
HOUSE BILL 1126

State of Washington

62nd Legislature

2011 Regular Session

By Representatives Ross, Hurst, Pearson, Angel, Dahlquist, and Haler;
by request of Attorney General

Read first time 01/12/11. Referred to Committee on Public Safety &
Emergency Preparedness.

1 AN ACT Relating to criminal street gangs; amending RCW 13.40.127,
2 9A.46.120, 9A.48.105, 9.94A.533, 9.94A.702, and 70.41.440; reenacting
3 and amending RCW 9.94A.515 and 9.94A.030; adding a new section to
4 chapter 43.20A RCW; adding a new section to chapter 9A.46 RCW; adding
5 a new section to chapter 9.94A RCW; adding a new chapter to Title 7
6 RCW; adding a new chapter to Title 10 RCW; creating a new section; and
7 prescribing penalties.

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

9 NEW SECTION. **Sec. 1.** The legislature finds that gang violence is
10 an increasingly serious problem that threatens the long-term economic,
11 social, and public safety interests of the state, counties, and cities.
12 The scourge of gangs plaguing our streets is a clear and present danger
13 to our communities. Those who live where gang membership and activity
14 is on the rise find themselves living with the daily threat of
15 intimidation and harassment. Gangs terrorize neighborhoods and
16 adversely impact our quality of life by engaging in violence, drugs,
17 and associated criminal activities. Individual gang members, gang
18 cliques, or entire gang organizations traffic in drugs and gun running
19 and commit assault, rape, robbery, burglary, extortion, auto theft,

1 shootings, murder, and other felonies. Gang members are coming to
2 Washington from other states and foreign countries with many supported
3 by the sale of crack cocaine, heroin, and other illegal drugs. In many
4 neighborhoods, children are born into or must contend with second and
5 third-generation street gangs. The loss of life, property, happiness,
6 security, and a positive opportunity for growth caused by gang violence
7 has reached intolerable levels. Increased gang activity has seriously
8 strained the budgets of many local jurisdictions, as well as threatened
9 the ability of the educational system to educate our youth. The
10 destruction and fear generated by gangs in many communities have
11 greatly elevated the critical importance of enacting effective measures
12 to combat gang-related crime. Communities overwhelmed by violent gang
13 activity must have relief from the blight of gang crime before
14 revitalization, initiatives to strengthen families, school
15 improvements, and other desired interventions can succeed. Local
16 communities, law enforcement agencies, and prosecutors require
17 assistance to combat this clear and present danger to the law-abiding
18 residents of Washington. They must have the tools they need to
19 aggressively combat gang-related crime and build strong cases that
20 remove violent gang members from the streets. They need additional
21 prevention and intervention measures, civil remedies, and criminal
22 sanctions to ensure that our young are helped to avoid gang membership
23 and activities and that those who do commit gang-related crimes are
24 held fully accountable for the harm and suffering they inflict on
25 society. It is the intent of this act to provide the criminal justice
26 community and local communities with the effective tools they need to
27 better protect the citizens of Washington from gang-related crime.

28 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.20A RCW
29 to read as follows:

30 Grants authorized.

31 (1) In general. The state department of social and health
32 services, office of juvenile justice, shall seek funding from the
33 United States department of justice, office of justice programs, office
34 of juvenile justice and delinquency prevention, for the purpose of
35 establishing a competitive statewide gang prevention and intervention
36 grant program.

1 (2) Grant program implementation. Upon receipt of federal funds or
2 signing of a federal grant agreement, the state office of juvenile
3 justice, in consultation with the Washington state partnership council
4 on juvenile justice, shall award grants to eligible entities described
5 in subsection (3) of this section to carry out local projects focused
6 on criminal street gang prevention and intervention programs. The
7 executive director of the Washington association of sheriffs and police
8 chiefs or his or her designee and the attorney general or his or her
9 designee shall serve on the grant application review committee, as well
10 as additional representatives of local government and nongovernmental
11 organizations to be appointed at the discretion of the secretary of the
12 department of social and health services. Each of these respective
13 organizations shall have a vote when determining awards.

14 (3) Term. The director of the Washington state partnership council
15 on juvenile justice shall award grants under this section for a period
16 of one fiscal year or twelve calendar months.

17 (4) Eligible entities. Eligible entities under this section are:

18 (a) Nonprofit, nongovernmental organizations, or coalitions that
19 serve the targeted populations that:

20 (i) Have a documented history of creating and administering
21 effective projects; or

22 (ii) Work in partnership with an organization that has a documented
23 history of creating and administering effective projects;

24 (b) Governmental entities that demonstrate a partnership with an
25 organization described in (a) of this subsection.

26 (5)(a) Applications. An eligible entity desiring a grant under
27 this section shall submit an application to the director of the
28 Washington state partnership council on juvenile justice at such time,
29 in such form, and in such manner as the director may prescribe.
30 Applications, at a minimum, shall demonstrate:

31 (i) That a significant gang problem exists in the jurisdiction or
32 jurisdictions receiving the grant;

33 (ii) How the funds will be used to offer services to prevent the
34 expansion of criminal street gang membership or support criminal street
35 gang membership intervention;

36 (iii) How the funds will be used to provide services to a targeted
37 population; and

1 (iv) That the costs of administration shall not exceed four percent
2 of appropriated funding.

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

8 (i) Propose to conduct a community gang assessment utilizing proven
9 evidence-based practices, such as the office of juvenile justice and
10 office of delinquency programs comprehensive gang model; or

11 (ii) Where such an assessment has been conducted, to implement a
12 prevention or intervention program utilizing either evidence-based or
13 innovative and culturally relevant practices.

14 (6) No supplanting. Grant funds awarded under this section shall
15 be used to supplement, not supplant, other moneys that are available
16 for prevention and intervention programs.

17 (7) Reports. Each eligible entity receiving a grant under this
18 section shall submit within one month of the one-year anniversary of
19 receiving the award to the director of the Washington state partnership
20 council on juvenile justice a report describing the activities carried
21 out with the grant funds.

22 (8) The department of social and health services, office of
23 juvenile justice, shall report back to the legislature regarding the
24 status of those activities prescribed in subsections (1) through (7) of
25 this section by January 9, 2012.

26 **Sec. 3.** RCW 13.40.127 and 2009 c 236 s 1 are each amended to read
27 as follows:

28 (1) A juvenile is eligible for deferred disposition unless he or
29 she:

30 (a) Is charged with a sex or violent offense;

31 (b) Has a criminal history which includes any felony;

32 (c) Has a prior deferred disposition or deferred adjudication;

33 (~~(e)~~)

34 (d) Has two or more adjudications; or

35 (e) Is charged with a firearm offense under chapter 9.41 RCW and
36 the crime is alleged to be a criminal street gang-related offense as
37 defined in RCW 9.94A.030.

1 (2) The juvenile court may, upon motion at least fourteen days
2 before commencement of trial and, after consulting the juvenile's
3 custodial parent or parents or guardian and with the consent of the
4 juvenile, continue the case for disposition for a period not to exceed
5 one year from the date the juvenile is found guilty. The court shall
6 consider whether the offender and the community will benefit from a
7 deferred disposition before deferring the disposition.

8 (3) Any juvenile who agrees to a deferral of disposition shall:

9 (a) Stipulate to the admissibility of the facts contained in the
10 written police report;

11 (b) Acknowledge that the report will be entered and used to support
12 a finding of guilt and to impose a disposition if the juvenile fails to
13 comply with terms of supervision; and

14 (c) Waive the following rights to: (i) A speedy disposition; and
15 (ii) call and confront witnesses.

16 The adjudicatory hearing shall be limited to a reading of the
17 court's record.

18 (4) Following the stipulation, acknowledgment, waiver, and entry of
19 a finding or plea of guilt, the court shall defer entry of an order of
20 disposition of the juvenile.

21 (5) Any juvenile granted a deferral of disposition under this
22 section shall be placed under community supervision. The court may
23 impose any conditions of supervision that it deems appropriate
24 including posting a probation bond. Payment of restitution under RCW
25 13.40.190 shall be a condition of community supervision under this
26 section.

27 The court may require a juvenile offender convicted of animal
28 cruelty in the first degree to submit to a mental health evaluation to
29 determine if the offender would benefit from treatment and such
30 intervention would promote the safety of the community. After
31 consideration of the results of the evaluation, as a condition of
32 community supervision, the court may order the offender to attend
33 treatment to address issues pertinent to the offense.

34 (6) A parent who signed for a probation bond has the right to
35 notify the counselor if the juvenile fails to comply with the bond or
36 conditions of supervision. The counselor shall notify the court and
37 surety of any failure to comply. A surety shall notify the court of
38 the juvenile's failure to comply with the probation bond. The state

1 shall bear the burden to prove, by a preponderance of the evidence,
2 that the juvenile has failed to comply with the terms of community
3 supervision.

4 (7) A juvenile's lack of compliance shall be determined by the
5 judge upon written motion by the prosecutor or the juvenile's juvenile
6 court community supervision counselor. If a juvenile fails to comply
7 with terms of supervision, the court shall enter an order of
8 disposition.

9 (8) At any time following deferral of disposition the court may,
10 following a hearing, continue the case for an additional one-year
11 period for good cause.

