property is
6 more than three times the value of the stolen metal property, or the
7 theft of the metal property creates a public hazard.

8 (ii) For purposes of this subsection, "metal property" means
9 commercial metal property or nonferrous metal property, as defined in
10 RCW 19.290.010.

11 (aa) The defendant committed the offense with the intent to
12 directly or indirectly cause any benefit, aggrandizement, gain, profit,
13 or other advantage to or for a criminal street gang as defined in RCW
14 9.94A.030, its reputation, influence, or membership.

15 **Requiring Community Custody For Unlawful Possession Of A Firearm**

16 **Sec. 504.** RCW 9.94A.545 and 2006 c 128 s 4 are each amended to
17 read as follows:

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

30 (2) If the offender is guilty of failure to register under RCW
31 9A.44.130(~~(+10)~~) (11)(a), the court shall impose a term of community
32 custody under RCW 9.94A.715.

33 (3) If the offender is found guilty of unlawful possession of a
34 firearm under RCW 9.41.040, the court shall impose a term of community
35 custody under RCW 9.94A.715.

1 **Sec. 505.** RCW 9.94A.715 and 2006 c 130 s 2 and 2006 c 128 s 5 are
2 each reenacted and amended to read as follows:

3 (1) When a court sentences a person to the custody of the
4 department for a sex offense not sentenced under RCW 9.94A.712, a
5 violent offense, any crime against persons under RCW 9.94A.411(2), an
6 offense involving the unlawful possession of a firearm under RCW
7 9.41.040, or a felony offense under chapter 69.50 or 69.52 RCW,
8 committed on or after July 1, 2000, or when a court sentences a person
9 to a term of confinement of one year or less for a violation of RCW
10 9A.44.130(~~(+10+)~~) (11)(a) committed on or after June 7, 2006, the court
11 shall in addition to the other terms of the sentence, sentence the
12 offender to community custody for the community custody range
13 established under RCW 9.94A.850 or up to the period of earned release
14 awarded pursuant to RCW 9.94A.728 (1) and (2), whichever is longer.
15 The community custody shall begin: (a) Upon completion of the term of
16 confinement; (b) at such time as the offender is transferred to
17 community custody in lieu of earned release in accordance with RCW
18 9.94A.728 (1) and (2); or (c) with regard to offenders sentenced under
19 RCW 9.94A.660, upon failure to complete or administrative termination
20 from the special drug offender sentencing alternative program. Except
21 as provided in RCW 9.94A.501, the department shall supervise any
22 sentence of community custody imposed under this section.

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

31 (b) As part of any sentence that includes a term of community
32 custody imposed under this subsection, the court shall also require the
33 offender to comply with any conditions imposed by the department under
34 RCW 9.94A.720. The department shall assess the offender's risk of
35 reoffense and may establish and modify additional conditions of the
36 offender's community custody based upon the risk to community safety.
37 In addition, the department may require the offender to participate in
38 rehabilitative programs, or otherwise perform affirmative conduct, and

1 to obey all laws. The department may impose electronic monitoring as
2 a condition of community custody for an offender sentenced to a term of
3 community custody under this section pursuant to a conviction for a sex
4 offense. Within the resources made available by the department for
5 this purpose, the department shall carry out any electronic monitoring
6 imposed under this section using the most appropriate technology given
7 the individual circumstances of the offender. As used in this section,
8 "electronic monitoring" means the monitoring of an offender using an
9 electronic offender tracking system including, but not limited to, a
10 system using radio frequency or active or passive global positioning
11 system technology.

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

18 (3) If an offender violates conditions imposed by the court or the
19 department pursuant to this section during community custody, the
20 department may transfer the offender to a more restrictive confinement
21 status and impose other available sanctions as provided in RCW
22 9.94A.737 and 9.94A.740.

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

28 (5) At any time prior to the completion or termination of a sex
29 offender's term of community custody, if the court finds that public
30 safety would be enhanced, the court may impose and enforce an order
31 extending any or all of the conditions imposed pursuant to this section
32 for a period up to the maximum allowable sentence for the crime as it
33 is classified in chapter 9A.20 RCW, regardless of the expiration of the
34 offender's term of community custody. If a violation of a condition
35 extended under this subsection occurs after the expiration of the
36 offender's term of community custody, it shall be deemed a violation of
37 the sentence for the purposes of RCW 9.94A.631 and may be punishable as
38 contempt of court as provided for in RCW 7.21.040. If the court

1 extends a condition beyond the expiration of the term of community
2 custody, the department is not responsible for supervision of the
3 offender's compliance with the condition.

4 (6) Within the funds available for community custody, the
5 department shall determine conditions and duration of community custody
6 on the basis of risk to community safety, and shall supervise offenders
7 during community custody on the basis of risk to community safety and
8 conditions imposed by the court. The secretary shall adopt rules to
9 implement the provisions of this subsection.