12 (9) At the conclusion of the period set forth in the order of
13 deferral and upon a finding by the court of full compliance with
14 conditions of supervision and payment of full restitution, the
15 respondent's conviction shall be vacated and the court shall dismiss
16 the case with prejudice, except that a conviction under RCW 16.52.205
17 shall not be vacated.

18 (10)(a) Records of deferred disposition cases vacated under
19 subsection (9) of this section shall be sealed no later than thirty
20 days after the juvenile's eighteenth birthday provided that the
21 juvenile does not have any charges pending at that time. If a juvenile
22 has already reached his or her eighteenth birthday before July 26,
23 2009, and does not have any charges pending, he or she may request that
24 the court issue an order sealing the records of his or her deferred
25 disposition cases vacated under subsection (9) of this section, and
26 this request shall be granted. Nothing in this subsection shall
27 preclude a juvenile from petitioning the court to have the records of
28 his or her deferred dispositions sealed under RCW 13.50.050 (11) and
29 (12).

30 (b) Records sealed under this provision shall have the same legal
31 status as records sealed under RCW 13.50.050.

32 NEW SECTION. **Sec. 4.** A new section is added to chapter 9A.46 RCW
33 to read as follows:

34 (1) A person commits the offense of criminal gang intimidation if
35 the person threatens another person with bodily injury because the
36 other person refuses to join or has attempted to withdraw from a
37 criminal street gang, as defined in RCW 9.94A.030.

1 (2) Criminal gang intimidation is a class C felony.

2 **Sec. 5.** RCW 9A.46.120 and 1997 c 266 s 3 are each amended to read
3 as follows:

4 (1) A person commits the offense of school criminal gang
5 intimidation if the person threatens another person with bodily injury
6 because the other person refuses to join or has attempted to withdraw
7 from a gang, as defined in RCW 28A.600.455, if the person who threatens
8 the victim or the victim attends or is registered in a public or
9 alternative school.

10 (2) School criminal gang intimidation is a class C felony.

11 **Sec. 6.** RCW 9.94A.515 and 2010 c 289 s 11 and 2010 c 227 s 9 are
12 each reenacted and amended to read as follows:

13

14 TABLE 2
15 CRIMES INCLUDED WITHIN EACH
16 SERIOUSNESS LEVEL

17	XVI	Aggravated Murder 1 (RCW
18		10.95.020)
19	XV	Homicide by abuse (RCW 9A.32.055)
20		Malicious explosion 1 (RCW
21		70.74.280(1))
22		Murder 1 (RCW 9A.32.030)
23	XIV	Murder 2 (RCW 9A.32.050)
24		Trafficking 1 (RCW 9A.40.100(1))
25	XIII	Malicious explosion 2 (RCW
26		70.74.280(2))
27		Malicious placement of an explosive 1
28		(RCW 70.74.270(1))
29	XII	Assault 1 (RCW 9A.36.011)
30		Assault of a Child 1 (RCW 9A.36.120)
31		Malicious placement of an imitation
32		device 1 (RCW 70.74.272(1)(a))
33		Promoting Commercial Sexual Abuse
34		of a Minor (RCW 9.68A.101)

1 Rape 1 (RCW 9A.44.040)
2 Rape of a Child 1 (RCW 9A.44.073)
3 Trafficking 2 (RCW 9A.40.100(2))
4 XI Manslaughter 1 (RCW 9A.32.060)
5 Rape 2 (RCW 9A.44.050)
6 Rape of a Child 2 (RCW 9A.44.076)
7 X Child Molestation 1 (RCW 9A.44.083)
8 Criminal Mistreatment 1 (RCW
9 9A.42.020)
10 Indecent Liberties (with forcible
11 compulsion) (RCW
12 9A.44.100(1)(a))
13 Kidnapping 1 (RCW 9A.40.020)
14 Leading Organized Crime (RCW
15 9A.82.060(1)(a))
16 Malicious explosion 3 (RCW
17 70.74.280(3))
18 Sexually Violent Predator Escape
19 (RCW 9A.76.115)
20 IX Abandonment of Dependent Person 1
21 (RCW 9A.42.060)
22 Assault of a Child 2 (RCW 9A.36.130)
23 Explosive devices prohibited (RCW
24 70.74.180)
25 Hit and Run--Death (RCW
26 46.52.020(4)(a))
27 Homicide by Watercraft, by being
28 under the influence of intoxicating
29 liquor or any drug (RCW
30 79A.60.050)
31 Inciting Criminal Profiteering (RCW
32 9A.82.060(1)(b))
33 Malicious placement of an explosive 2
34 (RCW 70.74.270(2))
35 Robbery 1 (RCW 9A.56.200)
36 Sexual Exploitation (RCW 9.68A.040)

1 Vehicular Homicide, by being under
2 the influence of intoxicating liquor
3 or any drug (RCW 46.61.520)
4 VIII Arson 1 (RCW 9A.48.020)
5 Commercial Sexual Abuse of a Minor
6 (RCW 9.68A.100)
7 Homicide by Watercraft, by the
8 operation of any vessel in a
9 reckless manner (RCW
10 79A.60.050)
11 Manslaughter 2 (RCW 9A.32.070)
12 Promoting Prostitution 1 (RCW
13 9A.88.070)
14 Theft of Ammonia (RCW 69.55.010)
15 Vehicular Homicide, by the operation
16 of any vehicle in a reckless manner
17 (RCW 46.61.520)
18 VII Burglary 1 (RCW 9A.52.020)
19 Child Molestation 2 (RCW 9A.44.086)
20 Civil Disorder Training (RCW
21 9A.48.120)
22 Dealing in depictions of minor engaged
23 in sexually explicit conduct 1
24 (RCW 9.68A.050(1))
25 Drive-by Shooting (RCW 9A.36.045)
26 Homicide by Watercraft, by disregard
27 for the safety of others (RCW
28 79A.60.050)
29 Indecent Liberties (without forcible
30 compulsion) (RCW 9A.44.100(1)
31 (b) and (c))
32 Introducing Contraband 1 (RCW
33 9A.76.140)
34 Malicious placement of an explosive 3
35 (RCW 70.74.270(3))

1 Negligently Causing Death By Use of a
2 Signal Preemption Device (RCW
3 46.37.675)
4 Sending, bringing into state depictions
5 of minor engaged in sexually
6 explicit conduct 1 (RCW
7 9.68A.060(1))
8 Unlawful Possession of a Firearm in
9 the first degree (RCW 9.41.040(1))
10 Use of a Machine Gun in Commission
11 of a Felony (RCW 9.41.225)
12 Vehicular Homicide, by disregard for
13 the safety of others (RCW
14 46.61.520)
15 VI Bail Jumping with Murder 1 (RCW
16 9A.76.170(3)(a))
17 Bribery (RCW 9A.68.010)
18 Incest 1 (RCW 9A.64.020(1))
19 Intimidating a Judge (RCW 9A.72.160)
20 Intimidating a Juror/Witness (RCW
21 9A.72.110, 9A.72.130)
22 Malicious placement of an imitation
23 device 2 (RCW 70.74.272(1)(b))
24 Possession of Depictions of a Minor
25 Engaged in Sexually Explicit
26 Conduct 1 (RCW 9.68A.070(1))
27 Rape of a Child 3 (RCW 9A.44.079)
28 Theft of a Firearm (RCW 9A.56.300)
29 Unlawful Storage of Ammonia (RCW
30 69.55.020)
31 V Abandonment of Dependent Person 2
32 (RCW 9A.42.070)
33 Advancing money or property for
34 extortionate extension of credit
35 (RCW 9A.82.030)
36 Bail Jumping with class A Felony
37 (RCW 9A.76.170(3)(b))

1 Child Molestation 3 (RCW 9A.44.089)
2 Criminal Mistreatment 2 (RCW
3 9A.42.030)
4 Custodial Sexual Misconduct 1 (RCW
5 9A.44.160)
6 Dealing in Depictions of Minor
7 Engaged in Sexually Explicit
8 Conduct 2 (RCW 9.68A.050(2))
9 Domestic Violence Court Order
10 Violation (RCW 10.99.040,
11 10.99.050, 26.09.300, 26.10.220,
12 26.26.138, 26.50.110, 26.52.070,
13 or 74.34.145)
14 Driving While Under the Influence
15 (RCW 46.61.502(6))
16 Extortion 1 (RCW 9A.56.120)
17 Extortionate Extension of Credit (RCW
18 9A.82.020)
19 Extortionate Means to Collect
20 Extensions of Credit (RCW
21 9A.82.040)
22 Incest 2 (RCW 9A.64.020(2))
23 Kidnapping 2 (RCW 9A.40.030)
24 Perjury 1 (RCW 9A.72.020)
25 Persistent prison misbehavior (RCW
26 9.94.070)
27 Physical Control of a Vehicle While
28 Under the Influence (RCW
29 46.61.504(6))
30 Possession of a Stolen Firearm (RCW
31 9A.56.310)
32 Rape 3 (RCW 9A.44.060)
33 Rendering Criminal Assistance 1
34 (RCW 9A.76.070)