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

17 **Making Subsequent Convictions Of Malicious Mischief 3 A Gross**
18 **Misdemeanor Offense**

19 NEW SECTION. **Sec. 506.** A new section is added to chapter 9A.48
20 RCW to read as follows:

21 (1) A person is guilty of criminal street gang tagging and graffiti
22 if he or she commits malicious mischief in the third degree and he or
23 she:

24 (a) Has multiple current convictions for malicious mischief in the
25 third degree offenses under RCW 9A.48.090; or

26 (b) Has previously been convicted for a malicious mischief in the
27 third degree offense under RCW 9A.48.090.

28 (2) Criminal street gang tagging and graffiti is a gross
29 misdemeanor offense.

30 **Civil Cause Of Action For Graffiti And Tagging**

31 NEW SECTION. **Sec. 507.** A new section is added to chapter 4.24 RCW
32 to read as follows:

33 (1) An adult or emancipated minor who commits malicious mischief
34 under chapter 9A.48 RCW by causing physical damage to the property of

1 another is liable in addition to actual damages, for a penalty to the
2 owner in the amount of the value of the damaged property not to exceed
3 one thousand dollars, plus an additional penalty of not less than one
4 hundred dollars nor more than two hundred dollars, plus all reasonable
5 attorneys' fees and court costs expended by the owner.

6 (2)(a) The parent or legal guardian having the custody of an
7 unemancipated minor who commits malicious mischief under chapter 9A.48
8 RCW by causing physical damage to the property of another is liable for
9 a penalty to the owner for the value of the damaged property not to
10 exceed five hundred dollars plus an additional penalty of not less than
11 one hundred dollars nor more than two hundred dollars, plus all
12 reasonable attorneys' fees and court costs expended by the owner. For
13 the purposes of this subsection, liability shall not be imposed upon
14 any governmental entity, private agency, or foster parent assigned
15 responsibility for the minor child under a court order or action of the
16 department of social and health services.

17 (b) The fine or penalty to the owner may be suspended on the
18 condition: (i) The parent or legal guardian having custody of the
19 unemancipated minor shows he or she is unaware of the criminal
20 violation by the unemancipated minor in custody; (ii) the parent or legal
21 guardian having custody of the unemancipated minor shows he or she has
22 a financial hardship and has done everything possible to make
23 restitution to the owner of the damaged property; or (iii) it is an
24 affirmative defense to the charge, the parent or legal guardian proves
25 by a preponderance of the evidence, that he or she has done everything
26 possible, with reasonable diligence, to provide restitution to the
27 property owner.

28 (3) A conviction for violation of chapter 9A.48 RCW is not a
29 condition precedent to maintenance of a civil action authorized by this
30 section.

31 (4) An owner demanding payment of a penalty under subsection (1) or
32 (2) of this section shall give written notice to the person or persons
33 from whom the penalty is sought.

34 **Sec. 508.** RCW 10.22.010 and 1999 c 143 s 45 are each amended to
35 read as follows:

36 When a defendant is prosecuted in a criminal action for a
37 misdemeanor, other than a violation of RCW 9A.48.090, for which the

1 person injured by the act constituting the offense has a remedy by a
2 civil action, the offense may be compromised as provided in RCW
3 10.22.020, except when it was committed:

- 4 (1) By or upon an officer while in the execution of the duties of
5 his office((~~-~~));
- 6 (2) Riotously;
- 7 (3) With an intent to commit a felony; or
- 8 (4) By one family or household member against another as defined in
9 RCW 10.99.020 and was a crime of domestic violence as defined in RCW
10 10.99.020.

11 **Criminal Street Gang Definition**

12 **Sec. 509.** RCW 9.94A.030 and 2006 c 139 s 5, 2006 c 124 s 1, 2006
13 c 122 s 7, 2006 c 73 s 5, and 2005 c 436 s 1 are each reenacted and
14 amended to read as follows:

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

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

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

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

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

32 (5) "Community custody" means that portion of an offender's
33 sentence of confinement in lieu of earned release time or imposed
34 pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670,
35 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545, served in the
36 community subject to controls placed on the offender's movement and

1 activities by the department. For offenders placed on community
2 custody for crimes committed on or after July 1, 2000, the department
3 shall assess the offender's risk of reoffense and may establish and
4 modify conditions of community custody, in addition to those imposed by
5 the court, based upon the risk to community safety.

6 (6) "Community custody range" means the minimum and maximum period
7 of community custody included as part of a sentence under RCW
8 9.94A.715, as established by the commission or the legislature under
9 RCW 9.94A.850, for crimes committed on or after July 1, 2000.

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

17 (8) "Community protection zone" means the area within eight hundred
18 eighty feet of the facilities and grounds of a public or private
19 school.

20 (9) "Community restitution" means compulsory service, without
21 compensation, performed for the benefit of the community by the
22 offender.

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

33 (11) "Confinement" means total or partial confinement.

34 (12) "Conviction" means an adjudication of guilt pursuant to Titles
35 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
36 acceptance of a plea of guilty.

37 (13) "Crime-related prohibition" means an order of a court
38 prohibiting conduct that directly relates to the circumstances of the

1 crime for which the offender has been convicted, and shall not be
2 construed to mean orders directing an offender affirmatively to
3 participate in rehabilitative programs or to otherwise perform
4 affirmative conduct. However, affirmative acts necessary to monitor
5 compliance with the order of a court may be required by the department.

6 (14) "Criminal history" means the list of a defendant's prior
7 convictions and juvenile adjudications, whether in this state, in
8 federal court, or elsewhere.

9 (a) The history shall include, where known, for each conviction (i)
10 whether the defendant has been placed on probation and the length and
11 terms thereof; and (ii) whether the defendant has been incarcerated and
12 the length of incarceration.

13 (b) A conviction may be removed from a defendant's criminal history
14 only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or
15 a similar out-of-state statute, or if the conviction has been vacated
16 pursuant to a governor's pardon.

17 (c) The determination of a defendant's criminal history is distinct
18 from the determination of an offender score. A prior conviction that
19 was not included in an offender score calculated pursuant to a former
20 version of the sentencing reform act remains part of the defendant's
21 criminal history.

22 (15) "Criminal street gang" means any ongoing organization,
23 association, or group of three or more persons, whether formal or
24 informal, having a common name or common identifying sign or symbol,
25 having as one of its primary activities the commission of criminal
26 acts, and whose members or associates individually or collectively
27 engage in or have engaged in a pattern of criminal street gang
28 activity.

29 (16) "Criminal street gang associate or member" means any person
30 who actively participates in any criminal street gang and who
31 intentionally promotes, furthers, or assists in any criminal act by the
32 criminal street gang.

33 (17) "Criminal street gang-related offense" means the conviction of
34 any felony or misdemeanor offense, whether in this state or elsewhere,
35 that is committed with intent for one or more of the following reasons:

36 (a) For the benefit of, at the direction of, or in association with
37 any criminal street gang, with the intent to gain admission or

1 promotion within the gang or with the intent to promote, further, or
2 assist in any criminal act by the gang;

3 (b) To increase or maintain the gang's size, membership, prestige,
4 dominance, or control in any geographical area;

5 (c) To exact revenge or retribution for the gang or any member of
6 the gang;

7 (d) To obstruct justice, or intimidate or eliminate any witness
8 against the gang or any member of the gang;

9 (e) To directly or indirectly cause any benefit, aggrandizement,
10 gain, profit, or other advantage for the gang, its reputation,
11 influence, or membership; or

12 (f) To provide the gang with any advantage in, or any control or
13 dominance over any criminal market sector, including, but not limited
14 to, manufacturing, delivering, or selling any controlled substance
15 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
16 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88
17 RCW); human trafficking (RCW 9A.40.100); or promoting pornography
18 (chapter 9.68 RCW).

19 (18) "Day fine" means a fine imposed by the sentencing court that
20 equals the difference between the offender's net daily income and the
21 reasonable obligations that the offender has for the support of the
22 offender and any dependents.

23 ~~((+16+))~~ (19) "Day reporting" means a program of enhanced
24 supervision designed to monitor the offender's daily activities and
25 compliance with sentence conditions, and in which the offender is
26 required to report daily to a specific location designated by the
27 department or the sentencing court.

28 ~~((+17+))~~ (20) "Department" means the department of corrections.

29 ~~((+18+))~~ (21) "Determinate sentence" means a sentence that states
30 with exactitude the number of actual years, months, or days of total
31 confinement, of partial confinement, of community supervision, the
32 number of actual hours or days of community restitution work, or
33 dollars or terms of a legal financial obligation. The fact that an
34 offender through earned release can reduce the actual period of
35 confinement shall not affect the classification of the sentence as a
36 determinate sentence.

37 ~~((+19+))~~ (22) "Disposable earnings" means that part of the earnings
38 of an offender remaining after the deduction from those earnings of any

1 amount required by law to be withheld. For the purposes of this
2 definition, "earnings" means compensation paid or payable for personal
3 services, whether denominated as wages, salary, commission, bonuses, or
4 otherwise, and, notwithstanding any other provision of law making the
5 payments exempt from garnishment, attachment, or other process to
6 satisfy a court-ordered legal financial obligation, specifically
7 includes periodic payments pursuant to pension or retirement programs,
8 or insurance policies of any type, but does not include payments made
9 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
10 or Title 74 RCW.

11 ~~((+20+))~~ (23) "Drug offender sentencing alternative" is a
12 sentencing option available to persons convicted of a felony offense
13 other than a violent offense or a sex offense and who are eligible for
14 the option under RCW 9.94A.660.