1 Sending, Bringing into State Depictions
2 of Minor Engaged in Sexually
3 Explicit Conduct 2 (RCW
4 9.68A.060(2))
5 Sexual Misconduct with a Minor 1
6 (RCW 9A.44.093)
7 Sexually Violating Human Remains
8 (RCW 9A.44.105)
9 Stalking (RCW 9A.46.110)
10 Taking Motor Vehicle Without
11 Permission 1 (RCW 9A.56.070)
12 IV Arson 2 (RCW 9A.48.030)
13 Assault 2 (RCW 9A.36.021)
14 Assault 3 (of a Peace Officer with a
15 Projectile Stun Gun) (RCW
16 9A.36.031(1)(h))
17 Assault by Watercraft (RCW
18 79A.60.060)
19 Bribing a Witness/Bribe Received by
20 Witness (RCW 9A.72.090,
21 9A.72.100)
22 Cheating 1 (RCW 9.46.1961)
23 Commercial Bribery (RCW 9A.68.060)
24 Counterfeiting (RCW 9.16.035(4))
25 Endangerment with a Controlled
26 Substance (RCW 9A.42.100)
27 Escape 1 (RCW 9A.76.110)
28 Hit and Run--Injury (RCW
29 46.52.020(4)(b))
30 Hit and Run with Vessel--Injury
31 Accident (RCW 79A.60.200(3))
32 Identity Theft 1 (RCW 9.35.020(2))
33 Indecent Exposure to Person Under
34 Age Fourteen (subsequent sex
35 offense) (RCW 9A.88.010)
36 Influencing Outcome of Sporting Event
37 (RCW 9A.82.070)

1 Malicious Harassment (RCW
2 9A.36.080)
3 Possession of Depictions of a Minor
4 Engaged in Sexually Explicit
5 Conduct 2 (RCW ((9.68[A].070))
6 9.68A.070(2))
7 Residential Burglary (RCW
8 9A.52.025)
9 Robbery 2 (RCW 9A.56.210)
10 Theft of Livestock 1 (RCW 9A.56.080)
11 Threats to Bomb (RCW 9.61.160)
12 Trafficking in Stolen Property 1 (RCW
13 9A.82.050)
14 Unlawful factoring of a credit card or
15 payment card transaction (RCW
16 9A.56.290(4)(b))
17 Unlawful transaction of health
18 coverage as a health care service
19 contractor (RCW 48.44.016(3))
20 Unlawful transaction of health
21 coverage as a health maintenance
22 organization (RCW 48.46.033(3))
23 Unlawful transaction of insurance
24 business (RCW 48.15.023(3))
25 Unlicensed practice as an insurance
26 professional (RCW 48.17.063(2))
27 Use of Proceeds of Criminal
28 Profiteering (RCW 9A.82.080 (1)
29 and (2))
30 Vehicular Assault, by being under the
31 influence of intoxicating liquor or
32 any drug, or by the operation or
33 driving of a vehicle in a reckless
34 manner (RCW 46.61.522)
35 Viewing of Depictions of a Minor
36 Engaged in Sexually Explicit
37 Conduct 1 (RCW 9.68A.075(1))

1 Willful Failure to Return from
2 Furlough (RCW 72.66.060)
3 III Animal Cruelty 1 (Sexual Conduct or
4 Contact) (RCW 16.52.205(3))
5 Assault 3 (Except Assault 3 of a Peace
6 Officer With a Projectile Stun
7 Gun) (RCW 9A.36.031 except
8 subsection (1)(h))
9 Assault of a Child 3 (RCW 9A.36.140)
10 Bail Jumping with class B or C Felony
11 (RCW 9A.76.170(3)(c))
12 Burglary 2 (RCW 9A.52.030)
13 Communication with a Minor for
14 Immoral Purposes (RCW
15 9.68A.090)
16 Criminal Gang Intimidation (~~(RCW~~
17 ~~9A.46.120))~~ (section 4 of this act)
18 Custodial Assault (RCW 9A.36.100)
19 Cyberstalking (subsequent conviction
20 or threat of death) (RCW
21 9.61.260(3))
22 Escape 2 (RCW 9A.76.120)
23 Extortion 2 (RCW 9A.56.130)
24 Harassment (RCW 9A.46.020)
25 Intimidating a Public Servant (RCW
26 9A.76.180)
27 Introducing Contraband 2 (RCW
28 9A.76.150)
29 Malicious Injury to Railroad Property
30 (RCW 81.60.070)
31 Mortgage Fraud (RCW 19.144.080)
32 Negligently Causing Substantial Bodily
33 Harm By Use of a Signal
34 Preemption Device (RCW
35 46.37.674)
36 Organized Retail Theft 1 (RCW
37 9A.56.350(2))

1 Perjury 2 (RCW 9A.72.030)
2 Possession of Incendiary Device (RCW
3 9.40.120)
4 Possession of Machine Gun or Short-
5 Barreled Shotgun or Rifle (RCW
6 9.41.190)
7 Promoting Prostitution 2 (RCW
8 9A.88.080)
9 Retail Theft with Extenuating
10 Circumstances 1 (RCW
11 9A.56.360(2))
12 School Criminal Gang Intimidation
13 (RCW 9A.46.120)
14 Securities Act violation (RCW
15 21.20.400)
16 Tampering with a Witness (RCW
17 9A.72.120)
18 Telephone Harassment (subsequent
19 conviction or threat of death)
20 (RCW 9.61.230(2))
21 Theft of Livestock 2 (RCW 9A.56.083)
22 Theft with the Intent to Resell 1 (RCW
23 9A.56.340(2))
24 Trafficking in Stolen Property 2 (RCW
25 9A.82.055)
26 Unlawful Imprisonment (RCW
27 9A.40.040)
28 Unlawful possession of firearm in the
29 second degree (RCW 9.41.040(2))
30 Vehicular Assault, by the operation or
31 driving of a vehicle with disregard
32 for the safety of others (RCW
33 46.61.522)
34 Willful Failure to Return from Work
35 Release (RCW 72.65.070)
36 II Computer Trespass 1 (RCW
37 9A.52.110)

1 Counterfeiting (RCW 9.16.035(3))
2 Escape from Community Custody
3 (RCW 72.09.310)
4 Failure to Register as a Sex Offender
5 (second or subsequent offense)
6 (RCW ((9A.44.130(11)(a)))
7 9A.44.132)
8 Health Care False Claims (RCW
9 48.80.030)
10 Identity Theft 2 (RCW 9.35.020(3))
11 Improperly Obtaining Financial
12 Information (RCW 9.35.010)
13 Malicious Mischief 1 (RCW
14 9A.48.070)
15 Organized Retail Theft 2 (RCW
16 9A.56.350(3))
17 Possession of Stolen Property 1 (RCW
18 9A.56.150)
19 Possession of a Stolen Vehicle (RCW
20 9A.56.068)
21 Retail Theft with Extenuating
22 Circumstances 2 (RCW
23 9A.56.360(3))
24 Theft 1 (RCW 9A.56.030)
25 Theft of a Motor Vehicle (RCW
26 9A.56.065)
27 Theft of Rental, Leased, or Lease-
28 purchased Property (valued at one
29 thousand five hundred dollars or
30 more) (RCW 9A.56.096(5)(a))
31 Theft with the Intent to Resell 2 (RCW
32 9A.56.340(3))
33 Trafficking in Insurance Claims (RCW
34 48.30A.015)
35 Unlawful factoring of a credit card or
36 payment card transaction (RCW
37 9A.56.290(4)(a))

1 Unlawful Practice of Law (RCW
2 2.48.180)
3 Unlicensed Practice of a Profession or
4 Business (RCW 18.130.190(7))
5 Voyeurism (RCW 9A.44.115)
6 I Attempting to Elude a Pursuing Police
7 Vehicle (RCW 46.61.024)
8 False Verification for Welfare (RCW
9 74.08.055)
10 Forgery (RCW 9A.60.020)
11 Fraudulent Creation or Revocation of a
12 Mental Health Advance Directive
13 (RCW 9A.60.060)
14 Malicious Mischief 2 (RCW
15 9A.48.080)
16 Mineral Trespass (RCW 78.44.330)
17 Possession of Stolen Property 2 (RCW
18 9A.56.160)
19 Reckless Burning 1 (RCW 9A.48.040)
20 Taking Motor Vehicle Without
21 Permission 2 (RCW 9A.56.075)
22 Theft 2 (RCW 9A.56.040)
23 Theft of Rental, Leased, or Lease-
24 purchased Property (valued at two
25 hundred fifty dollars or more but
26 less than one thousand five
27 hundred dollars) (RCW
28 9A.56.096(5)(b))
29 Transaction of insurance business
30 beyond the scope of licensure
31 (RCW 48.17.063)
32 Unlawful Issuance of Checks or Drafts
33 (RCW 9A.56.060)
34 Unlawful Possession of Fictitious
35 Identification (RCW 9A.56.320)
36 Unlawful Possession of Instruments of
37 Financial Fraud (RCW 9A.56.320)

1 Unlawful Possession of Payment
2 Instruments (RCW 9A.56.320)
3 Unlawful Possession of a Personal
4 Identification Device (RCW
5 9A.56.320)
6 Unlawful Production of Payment
7 Instruments (RCW 9A.56.320)
8 Unlawful Trafficking in Food Stamps
9 (RCW 9.91.142)
10 Unlawful Use of Food Stamps (RCW
11 9.91.144)
12 Vehicle Prowl 1 (RCW 9A.52.095)

13 **Sec. 7.** RCW 9A.48.105 and 2008 c 276 s 306 are each amended to
14 read as follows:

15 (1) A person is guilty of criminal street gang tagging and graffiti
16 if he or she commits malicious mischief in the third degree under RCW
17 9A.48.090(1)(b) and he or she:

18 (a) Has multiple current convictions for malicious mischief in the
19 third degree offenses under RCW 9A.48.090(1)(b); or

20 (b) Has previously been convicted for a malicious mischief in the
21 third degree offense under RCW 9A.48.090(1)(b) or a comparable offense
22 under a municipal code provision of any city or town; and

23 (c) The current offense or one of the current offenses is a
24 "criminal street gang-related offense" as defined in RCW 9.94A.030.