15 ~~((+21+))~~ (24) "Drug offense" means:

16 (a) Any felony violation of chapter 69.50 RCW except possession of
17 a controlled substance (RCW 69.50.4013) or forged prescription for a
18 controlled substance (RCW 69.50.403);

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

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

25 ~~((+22+))~~ (25) "Earned release" means earned release from
26 confinement as provided in RCW 9.94A.728.

27 ~~((+23+))~~ (26) "Escape" means:

28 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the
29 first degree (RCW 9A.76.110), escape in the second degree (RCW
30 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
31 willful failure to return from work release (RCW 72.65.070), or willful
32 failure to be available for supervision by the department while in
33 community custody (RCW 72.09.310); or

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

37 ~~((+24+))~~ (27) "Felony traffic offense" means:

1 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
2 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-
3 run injury-accident (RCW 46.52.020(4)), felony driving while under the
4 influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or
5 felony physical control of a vehicle while under the influence of
6 intoxicating liquor or any drug (RCW 46.61.504(6)); or

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

10 ~~((+25+))~~ (28) "Fine" means a specific sum of money ordered by the
11 sentencing court to be paid by the offender to the court over a
12 specific period of time.

13 ~~((+26+))~~ (29) "First-time offender" means any person who has no
14 prior convictions for a felony and is eligible for the first-time
15 offender waiver under RCW 9.94A.650.

16 ~~((+27+))~~ (30) "Home detention" means a program of partial
17 confinement available to offenders wherein the offender is confined in
18 a private residence subject to electronic surveillance.

19 ~~((+28+))~~ (31) "Legal financial obligation" means a sum of money
20 that is ordered by a superior court of the state of Washington for
21 legal financial obligations which may include restitution to the
22 victim, statutorily imposed crime victims' compensation fees as
23 assessed pursuant to RCW 7.68.035, court costs, county or interlocal
24 drug funds, court-appointed attorneys' fees, and costs of defense,
25 fines, and any other financial obligation that is assessed to the
26 offender as a result of a felony conviction. Upon conviction for
27 vehicular assault while under the influence of intoxicating liquor or
28 any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the
29 influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a),
30 legal financial obligations may also include payment to a public agency
31 of the expense of an emergency response to the incident resulting in
32 the conviction, subject to RCW 38.52.430.

33 ~~((+29+))~~ (32) "Most serious offense" means any of the following
34 felonies or a felony attempt to commit any of the following felonies:

35 (a) Any felony defined under any law as a class A felony or
36 criminal solicitation of or criminal conspiracy to commit a class A
37 felony;

38 (b) Assault in the second degree;

- 1 (c) Assault of a child in the second degree;
2 (d) Child molestation in the second degree;
3 (e) Controlled substance homicide;
4 (f) Extortion in the first degree;
5 (g) Incest when committed against a child under age fourteen;
6 (h) Indecent liberties;
7 (i) Kidnapping in the second degree;
8 (j) Leading organized crime;
9 (k) Manslaughter in the first degree;
10 (l) Manslaughter in the second degree;
11 (m) Promoting prostitution in the first degree;
12 (n) Rape in the third degree;
13 (o) Robbery in the second degree;
14 (p) Sexual exploitation;
15 (q) Vehicular assault, when caused by the operation or driving of
16 a vehicle by a person while under the influence of intoxicating liquor
17 or any drug or by the operation or driving of a vehicle in a reckless
18 manner;
19 (r) Vehicular homicide, when proximately caused by the driving of
20 any vehicle by any person while under the influence of intoxicating
21 liquor or any drug as defined by RCW 46.61.502, or by the operation of
22 any vehicle in a reckless manner;
23 (s) Any other class B felony offense with a finding of sexual
24 motivation;
25 (t) Any other felony with a deadly weapon verdict under RCW
26 9.94A.602;
27 (u) Any felony offense in effect at any time prior to December 2,
28 1993, that is comparable to a most serious offense under this
29 subsection, or any federal or out-of-state conviction for an offense
30 that under the laws of this state would be a felony classified as a
31 most serious offense under this subsection;
32 (v)(i) A prior conviction for indecent liberties under RCW
33 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
34 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
35 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
36 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;
37 (ii) A prior conviction for indecent liberties under RCW
38 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,

1 if: (A) The crime was committed against a child under the age of
2 fourteen; or (B) the relationship between the victim and perpetrator is
3 included in the definition of indecent liberties under RCW
4 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
5 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
6 through July 27, 1997.

7 ~~((+30+))~~ (33) "Nonviolent offense" means an offense which is not a
8 violent offense.

9 ~~((+31+))~~ (34) "Offender" means a person who has committed a felony
10 established by state law and is eighteen years of age or older or is
11 less than eighteen years of age but whose case is under superior court
12 jurisdiction under RCW 13.04.030 or has been transferred by the
13 appropriate juvenile court to a criminal court pursuant to RCW
14 13.40.110. Throughout this chapter, the terms "offender" and
15 "defendant" are used interchangeably.

16 ~~((+32+))~~ (35) "Partial confinement" means confinement for no more
17 than one year in a facility or institution operated or utilized under
18 contract by the state or any other unit of government, or, if home
19 detention or work crew has been ordered by the court, in an approved
20 residence, for a substantial portion of each day with the balance of
21 the day spent in the community. Partial confinement includes work
22 release, home detention, work crew, and a combination of work crew and
23 home detention.

24 ~~((+33+))~~ (36) "Pattern of criminal street gang activity" means:

25 (a) An attempt to, commission to, solicitation of, conspiracy to
26 commit, or juvenile adjudication of, or adult conviction of, two or
27 more of the following criminal street gang-related offenses:

28 (i) Any "serious violent" felony offense as defined in RCW
29 9.94A.030, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of
30 a Child 1 (RCW 9A.36.120);

31 (ii) Any "violent" offense as defined by RCW 9.94A.030, excluding
32 Assault of a Child 2 (RCW 9A.36.130);

33 (iii) Deliver or Possession with Intent to Deliver a Controlled
34 Substance (chapter 69.50 RCW);

35 (iv) Any violation of the firearms and dangerous weapon act
36 (chapter 9.41 RCW);

37 (v) Theft of a Firearm (RCW 9A.56.300);

38 (vi) Possession of a Stolen Firearm (RCW 9A.56.310);

1 (vii) Malicious Harassment (RCW 9A.36.080);
2 (viii) Harassment where a subsequent violation or deadly threat is
3 made (RCW 9A.46.020(2)(b));
4 (ix) Criminal Gang Intimidation (RCW 9A.46.120);
5 (x) Criminal Gang Recruiting (RCW 9.94A.533(10));
6 (xi) Involving a Juvenile in a Criminal Offense;
7 (xii) Residential Burglary (RCW 9A.52.025);
8 (xiii) Burglary 2 (RCW 9A.52.030);
9 (xiv) Malicious Mischief 1 (RCW 9A.48.070);
10 (xv) Malicious Mischief 2 (RCW 9A.48.080);
11 (xvi) Theft of a Motor Vehicle (RCW 9A.56.065);
12 (xvii) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);
13 (xviii) Taking a Motor Vehicle Without Permission 1 (RCW
14 9A.56.070);
15 (xix) Taking a Motor Vehicle Without Permission 2 (RCW 9A.56.075);
16 (xx) Extortion 1 (RCW 9A.56.120);
17 (xxi) Extortion 2 (RCW 9A.56.130);
18 (xxii) Intimidating a Witness (RCW 9A.72.110);
19 (xxiii) Tampering with a Witness (RCW 9A.72.120);
20 (xxiv) Reckless Endangerment (RCW 9A.36.050);
21 (xxv) Coercion (RCW 9A.36.070);
22 (xxvi) Harassment (RCW 9A.46.020); or
23 (xxvii) Malicious Mischief 3 (RCW 9A.48.090);
24 (b) That the conviction for at least one of the offenses listed in
25 (a) of this subsection shall have occurred after July 1, 2008;
26 (c) That the offender's current conviction for the most recent
27 committed offense listed in (a) of this subsection occurred within
28 three years of his or her prior offense listed in (a) of this
29 subsection; and
30 (d) Of the offenses that were committed in (a) of this subsection,
31 the offenses occurred on separate occasions or by two or more persons.
32 (37) "Persistent offender" is an offender who:
33 (a)(i) Has been convicted in this state of any felony considered a
34 most serious offense; and
35 (ii) Has, before the commission of the offense under (a) of this
36 subsection, been convicted as an offender on at least two separate
37 occasions, whether in this state or elsewhere, of felonies that under
38 the laws of this state would be considered most serious offenses and

1 would be included in the offender score under RCW 9.94A.525; provided
2 that of the two or more previous convictions, at least one conviction
3 must have occurred before the commission of any of the other most
4 serious offenses for which the offender was previously convicted; or

5 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
6 of a child in the first degree, child molestation in the first degree,
7 rape in the second degree, rape of a child in the second degree, or
8 indecent liberties by forcible compulsion; (B) any of the following
9 offenses with a finding of sexual motivation: Murder in the first
10 degree, murder in the second degree, homicide by abuse, kidnapping in
11 the first degree, kidnapping in the second degree, assault in the first
12 degree, assault in the second degree, assault of a child in the first
13 degree, assault of a child in the second degree, or burglary in the
14 first degree; or (C) an attempt to commit any crime listed in this
15 subsection (~~(+33+)~~) (37)(b)(i); and

16 (ii) Has, before the commission of the offense under (b)(i) of this
17 subsection, been convicted as an offender on at least one occasion,
18 whether in this state or elsewhere, of an offense listed in (b)(i) of
19 this subsection or any federal or out-of-state offense or offense under
20 prior Washington law that is comparable to the offenses listed in
21 (b)(i) of this subsection. A conviction for rape of a child in the
22 first degree constitutes a conviction under (b)(i) of this subsection
23 only when the offender was sixteen years of age or older when the
24 offender committed the offense. A conviction for rape of a child in
25 the second degree constitutes a conviction under (b)(i) of this
26 subsection only when the offender was eighteen years of age or older
27 when the offender committed the offense.