25 (2) Criminal street gang tagging and graffiti is a gross
26 misdemeanor offense.

27 (3) In addition to any other penalty imposed for a violation of
28 this section, the court may impose as a condition of the sentence that
29 the person perform one hundred hours of community service.

30 **Sec. 8.** RCW 9.94A.533 and 2009 c 141 s 2 are each amended to read
31 as follows:

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

34 (2) For persons convicted of the anticipatory offenses of criminal
35 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the
36 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)~~) (3);

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)~~) (3);

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~~) 9.94A.827. All enhancements under this subsection shall
21 run 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)~~) (3);

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 sexual conduct in return for a fee, an additional
16 one-year enhancement shall be added to the standard sentence range
17 determined under subsection (2) of this section. For purposes of this
18 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
21 criminal street gang-related felony offense for which the person
22 compensated, threatened, or solicited a minor in order to involve the
23 minor in the commission of the felony offense, the standard sentence
24 range is determined by locating the sentencing grid sentence range
25 defined by the appropriate offender score and the seriousness level of
26 the completed crime, and multiplying the range by one hundred twenty-
27 five percent. If the standard sentence range under this subsection
28 exceeds the statutory maximum sentence for the offense, the statutory
29 maximum sentence is the presumptive sentence unless the offender is a
30 persistent offender.

31 (b) This subsection does not apply to any criminal street gang-
32 related felony offense for which involving a minor in the commission of
33 the felony offense is an element of the offense.

34 (c) The increased penalty specified in (a) of this subsection is
35 unavailable in the event that the prosecution gives notice that it will
36 seek an exceptional sentence based on an aggravating factor under RCW
37 9.94A.535.

1 (11) An additional twelve months and one day shall be added to the
2 standard sentence range for a conviction of attempting to elude a
3 police vehicle as defined by RCW 46.61.024, if the conviction included
4 a finding by special allegation of endangering one or more persons
5 under RCW 9.94A.834.

6 (12) An additional twelve months shall be added to the standard
7 sentence range for an offense that is also a violation of RCW
8 9.94A.831.

9 (13) The following additional times shall be added to the standard
10 sentence range for felony crimes if the offender is being sentenced for
11 an offense found pursuant to section 9 of this act to be a criminal
12 street gang-related offense as defined in RCW 9.94A.030. If the
13 offender is being sentenced for more than one offense, the criminal
14 street gang enhancement must be added to the total period of
15 confinement for all offenses, regardless of which underlying offense is
16 subject to a criminal street gang enhancement. If the criminal street
17 gang-related offense is an anticipatory offense under chapter 9A.28
18 RCW, the following additional times shall be added to the standard
19 sentence range determined under subsection (2) of this section based on
20 the felony crime of conviction as classified under RCW 9A.28.020:

21 (a) Twenty-four months for any felony defined under any law as a
22 class A felony or with a statutory maximum sentence of at least twenty
23 years, or both;

24 (b) Eighteen months for any felony defined under any law as a class
25 B felony or with a statutory maximum sentence of ten years, or both;

26 (c) Twelve months for any felony defined under any law as a class
27 C felony or with a statutory maximum sentence of five years, or both;

28 (d) All criminal street gang-related enhancements under this
29 section are mandatory, shall be served in total confinement, and shall
30 run consecutively to all other sentencing provisions. However, whether
31 or not a mandatory minimum term has expired, an offender serving a
32 sentence under this subsection may be granted an extraordinary medical
33 placement when authorized under RCW 9.94A.728(3);

34 (e) If the standard sentence range under this section exceeds the
35 statutory maximum sentence for the offense, the statutory maximum
36 sentence shall be presumptive unless the offender is a persistent
37 offender. If the addition of a criminal street gang-related

1 enhancement increases the sentence so that it would exceed the
2 statutory maximum for the offense, the portion of the sentence
3 representing the enhancement may not be reduced;

4 (f) The criminal street gang-related enhancement is unavailable in
5 the event that the prosecution gives notice that it will seek an
6 exceptional sentence based on the criminal street gang-related
7 aggravating factor provided by RCW 9.94A.535(3)(aa).

8 NEW SECTION. Sec. 9. A new section is added to chapter 9.94A RCW
9 to read as follows:

10 (1) Where the prosecuting attorney charges a person with a felony
11 offense, the prosecuting attorney may file a special allegation
12 charging that the offense is a criminal street gang-related offense as
13 defined in RCW 9.94A.030.

14 (2) The facts supporting the criminal street gang-related offense
15 allegation shall be proved to a jury beyond a reasonable doubt. The
16 jury's verdict on the allegation must be unanimous, and by special
17 interrogatory. If a jury is waived, proof shall be to the court beyond
18 a reasonable doubt, unless the defendant stipulates to the special
19 allegation.

20 (3) Evidence regarding the criminal street gang-related offense
21 special allegation shall be presented to the jury during the trial of
22 the alleged crime if:

23 (a) The facts supporting the allegation are part of the res gestae
24 of the crime or are otherwise admissible; and

25 (b) The probative value of the evidence to the criminal street
26 gang-related offense special allegation is not substantially outweighed
27 by its prejudicial effect on the jury's ability to determine guilt or
28 innocence for the underlying crime.

29 (4) If the evidence regarding the criminal street gang-related
30 offense special allegation is not presented to the jury during the
31 trial of the alleged crime, the court shall conduct a separate
32 proceeding to determine the existence of this special allegation. The
33 proceeding shall immediately follow the trial on the underlying
34 conviction, if possible. If any person who served on the jury is
35 unable to continue, the court shall substitute an alternate juror.

1 **Sec. 10.** RCW 9.94A.702 and 2010 c 267 s 12 are each amended to
2 read as follows:

3 (1) If an offender is sentenced to a term of confinement for one
4 year or less for one of the following offenses, the court may impose up
5 to one year of community custody:

6 (a) A sex offense;

7 (b) A violent offense;

8 (c) A crime against a person under RCW 9.94A.411;

9 (d) A felony violation of chapter 69.50 or 69.52 RCW, or an
10 attempt, conspiracy, or solicitation to commit such a crime; (~~or~~)

11 (e) A felony violation of RCW 9A.44.132(1) (failure to register);
12 or

13 (f) A felony that is a criminal street gang-related offense under
14 RCW 9.94A.030.

15 (2) If an offender is sentenced to a first-time offender waiver,
16 the court may impose community custody as provided in RCW 9.94A.650.

17 **Sec. 11.** RCW 9.94A.030 and 2010 c 274 s 401, 2010 c 267 s 9, 2010
18 c 227 s 11, and 2010 c 224 s 1 are each reenacted and amended to read
19 as follows:

20 Unless the context clearly requires otherwise, the definitions in
21 this section apply throughout this chapter.

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

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

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

33 (4) "Community corrections officer" means an employee of the
34 department who is responsible for carrying out specific duties in
35 supervision of sentenced offenders and monitoring of sentence
36 conditions.

1 (5) "Community custody" means that portion of an offender's
2 sentence of confinement in lieu of earned release time or imposed as
3 part of a sentence under this chapter and served in the community
4 subject to controls placed on the offender's movement and activities by
5 the department.

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

9 (7) "Community restitution" means compulsory service, without
10 compensation, performed for the benefit of the community by the
11 offender.

12 (8) "Confinement" means total or partial confinement.

13 (9) "Conviction" means an adjudication of guilt pursuant to Title
14 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
15 acceptance of a plea of guilty.

16 (10) "Crime-related prohibition" means an order of a court
17 prohibiting conduct that directly relates to the circumstances of the
18 crime for which the offender has been convicted, and shall not be
19 construed to mean orders directing an offender affirmatively to
20 participate in rehabilitative programs or to otherwise perform
21 affirmative conduct. However, affirmative acts necessary to monitor
22 compliance with the order of a court may be required by the department.

23 (11) "Criminal history" means the list of a defendant's prior
24 convictions and juvenile adjudications, whether in this state, in
25 federal court, or elsewhere.

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

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

34 (c) The determination of a defendant's criminal history is distinct
35 from the determination of an offender score. A prior conviction that
36 was not included in an offender score calculated pursuant to a former
37 version of the sentencing reform act remains part of the defendant's
38 criminal history.

1 (12) "Criminal street gang" means any ongoing organization,
2 association, or group of three or more persons, whether formal or
3 informal, having a common name or common identifying sign or symbol,
4 having as one of its primary activities the commission of criminal
5 acts, and whose members or associates individually or collectively
6 engage in or have engaged in a pattern of criminal street gang
7 activity. This definition does not apply to employees engaged in
8 concerted activities for their mutual aid and protection, or to the
9 activities of labor and bona fide nonprofit organizations or their
10 members or agents.

11 (13) "Criminal street gang associate or member" means any person
12 who actively participates in any criminal street gang and who
13 intentionally promotes, furthers, or assists in any criminal act by the
14 criminal street gang.

15 (14) "Criminal street gang-related offense" means any felony or
16 misdemeanor offense, whether in this state or elsewhere, that is
17 committed for the benefit of, at the direction of, or in association
18 with any criminal street gang, or is committed with the intent to
19 promote, further, or assist in any criminal conduct by the gang, or is
20 committed for one or more of the following reasons:

- 21 (a) To gain admission, prestige, or promotion within the gang;
- 22 (b) To increase or maintain the gang's size, membership, prestige,
23 dominance, or control in any geographical area;
- 24 (c) To exact revenge or retribution for the gang or any member of
25 the gang;
- 26 (d) To obstruct justice, or intimidate or eliminate any witness
27 against the gang or any member of the gang;
- 28 (e) To directly or indirectly cause any benefit, aggrandizement,
29 gain, profit, or other advantage for the gang, its reputation,
30 influence, or membership; or

31 (f) To provide the gang with any advantage in, or any control or
32 dominance over any criminal market sector, including, but not limited
33 to, manufacturing, delivering, or selling any controlled substance
34 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
35 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88
36 RCW); human trafficking (RCW 9A.40.100); ~~((or))~~ promoting pornography
37 (chapter 9.68 RCW); or commercial sexual exploitation of a minor (RCW
38 9.68A.100).

1 (15) "Day fine" means a fine imposed by the sentencing court that
2 equals the difference between the offender's net daily income and the
3 reasonable obligations that the offender has for the support of the
4 offender and any dependents.

5 (16) "Day reporting" means a program of enhanced supervision
6 designed to monitor the offender's daily activities and compliance with
7 sentence conditions, and in which the offender is required to report
8 daily to a specific location designated by the department or the
9 sentencing court.

10 (17) "Department" means the department of corrections.

11 (18) "Determinate sentence" means a sentence that states with
12 exactitude the number of actual years, months, or days of total
13 confinement, of partial confinement, of community custody, the number
14 of actual hours or days of community restitution work, or dollars or
15 terms of a legal financial obligation. The fact that an offender
16 through earned release can reduce the actual period of confinement
17 shall not affect the classification of the sentence as a determinate
18 sentence.

19 (19) "Disposable earnings" means that part of the earnings of an
20 offender remaining after the deduction from those earnings of any
21 amount required by law to be withheld. For the purposes of this
22 definition, "earnings" means compensation paid or payable for personal
23 services, whether denominated as wages, salary, commission, bonuses, or
24 otherwise, and, notwithstanding any other provision of law making the
25 payments exempt from garnishment, attachment, or other process to
26 satisfy a court-ordered legal financial obligation, specifically
27 includes periodic payments pursuant to pension or retirement programs,
28 or insurance policies of any type, but does not include payments made
29 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
30 or Title 74 RCW.

31 (20) "Domestic violence" has the same meaning as defined in RCW
32 10.99.020 and 26.50.010.

33 (21) "Drug offender sentencing alternative" is a sentencing option
34 available to persons convicted of a felony offense other than a violent
35 offense or a sex offense and who are eligible for the option under RCW
36 9.94A.660.

37 (22) "Drug offense" means:

1 (a) Any felony violation of chapter 69.50 RCW except possession of
2 a controlled substance (RCW 69.50.4013) or forged prescription for a
3 controlled substance (RCW 69.50.403);

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

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

10 (23) "Earned release" means earned release from confinement as
11 provided in RCW 9.94A.728.

12 (24) "Escape" means:

13 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the
14 first degree (RCW 9A.76.110), escape in the second degree (RCW
15 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
16 willful failure to return from work release (RCW 72.65.070), or willful
17 failure to be available for supervision by the department while in
18 community custody (RCW 72.09.310); or

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

22 (25) "Felony traffic offense" means:

23 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
24 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-
25 run injury-accident (RCW 46.52.020(4)), felony driving while under the
26 influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or
27 felony physical control of a vehicle while under the influence of
28 intoxicating liquor or any drug (RCW 46.61.504(6)); or

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

32 (26) "Fine" means a specific sum of money ordered by the sentencing
33 court to be paid by the offender to the court over a specific period of
34 time.

35 (27) "First-time offender" means any person who has no prior
36 convictions for a felony and is eligible for the first-time offender
37 waiver under RCW 9.94A.650.

1 (28) "Home detention" means a program of partial confinement
2 available to offenders wherein the offender is confined in a private
3 residence subject to electronic surveillance.

4 (29) "Legal financial obligation" means a sum of money that is
5 ordered by a superior court of the state of Washington for legal
6 financial obligations which may include restitution to the victim,
7 statutorily imposed crime victims' compensation fees as assessed
8 pursuant to RCW 7.68.035, court costs, county or interlocal drug funds,
9 court-appointed attorneys' fees, and costs of defense, fines, and any
10 other financial obligation that is assessed to the offender as a result
11 of a felony conviction. Upon conviction for vehicular assault while
12 under the influence of intoxicating liquor or any drug, RCW
13 46.61.522(1)(b), or vehicular homicide while under the influence of
14 intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial
15 obligations may also include payment to a public agency of the expense
16 of an emergency response to the incident resulting in the conviction,
17 subject to RCW 38.52.430.

18 (30) "Minor child" means a biological or adopted child of the
19 offender who is under age eighteen at the time of the offender's
20 current offense.

21 (31) "Most serious offense" means any of the following felonies or
22 a felony attempt to commit any of the following felonies:

23 (a) Any felony defined under any law as a class A felony or
24 criminal solicitation of or criminal conspiracy to commit a class A
25 felony;

26 (b) Assault in the second degree;

27 (c) Assault of a child in the second degree;

28 (d) Child molestation in the second degree;

29 (e) Controlled substance homicide;

30 (f) Extortion in the first degree;

31 (g) Incest when committed against a child under age fourteen;

32 (h) Indecent liberties;

33 (i) Kidnapping in the second degree;

34 (j) Leading organized crime;

35 (k) Manslaughter in the first degree;

36 (l) Manslaughter in the second degree;

37 (m) Promoting prostitution in the first degree;

38 (n) Rape in the third degree;

1 (o) Robbery in the second degree;

2 (p) Sexual exploitation;

3 (q) Vehicular assault, when caused by the operation or driving of
4 a vehicle by a person while under the influence of intoxicating liquor
5 or any drug or by the operation or driving of a vehicle in a reckless
6 manner;

7 (r) Vehicular homicide, when proximately caused by the driving of
8 any vehicle by any person while under the influence of intoxicating
9 liquor or any drug as defined by RCW 46.61.502, or by the operation of
10 any vehicle in a reckless manner;

11 (s) Any other class B felony offense with a finding of sexual
12 motivation;

13 (t) Any other felony with a deadly weapon verdict under RCW
14 9.94A.825;

15 (u) Any felony offense in effect at any time prior to December 2,
16 1993, that is comparable to a most serious offense under this
17 subsection, or any federal or out-of-state conviction for an offense
18 that under the laws of this state would be a felony classified as a
19 most serious offense under this subsection;

20 (v)(i) A prior conviction for indecent liberties under RCW
21 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
22 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
23 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
24 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

25 (ii) A prior conviction for indecent liberties under RCW
26 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
27 if: (A) The crime was committed against a child under the age of
28 fourteen; or (B) the relationship between the victim and perpetrator is
29 included in the definition of indecent liberties under RCW
30 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
31 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
32 through July 27, 1997;

33 (w) Any out-of-state conviction for a felony offense with a finding
34 of sexual motivation if the minimum sentence imposed was ten years or
35 more; provided that the out-of-state felony offense must be comparable
36 to a felony offense under Title 9 or 9A RCW and the out-of-state
37 definition of sexual motivation must be comparable to the definition of
38 sexual motivation contained in this section.

1 (32) "Nonviolent offense" means an offense which is not a violent
2 offense.

3 (33) "Offender" means a person who has committed a felony
4 established by state law and is eighteen years of age or older or is
5 less than eighteen years of age but whose case is under superior court
6 jurisdiction under RCW 13.04.030 or has been transferred by the
7 appropriate juvenile court to a criminal court pursuant to RCW
8 13.40.110. In addition, for the purpose of community custody
9 requirements under this chapter, "offender" also means a misdemeanor or
10 gross misdemeanor probationer convicted of an offense included in RCW
11 9.94A.501(1) and ordered by a superior court to probation under the
12 supervision of the department pursuant to RCW 9.92.060, 9.95.204, or
13 9.95.210. Throughout this chapter, the terms "offender" and
14 "defendant" are used interchangeably.