28 (~~(+34+)~~) (38) "Postrelease supervision" is that portion of an
29 offender's community placement that is not community custody.

30 (~~(+35+)~~) (39) "Predatory" means: (a) The perpetrator of the crime
31 was a stranger to the victim, as defined in this section; (b) the
32 perpetrator established or promoted a relationship with the victim
33 prior to the offense and the victimization of the victim was a
34 significant reason the perpetrator established or promoted the
35 relationship; or (c) the perpetrator was: (i) A teacher, counselor,
36 volunteer, or other person in authority in any public or private school
37 and the victim was a student of the school under his or her authority
38 or supervision. For purposes of this subsection, "school" does not

1 include home-based instruction as defined in RCW 28A.225.010; (ii) a
2 coach, trainer, volunteer, or other person in authority in any
3 recreational activity and the victim was a participant in the activity
4 under his or her authority or supervision; or (iii) a pastor, elder,
5 volunteer, or other person in authority in any church or religious
6 organization, and the victim was a member or participant of the
7 organization under his or her authority.

8 ~~((36))~~ (40) "Private school" means a school regulated under
9 chapter 28A.195 or 28A.205 RCW.

10 ~~((37))~~ (41) "Public school" has the same meaning as in RCW
11 28A.150.010.

12 ~~((38))~~ (42) "Restitution" means a specific sum of money ordered
13 by the sentencing court to be paid by the offender to the court over a
14 specified period of time as payment of damages. The sum may include
15 both public and private costs.

16 ~~((39))~~ (43) "Risk assessment" means the application of an
17 objective instrument supported by research and adopted by the
18 department for the purpose of assessing an offender's risk of
19 reoffense, taking into consideration the nature of the harm done by the
20 offender, place and circumstances of the offender related to risk, the
21 offender's relationship to any victim, and any information provided to
22 the department by victims. The results of a risk assessment shall not
23 be based on unconfirmed or unconfirmable allegations.

24 ~~((40))~~ (44) "Serious traffic offense" means:

25 (a) Nonfelony driving while under the influence of intoxicating
26 liquor or any drug (RCW 46.61.502), nonfelony actual physical control
27 while under the influence of intoxicating liquor or any drug (RCW
28 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an
29 attended vehicle (RCW 46.52.020(5)); or

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

33 ~~((41))~~ (45) "Serious violent offense" is a subcategory of violent
34 offense and means:

- 35 (a)(i) Murder in the first degree;
- 36 (ii) Homicide by abuse;
- 37 (iii) Murder in the second degree;
- 38 (iv) Manslaughter in the first degree;

1 (v) Assault in the first degree;
2 (vi) Kidnapping in the first degree;
3 (vii) Rape in the first degree;
4 (viii) Assault of a child in the first degree; or
5 (ix) An attempt, criminal solicitation, or criminal conspiracy to
6 commit one of these felonies; or
7 (b) Any federal or out-of-state conviction for an offense that
8 under the laws of this state would be a felony classified as a serious
9 violent offense under (a) of this subsection.

10 ~~((42))~~ (46) "Sex offense" means:
11 (a)(i) A felony that is a violation of chapter 9A.44 RCW other than
12 RCW 9A.44.130~~((11))~~ (12);
13 (ii) A violation of RCW 9A.64.020;
14 (iii) A felony that is a violation of chapter 9.68A RCW other than
15 RCW 9.68A.080; or
16 (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt,
17 criminal solicitation, or criminal conspiracy to commit such crimes;
18 (b) Any conviction for a felony offense in effect at any time prior
19 to July 1, 1976, that is comparable to a felony classified as a sex
20 offense in (a) of this subsection;
21 (c) A felony with a finding of sexual motivation under RCW
22 9.94A.835 or 13.40.135; or
23 (d) Any federal or out-of-state conviction for an offense that
24 under the laws of this state would be a felony classified as a sex
25 offense under (a) of this subsection.

26 ~~((43))~~ (47) "Sexual motivation" means that one of the purposes
27 for which the defendant committed the crime was for the purpose of his
28 or her sexual gratification.