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

24 (35) "Pattern of criminal street gang activity" means:

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

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

31 (ii) Any "violent" offense as defined by this section, 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))~~) (section 4 of
5 this act);
6 (x) School Criminal Gang Intimidation (RCW 9A.46.120);
7 (xi) Any felony conviction by a person eighteen years of age or
8 older with a special finding of involving a juvenile in a felony
9 offense under RCW 9.94A.833;
10 ~~((~~(xi)~~))~~ (xii) Residential Burglary (RCW 9A.52.025);
11 ~~((~~(xii)~~))~~ (xiii) Burglary 2 (RCW 9A.52.030);
12 ~~((~~(xiii)~~))~~ (xiv) Malicious Mischief 1 (RCW 9A.48.070);
13 ~~((~~(xiv)~~))~~ (xv) Malicious Mischief 2 (RCW 9A.48.080);
14 ~~((~~(xv)~~))~~ (xvi) Theft of a Motor Vehicle (RCW 9A.56.065);
15 ~~((~~(xvi)~~))~~ (xvii) Possession of a Stolen Motor Vehicle (RCW
16 9A.56.068);
17 ~~((~~(xvii)~~))~~ (xviii) Taking a Motor Vehicle Without Permission 1 (RCW
18 9A.56.070);
19 ~~((~~(xviii)~~))~~ (xix) Taking a Motor Vehicle Without Permission 2 (RCW
20 9A.56.075);
21 ~~((~~(xix)~~))~~ (xx) Extortion 1 (RCW 9A.56.120);
22 ~~((~~(xx)~~))~~ (xxi) Extortion 2 (RCW 9A.56.130);
23 ~~((~~(xxi)~~))~~ (xxii) Intimidating a Witness (RCW 9A.72.110);
24 ~~((~~(xxii)~~))~~ (xxiii) Tampering with a Witness (RCW 9A.72.120);
25 ~~((~~(xxiii)~~))~~ (xxiv) Reckless Endangerment (RCW 9A.36.050);
26 ~~((~~(xxiv)~~))~~ (xxv) Coercion (RCW 9A.36.070);
27 ~~((~~(xxv)~~))~~ (xxvi) Harassment (RCW 9A.46.020); or
28 ~~((~~(xxvi)~~))~~ (xxvii) Malicious Mischief 3 (RCW 9A.48.090);
29 (b) That at least one of the offenses listed in (a) of this
30 subsection shall have occurred after July 1, 2008;
31 (c) That the most recent committed offense listed in (a) of this
32 subsection occurred within three years of a prior offense listed in (a)
33 of this subsection; and
34 (d) Of the offenses that were committed in (a) of this subsection,
35 the offenses occurred on separate occasions or were committed by two or
36 more persons.
37 (36) "Persistent offender" is an offender who:

1 (a)(i) Has been convicted in this state of any felony considered a
2 most serious offense; and

3 (ii) Has, before the commission of the offense under (a) of this
4 subsection, been convicted as an offender on at least two separate
5 occasions, whether in this state or elsewhere, of felonies that under
6 the laws of this state would be considered most serious offenses and
7 would be included in the offender score under RCW 9.94A.525; provided
8 that of the two or more previous convictions, at least one conviction
9 must have occurred before the commission of any of the other most
10 serious offenses for which the offender was previously convicted; or

11 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
12 of a child in the first degree, child molestation in the first degree,
13 rape in the second degree, rape of a child in the second degree, or
14 indecent liberties by forcible compulsion; (B) any of the following
15 offenses with a finding of sexual motivation: Murder in the first
16 degree, murder in the second degree, homicide by abuse, kidnapping in
17 the first degree, kidnapping in the second degree, assault in the first
18 degree, assault in the second degree, assault of a child in the first
19 degree, assault of a child in the second degree, or burglary in the
20 first degree; or (C) an attempt to commit any crime listed in this
21 subsection (36)(b)(i); and

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

34 (37) "Predatory" means: (a) The perpetrator of the crime was a
35 stranger to the victim, as defined in this section; (b) the perpetrator
36 established or promoted a relationship with the victim prior to the
37 offense and the victimization of the victim was a significant reason
38 the perpetrator established or promoted the relationship; or (c) the

1 perpetrator was: (i) A teacher, counselor, volunteer, or other person
2 in authority in any public or private school and the victim was a
3 student of the school under his or her authority or supervision. For
4 purposes of this subsection, "school" does not include home-based
5 instruction as defined in RCW 28A.225.010; (ii) a coach, trainer,
6 volunteer, or other person in authority in any recreational activity
7 and the victim was a participant in the activity under his or her
8 authority or supervision; (iii) a pastor, elder, volunteer, or other
9 person in authority in any church or religious organization, and the
10 victim was a member or participant of the organization under his or her
11 authority; or (iv) a teacher, counselor, volunteer, or other person in
12 authority providing home-based instruction and the victim was a student
13 receiving home-based instruction while under his or her authority or
14 supervision. For purposes of this subsection: (A) "Home-based
15 instruction" has the same meaning as defined in RCW 28A.225.010; and
16 (B) "teacher, counselor, volunteer, or other person in authority" does
17 not include the parent or legal guardian of the victim.

18 (38) "Private school" means a school regulated under chapter
19 28A.195 or 28A.205 RCW.

20 (39) "Public school" has the same meaning as in RCW 28A.150.010.

21 (40) "Repetitive domestic violence offense" means any:

22 (a)(i) Domestic violence assault that is not a felony offense under
23 RCW 9A.36.041;

24 (ii) Domestic violence violation of a no-contact order under
25 chapter 10.99 RCW that is not a felony offense;

26 (iii) Domestic violence violation of a protection order under
27 chapter 26.09, 26.10, 26.26, or 26.50 RCW that is not a felony offense;

28 (iv) Domestic violence harassment offense under RCW 9A.46.020 that
29 is not a felony offense; or

30 (v) Domestic violence stalking offense under RCW 9A.46.110 that is
31 not a felony offense; or

32 (b) Any federal, out-of-state, tribal court, military, county, or
33 municipal conviction for an offense that under the laws of this state
34 would be classified as a repetitive domestic violence offense under (a)
35 of this subsection.

36 (41) "Restitution" means a specific sum of money ordered by the
37 sentencing court to be paid by the offender to the court over a

1 specified period of time as payment of damages. The sum may include
2 both public and private costs.

3 (42) "Risk assessment" means the application of the risk instrument
4 recommended to the department by the Washington state institute for
5 public policy as having the highest degree of predictive accuracy for
6 assessing an offender's risk of reoffense.

7 (43) "Serious traffic offense" means:

8 (a) Nonfelony driving while under the influence of intoxicating
9 liquor or any drug (RCW 46.61.502), nonfelony actual physical control
10 while under the influence of intoxicating liquor or any drug (RCW
11 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an
12 attended vehicle (RCW 46.52.020(5)); or

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

16 (44) "Serious violent offense" is a subcategory of violent offense
17 and means:

18 (a)(i) Murder in the first degree;

19 (ii) Homicide by abuse;

20 (iii) Murder in the second degree;

21 (iv) Manslaughter in the first degree;

22 (v) Assault in the first degree;

23 (vi) Kidnapping in the first degree;

24 (vii) Rape in the first degree;

25 (viii) Assault of a child in the first degree; or

26 (ix) An attempt, criminal solicitation, or criminal conspiracy to
27 commit one of these felonies; or

28 (b) Any federal or out-of-state conviction for an offense that
29 under the laws of this state would be a felony classified as a serious
30 violent offense under (a) of this subsection.

31 (45) "Sex offense" means:

32 (a)(i) A felony that is a violation of chapter 9A.44 RCW other than
33 RCW 9A.44.132;

34 (ii) A violation of RCW 9A.64.020;

35 (iii) A felony that is a violation of chapter 9.68A RCW other than
36 RCW 9.68A.080;

37 (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt,
38 criminal solicitation, or criminal conspiracy to commit such crimes; or

1 (v) A felony violation of RCW 9A.44.132(1) (failure to register) if
2 the person has been convicted of violating RCW 9A.44.132(1) (failure to
3 register) on at least one prior occasion;

4 (b) Any conviction for a felony offense in effect at any time prior
5 to July 1, 1976, that is comparable to a felony classified as a sex
6 offense in (a) of this subsection;

7 (c) A felony with a finding of sexual motivation under RCW
8 9.94A.835 or 13.40.135; or

9 (d) Any federal or out-of-state conviction for an offense that
10 under the laws of this state would be a felony classified as a sex
11 offense under (a) of this subsection.

12 (46) "Sexual motivation" means that one of the purposes for which
13 the defendant committed the crime was for the purpose of his or her
14 sexual gratification.

15 (47) "Standard sentence range" means the sentencing court's
16 discretionary range in imposing a nonappealable sentence.

17 (48) "Statutory maximum sentence" means the maximum length of time
18 for which an offender may be confined as punishment for a crime as
19 prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the
20 crime, or other statute defining the maximum penalty for a crime.

21 (49) "Stranger" means that the victim did not know the offender
22 twenty-four hours before the offense.

23 (50) "Total confinement" means confinement inside the physical
24 boundaries of a facility or institution operated or utilized under
25 contract by the state or any other unit of government for twenty-four
26 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

27 (51) "Transition training" means written and verbal instructions
28 and assistance provided by the department to the offender during the
29 two weeks prior to the offender's successful completion of the work
30 ethic camp program. The transition training shall include instructions
31 in the offender's requirements and obligations during the offender's
32 period of community custody.

33 (52) "Victim" means any person who has sustained emotional,
34 psychological, physical, or financial injury to person or property as
35 a direct result of the crime charged.