29 ~~((44))~~ (48) "Standard sentence range" means the sentencing
30 court's discretionary range in imposing a nonappealable sentence.

31 ~~((45))~~ (49) "Statutory maximum sentence" means the maximum length
32 of time for which an offender may be confined as punishment for a crime
33 as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining
34 the crime, or other statute defining the maximum penalty for a crime.

35 ~~((46))~~ (50) "Stranger" means that the victim did not know the
36 offender twenty-four hours before the offense.

37 ~~((47))~~ (51) "Total confinement" means confinement inside the

1 physical boundaries of a facility or institution operated or utilized
2 under contract by the state or any other unit of government for twenty-
3 four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

4 ~~((48))~~ (52) "Transition training" means written and verbal
5 instructions and assistance provided by the department to the offender
6 during the two weeks prior to the offender's successful completion of
7 the work ethic camp program. The transition training shall include
8 instructions in the offender's requirements and obligations during the
9 offender's period of community custody.

10 ~~((49))~~ (53) "Victim" means any person who has sustained
11 emotional, psychological, physical, or financial injury to person or
12 property as a direct result of the crime charged.

13 ~~((50))~~ (54) "Violent offense" means:

14 (a) Any of the following felonies:

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

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

19 (iii) Manslaughter in the first degree;

20 (iv) Manslaughter in the second degree;

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

22 (vi) Kidnapping in the second degree;

23 (vii) Arson in the second degree;

24 (viii) Assault in the second degree;

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

26 (x) Extortion in the first degree;

27 (xi) Robbery in the second degree;

28 (xii) Drive-by shooting;

29 (xiii) Vehicular assault, when caused by the operation or driving
30 of a vehicle by a person while under the influence of intoxicating
31 liquor or any drug or by the operation or driving of a vehicle in a
32 reckless manner; and

33 (xiv) Vehicular homicide, when proximately caused by the driving of
34 any vehicle by any person while under the influence of intoxicating
35 liquor or any drug as defined by RCW 46.61.502, or by the operation of
36 any vehicle in a reckless manner;

37 (b) Any conviction for a felony offense in effect at any time prior

1 to July 1, 1976, that is comparable to a felony classified as a violent
2 offense in (a) of this subsection; and

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

6 (~~(+51+)~~) (55) "Work crew" means a program of partial confinement
7 consisting of civic improvement tasks for the benefit of the community
8 that complies with RCW 9.94A.725.

9 (~~(+52+)~~) (56) "Work ethic camp" means an alternative incarceration
10 program as provided in RCW 9.94A.690 designed to reduce recidivism and
11 lower the cost of corrections by requiring offenders to complete a
12 comprehensive array of real-world job and vocational experiences,
13 character-building work ethics training, life management skills
14 development, substance abuse rehabilitation, counseling, literacy
15 training, and basic adult education.

16 (~~(+53+)~~) (57) "Work release" means a program of partial confinement
17 available to offenders who are employed or engaged as a student in a
18 regular course of study at school.

19 **Gangs In Schools**

20 NEW SECTION. **Sec. 510.** A new section is added to chapter 28A.300
21 RCW to read as follows:

22 (1) The task force on gangs in schools shall study and make
23 recommendations for the creation of a brochure to help teachers and
24 parents learn about criminal street gangs and criminal street gang
25 activity. In preparing the brochure, the task force, at a minimum,
26 shall include provisions on:

27 (a) The types of indicators that parents or others should be made
28 aware as an early warning signal of possible criminal street gang
29 involvement. Such indicators include changes in a child's behavior,
30 changes in friends or acquaintances, changes in dress apparel, graffiti
31 and tagging markings located around the home or immediate property, and
32 any other potential indicators as suggested by the task force;

33 (b) Possible places that a parent or teacher may go to seek help in
34 trying to prevent a child from joining the membership of a criminal
35 street gang or committing a criminal street gang offense; and

1 (c) Possible options that a person may have in order to provide
2 assistance to a criminal street gang member seeking to opt out of his
3 or her criminal street gang membership.

4 (2) The task force shall report its findings and recommendations to
5 the legislature and the superintendent of public instruction by
6 December 31, 2008.

7 (3) The superintendent of public instruction shall make the
8 brochures available for parents, teachers, students, and others
9 interested in trying to understand criminal street gang activity.

10 (4) The brochure shall be available in bilingual or multilingual
11 languages in those school districts where a significant segment of
12 students speak a language other than English and have a limited
13 proficiency in English.