36 (53) "Violent offense" means:

37 (a) Any of the following felonies:

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

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

5 (iii) Manslaughter in the first degree;

6 (iv) Manslaughter in the second degree;

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

8 (vi) Kidnapping in the second degree;

9 (vii) Arson in the second degree;

10 (viii) Assault in the second degree;

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

12 (x) Extortion in the first degree;

13 (xi) Robbery in the second degree;

14 (xii) Drive-by shooting;

15 (xiii) Vehicular assault, when caused by the operation or driving
16 of a vehicle by a person while under the influence of intoxicating
17 liquor or any drug or by the operation or driving of a vehicle in a
18 reckless manner; and

19 (xiv) 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 (b) Any conviction for a felony offense in effect at any time prior
24 to July 1, 1976, that is comparable to a felony classified as a violent
25 offense in (a) of this subsection; and

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

29 (54) "Work crew" means a program of partial confinement consisting
30 of civic improvement tasks for the benefit of the community that
31 complies with RCW 9.94A.725.

32 (55) "Work ethic camp" means an alternative incarceration program
33 as provided in RCW 9.94A.690 designed to reduce recidivism and lower
34 the cost of corrections by requiring offenders to complete a
35 comprehensive array of real-world job and vocational experiences,
36 character-building work ethics training, life management skills
37 development, substance abuse rehabilitation, counseling, literacy
38 training, and basic adult education.

1 (56) "Work release" means a program of partial confinement
2 available to offenders who are employed or engaged as a student in a
3 regular course of study at school.

4 NEW SECTION. **Sec. 12.** (1) Every piece of real property, building,
5 or unit within a building upon or within which three or more unrelated
6 criminal street gang-related offenses, as defined in RCW 9.94A.030,
7 have occurred in the prior year is a nuisance which may be enjoined,
8 abated, and prevented, whether it is a public or private nuisance.

9 (2) As used in this chapter:

10 (a) "Building" includes, but is not limited to, any structure or
11 any separate part or portion thereof, whether permanent or not, or the
12 ground itself.

13 (b) "Unrelated" means offenses that are temporally separate and
14 distinct from one another and not part of the same criminal incident.
15 It does not require that different perpetrators commit the offenses.
16 Offenses that occur in retaliation for or in response to prior crimes
17 are unrelated to those prior crimes for purposes of this chapter.

18 NEW SECTION. **Sec. 13.** (1) The action provided for in this chapter
19 may be brought by a county or municipal government entity in the
20 superior court in the county in which the property is located. The
21 action shall be commenced by the filing of a complaint alleging the
22 facts constituting the nuisance.

23 (2) Any complaint filed under this chapter shall be verified or
24 accompanied by affidavit. For purposes of showing that the owner of
25 the property or his or her agent has had an opportunity to abate the
26 nuisance, the affidavit shall contain a description of all attempts by
27 the applicant to notify and locate the owner of the property or the
28 owner's agent.

29 (3) In addition, the affidavit shall describe in detail the adverse
30 impact associated with the property on the surrounding neighborhood.
31 "Adverse impact" includes, but is not limited to, the following: Any
32 search warrants served on the property; investigative purchases of
33 controlled substances on or near the property by law enforcement or
34 their agents; arrests of persons who frequent the property for criminal
35 street gang-related offenses; the number of complaints made to law

1 enforcement of criminal street gang-related activity associated with
2 the property; and the existence of criminal street gang-related
3 graffiti within a one-eighth mile distance from the property.

4 (4) After filing the complaint, the court shall grant a hearing
5 within three business days after the filing.

6 (5) Any action filed under this chapter does not prevent county and
7 municipal governments from instituting similar abatement actions
8 pursuant to local ordinances.

9 NEW SECTION. **Sec. 14.** (1) Upon application for a temporary
10 restraining order or preliminary injunction, the court may, upon a
11 showing of good cause, issue an ex parte restraining order or
12 preliminary injunction, preventing the defendant and all other persons
13 from removing or in any manner interfering with the personal property
14 and contents of the place where the nuisance is alleged to exist and
15 may grant such preliminary equitable relief as is necessary to prevent
16 the continuance or recurrence of the nuisance pending final resolution
17 of the matter on the merits. However, pending the decision, the stock
18 in trade may not be so restrained, but an inventory and full accounting
19 of all business transactions may be required.

20 (2) The restraining order or preliminary injunction may be served
21 by handing to and leaving a copy with any person in charge of the place
22 or residing in the place, or by posting a copy in a conspicuous place
23 at or upon one or more of the principal doors or entrances to the
24 place, or by both delivery and posting. The officer serving the order
25 or injunction shall forthwith make and return into court an inventory
26 of the personal property and contents situated in and used in
27 conducting or maintaining the nuisance.

28 (3) Any violation of the order or injunction is a contempt of
29 court, and where such order or injunction is posted, mutilation or
30 removal thereof while the same remains in force is a contempt of court
31 if such posted order or injunction contains a notice to that effect.

32 NEW SECTION. **Sec. 15.** An action under this chapter shall have
33 precedence over all other actions, except prior matters of the same
34 character, criminal proceedings, election contests, hearings on
35 temporary restraining orders and injunctions, and actions to forfeit
36 vehicles used in violation of the uniform controlled substances act.

1 NEW SECTION. **Sec. 16.** A copy of the complaint, together with a
2 notice of the time and place of the hearing of the action, shall be
3 served upon the defendant at least one business day before the hearing.
4 Service may also be made by posting the papers in the same manner as is
5 provided for in section 14 of this act. If the hearing is then
6 continued at the request of any defendant, all temporary orders and
7 injunctions shall be extended as a matter of course.

8 NEW SECTION. **Sec. 17.** (1) Except as provided in subsection (2) of
9 this section, if the existence of the nuisance is established in the
10 action, an order of abatement shall be entered as part of the final
11 judgment in the case. The plaintiff's costs in the action, including
12 those of abatement, are a lien upon the real property, building, or
13 unit within a building. The lien is enforceable and collectible by
14 execution issued by order of the court.

15 (2) If the court finds and concludes that the owner of the real
16 property, building, or unit within a building: (a) Had no knowledge of
17 the existence of the nuisance or has been making reasonable efforts to
18 abate the nuisance; (b) has not been guilty of any contempt of court in
19 the proceedings; and (c) will immediately abate any such nuisance that
20 may exist at the real property, building, or unit within a building and
21 prevent it from being a nuisance within a period of one year
22 thereafter, the court shall, if satisfied of the owner's good faith,
23 order the real property, building, or unit within a building to be
24 delivered to the owner, and no order of abatement shall be entered. If
25 an order of abatement has been entered and the owner subsequently meets
26 the requirements of this subsection, the order of abatement shall be
27 canceled.

28 NEW SECTION. **Sec. 18.** Any final order of abatement issued under
29 this chapter may:

30 (1) Provide for the immediate closure of the real property,
31 building, or unit within a building against its use for any purpose,
32 and for keeping it closed for a period of one year unless released
33 sooner as provided in this chapter; and

34 (2) State that while the order of abatement remains in effect the
35 building or unit within a building shall remain in the custody of the
36 court; or

1 (3) Provide for any other relief necessary and proper under the
2 circumstances.

3 NEW SECTION. **Sec. 19.** An intentional violation of a restraining
4 order, preliminary injunction, or order of abatement under this chapter
5 is a contempt of court as provided in chapter 7.21 RCW.

6 NEW SECTION. **Sec. 20.** Whenever the owner of real property,
7 building, or unit within a building upon which the act or acts
8 constituting the contempt have been committed, or the owner of any
9 interest in the real property, building, or unit within a building has
10 been found in contempt of court, and fined in any proceedings under
11 this chapter, the fine is a lien upon the real property, building, or
12 unit within a building to the extent of the owner's interest. The lien
13 is enforceable and collectible by execution issued by order of the
14 court.

15 NEW SECTION. **Sec. 21.** The abatement of a nuisance under this
16 chapter does not prejudice the right of any person to recover damages
17 for its past existence.

18 NEW SECTION. **Sec. 22.** The legislature finds that the presence of
19 criminal street gangs and the gang-related crimes they commit is
20 increasing in Washington. In communities where criminal street gangs
21 have become established, the gangs' criminal activities have become a
22 blight on the community, endangering the physical safety of the
23 citizens living there, negatively affecting the communities' economic
24 vitality, and reducing the citizens' right to fully enjoy their liberty
25 and property rights. The legislature further finds that the government
26 has a compelling interest in protecting the physical safety and the
27 property and liberty interests of its citizens. Finally, the
28 legislature finds that these compelling interests will be served by
29 permitting a local or municipal government to apply for a protection
30 order that is narrowly tailored to a specific area where a gang and its
31 individual members' have become a blight on the community in order to
32 break the gang's hold over that area.

1 NEW SECTION. **Sec. 23.** (1) "Criminal street gang" has the same
2 meaning as in RCW 9.94A.030.

3 (2) "Criminal street gang associate or member" has the same meaning
4 as in RCW 9.94A.030. However, in determining whether a person is a
5 criminal street gang associate or member, the court may also consider
6 all other relevant evidence including, but not limited to, admissions
7 by a person that he or she is a member or associate of a criminal
8 street gang.