14 **PART VI**
15 **STATE PREEMPTION**

16 NEW SECTION. **Sec. 601.** A new section is added to chapter 9.94A
17 RCW to read as follows:

18 (1) The state of Washington hereby fully occupies and preempts the
19 entire field of definitions used for purposes of substantive criminal
20 law relating to criminal street gangs, criminal street gang-related
21 offenses, criminal street gang associates and members, and pattern of
22 criminal street gang activity. These definitions of "criminal street
23 gang," "criminal street gang associate or member," "criminal street
24 gang-related offense," and "pattern of criminal street gang activity"
25 contained in RCW 9.94A.030 expressly preempt any conflicting city or
26 county codes or ordinances. Cities, towns, counties, or other
27 municipalities may enact laws and ordinances relating to criminal
28 street gangs that contain definitions that are consistent with
29 definitions pursuant to RCW 9.94A.030. Local laws and ordinances that
30 are inconsistent with the definitions shall not be enacted and are
31 preempted and repealed, regardless of the nature of the code, charter,
32 or home rule status of such city, town, county, or municipality.

33 (2) The preemption provided in this chapter does not apply to
34 "gang" as defined in RCW 28A.600.455 under the common school provisions
35 act or "gang" as defined in RCW 59.18.030 under the landlord-tenant
36 act.

1 (3) The preemption provided for in this chapter does not restrict
2 the adoption or use of a uniform state definition of "gang," "gang
3 member," or "gang associate," for purposes of the creation and
4 maintenance of the statewide gang database for law enforcement
5 intelligence purposes under section 301 of this act.

6 NEW SECTION. **Sec. 602.** (1) The state of Washington hereby fully
7 occupies and preempts the entire field of definitions used for purposes
8 of substantive criminal law relating to criminal street gangs, criminal
9 street gang-related offenses, criminal street gang associates and
10 members, and pattern of criminal street gang activity. These
11 definitions of "criminal street gang," "criminal street gang associate
12 or member," "criminal street gang-related offense," and "pattern of
13 criminal street gang activity" contained in RCW 9.94A.030 expressly
14 preempt any conflicting city or county codes or ordinances. Cities,
15 towns, counties, or other municipalities may enact laws and ordinances
16 relating to criminal street gangs that contain definitions that are
17 consistent with definitions pursuant to RCW 9.94A.030. Local laws and
18 ordinances that are inconsistent with the definitions shall not be
19 enacted and are preempted and repealed, regardless of the nature of the
20 code, charter, or home rule status of such city, town, county, or
21 municipality.

22 (2) The preemption provided in this chapter does not apply to
23 "gang" as defined in RCW 28A.600.455 under the common school provisions
24 act or "gang" as defined in RCW 59.18.030 under the landlord-tenant
25 act.

26 (3) The preemption provided for in this chapter does not restrict
27 the adoption or use of a uniform state definition of "gang," "gang
28 member," or "gang associate," for purposes of the creation and
29 maintenance of the statewide gang database for law enforcement
30 intelligence purposes under section 301 of this act.

31 NEW SECTION. **Sec. 603.** (1) The state of Washington hereby fully
32 occupies and preempts the entire field of definitions used for purposes
33 of substantive criminal law relating to criminal street gangs, criminal
34 street gang-related offenses, criminal street gang associates and
35 members, and pattern of criminal street gang activity. These
36 definitions of "criminal street gang," "criminal street gang associate

1 or member," "criminal street gang-related offense," and "pattern of
2 criminal street gang activity" contained in RCW 9.94A.030 expressly
3 preempt any conflicting city or county codes or ordinances. Cities,
4 towns, counties, or other municipalities may enact laws and ordinances
5 relating to criminal street gangs that contain definitions that are
6 consistent with definitions pursuant to RCW 9.94A.030. Local laws and
7 ordinances that are inconsistent with the definitions shall not be
8 enacted and are preempted and repealed, regardless of the nature of the
9 code, charter, or home rule status of such city, town, county, or
10 municipality.

11 (2) The preemption provided in this chapter does not apply to
12 "gang" as defined in RCW 28A.600.455 under the common school provisions
13 act or "gang" as defined in RCW 59.18.030 under the landlord-tenant
14 act.

15 (3) The preemption provided for in this chapter does not restrict
16 the adoption or use of a uniform state definition of "gang," "gang
17 member," or "gang associate," for purposes of the creation and
18 maintenance of the statewide gang database for law enforcement
19 intelligence purposes under section 301 of this act.

20 **PART VII**
21 **TEMPORARY WITNESS RELOCATION PROGRAM**

22 NEW SECTION. **Sec. 701.** A new section is added to chapter 43.31
23 RCW to read as follows:

24 The office of crime victims advocacy within the department of
25 community, trade, and economic development shall, within available
26 funds, establish a gang relocation assistance program. As part of the
27 relocation program, the office of crime victims advocacy shall work in
28 collaboration with each local prosecuting agency to determine how
29 funding and assistance shall be distributed to assist witnesses of
30 felony gang-related offenses with temporary relocation and shelter.

31 **PART VIII**
32 **STUDY ON BEST PRACTICES TO REDUCE GANG INVOLVEMENT WHILE**
33 **INCARCERATED**