9 (3) "Protection zone" means a specific geographic area within which
10 the provisions of the injunctive relief sought and ordered by the court
11 are operable and enforceable.

12 NEW SECTION. **Sec. 24.** An action seeking a protection order
13 against a criminal street gang and associates or members thereof may be
14 brought by the county prosecuting attorney or municipal attorney in any
15 county or municipality where the protection zone sought pursuant to the
16 action is located.

17 NEW SECTION. **Sec. 25.** (1) A party seeking a protection order
18 under this chapter may file a petition seeking such relief in superior
19 court in the county in which the protection zone sought pursuant to the
20 action is located.

21 (2) The petition must:

22 (a) Be supported with an affidavit providing the factual bases
23 supporting the issuance of a protection order including, but not
24 limited to, the factual bases of support for the issuance of the order
25 as to each respondent whose activities and behavior the petition seeks
26 to enjoin;

27 (b) Contain a specific description of the protection zone within
28 which the petitioner seeks to have the protection order operate; and

29 (c) Contain a specific list of the activities in the protection
30 zone sought to be enjoined.

31 (3) The court shall order a hearing on the petition, which shall be
32 held not later than fourteen days after the petition is filed.

33 (4) Persons whose activities and behavior the protection order
34 would apply must be personally served with a copy of the petition,
35 notice of the date and time of the hearing, and notice that they are
36 entitled to appear in person and respond to the allegations contained

1 in the petition not less than five court days before the hearing. If
2 timely personal service cannot be made, the court shall set a new
3 hearing date and shall either require additional attempts at obtaining
4 personal service or permit service by publication as provided by RCW
5 10.14.085. If the court permits service by publication, the court
6 shall set the hearing date not later than twenty-four days from the
7 date the court enters the order permitting service by publication.

8 (5) At the hearing, the burden is on the petitioner to prove by
9 clear and convincing evidence that:

10 (a) A criminal street gang exists in a specified geographic area;

11 (b) A substantial amount of the criminal street gang's activities
12 have occurred in that specified geographic area; and

13 (c) The named respondent is a member or associate of that criminal
14 street gang.

15 NEW SECTION. **Sec. 26.** If the court finds the petitioner has
16 satisfied his burden under section 25(5) of this act, the court shall
17 enter an order:

18 (1) Specifically describing the geographic boundaries within which
19 the protection order will apply;

20 (2) Providing for all relief necessary and proper under the
21 circumstances including, but not limited to, an order that the
22 respondent which the court has found to be a criminal street gang
23 associate or member shall not:

24 (a) Associate or communicate directly or indirectly with any other
25 person found by the court to be a criminal street gang associate or
26 member;

27 (b) Engage in any intimidation of any person;

28 (c) Possess firearms, imitation firearms, or dangerous weapons;

29 (d) Possess or consume drugs or alcohol;

30 (e) Trespass;

31 (f) Engage in gang-related graffiti or possess graffiti tools;

32 (g) Forcibly recruit any person into the criminal street gang or
33 prevent any criminal street gang associate or member from leaving the
34 criminal street gang;

35 (h) Violate any law;

36 (i) Violate any curfew set by the court;

- 1 (j) Go on the grounds of any named public and private schools, not
- 2 including home-based instruction, as defined in RCW 28A.225.010;
- 3 (k) Go to any other designated locations;
- 4 (l) Directly or indirectly contact minors going to and from
- 5 schools;
- 6 (m) Wear gang clothing in public; and
- 7 (n) Directly or indirectly contact specified individuals such as
- 8 persons on probation or parole;
- 9 (3) Providing the expiration date of the order, which shall be one
- 10 year from the date the order is entered;
- 11 (4) Providing that a respondent who knows of the order may be found
- 12 in contempt of court as provided in chapter 7.21 RCW and subject to the
- 13 penalties therein, including but not limited to:
- 14 (a) For persons over eighteen years of age who are found to have
- 15 willfully violated the order, a fine of not more than five thousand
- 16 dollars or imprisonment for not more than one year, or both; or
- 17 (b) For persons less than eighteen years of age who are found to
- 18 have willfully violated the order, commitment of the person to juvenile
- 19 detention for a period of time not to exceed seven days;
- 20 (5) With respect to any condition imposed pursuant to subsection
- 21 (1)(a), (j), (k), (l), and (n) of this section, the condition shall not
- 22 apply to enjoin a person from:
- 23 (a) Communicating with another criminal street gang associate or
- 24 member who:
- 25 (i) Resides with the person and they are related by blood or
- 26 marriage or have a dating relationship;
- 27 (ii) Is married to the person;
- 28 (iii) Has a child with the person, regardless of whether they have
- 29 been married; or
- 30 (iv) Has a biological or legal parent-child, grandparent-child, or
- 31 sibling relationship with the person;
- 32 (b) Communicating with a minor or another criminal street gang
- 33 associate or member on school grounds where the communication is
- 34 necessary for legitimate educational purposes;
- 35 (c) Communicating with another criminal street gang associate or
- 36 member on the grounds of a church, synagogue, mosque, or similar
- 37 property where the communication is necessary for religious purposes;

1 (d) Going on the grounds of any public or private school, not
2 including home-based instruction, where the visit is for legitimate
3 educational purposes; or

4 (e) Going on the grounds of any church, synagogue, mosque, or
5 similar property where the visit is for religious purposes.

6 NEW SECTION. **Sec. 27.** (1) If the court issues a protection order
7 under this chapter, all persons who are subject to the court's order
8 must be personally served with a copy of the order. However, if the
9 order issued by the court recites that the respondent appeared in
10 person before the court, the necessity for further service is waived
11 and proof of service of that order is not necessary.

12 (2) If personal service cannot be made, the petitioner may apply to
13 the court for permission to serve a copy of the order on the respondent
14 by publication consistent with the procedures found in RCW 10.14.085.

15 NEW SECTION. **Sec. 28.** (1) Any respondent who willfully disobeys
16 any protection order issued pursuant to this chapter shall be guilty of
17 a gross misdemeanor.

18 (2) However, the sentence imposed for any willful violation of such
19 an order shall include at least seven days in jail for an adult or
20 seven days in detention for a juvenile if the violation occurs:

21 (a) In a school;

22 (b) On a school bus;

23 (c) Within three hundred feet of a school bus route stop designated
24 by the school district;

25 (d) Within one thousand feet of the perimeter of the school
26 grounds; or

27 (e) In a public park.

28 NEW SECTION. **Sec. 29.** (1) An order issued pursuant to this
29 chapter shall be effective for one year.

30 (2) The petitioner may reapply for a continuation of the order by
31 filing a new petition no more than thirty days prior to the expiration
32 of the current order. However, the petition must comply in all
33 respects with the procedures governing the issuance of the initial
34 order found in section 25 of this act.

1 NEW SECTION. **Sec. 30.** (1) The petitioner or any person to whom an
2 order issued pursuant to this chapter applies may petition the court to
3 modify the terms and conditions of the order. However, the court may
4 only consider such a motion where all parties which may be affected by
5 the modifications are provided notice consistent with the provisions of
6 this chapter.

7 (2) Where the requested modification is to exempt from the
8 provisions of the order a particular respondent, notice of the motion
9 and the contents thereof need not be served on other respondents but
10 only the petitioner and the respondent who seeks exemption from the
11 order.

12 (3) The court may grant any requested modifications of the terms
13 and conditions of the order that it deems necessary and proper under
14 the circumstances and considering the evidence presented at the hearing
15 at which the order was issued, as well as the evidence presented at the
16 modification hearing.

17 NEW SECTION. **Sec. 31.** Nothing in this chapter shall preclude a
18 petitioner's right to utilize other existing civil remedies.

19 **Sec. 32.** RCW 70.41.440 and 2009 c 359 s 2 are each amended to read
20 as follows:

21 (1) A hospital shall report to a local law enforcement authority as
22 soon as reasonably possible, taking into consideration a patient's
23 emergency care needs, when the hospital provides treatment for a bullet
24 wound, gunshot wound, or stab wound to a patient (~~who is~~
25 ~~unconscious~~). A hospital shall establish a written policy to identify
26 the person or persons responsible for making the report.

27 (2) The report required under subsection (1) of this section must
28 include the following information, if known:

29 (a) The name, residence, sex, and age of the patient;

30 (b) Whether the patient has received a bullet wound, gunshot wound,
31 or stab wound; and

32 (c) The name of the health care provider providing treatment for
33 the bullet wound, gunshot wound, or stab wound.

34 (3) Nothing in this section shall limit a person's duty to report
35 under RCW 26.44.030 or 74.34.035.

1 (4) Any bullets, clothing, or other foreign objects that are
2 removed from a patient for whom a hospital is required to make a report
3 pursuant to subsection (1) of this section shall be preserved and kept
4 in custody in such a way that the identity and integrity thereof are
5 reasonably maintained until the bullets, clothing, or other foreign
6 objects are taken into possession by a law enforcement authority or the
7 hospital's normal period for retention of such items expires, whichever
8 occurs first.

9 (5) Any hospital or person who in good faith, and without gross
10 negligence or willful or wanton misconduct, makes a report required by
11 this section, cooperates in an investigation or criminal or judicial
12 proceeding related to such report, or maintains bullets, clothing, or
13 other foreign objects, or provides such items to a law enforcement
14 authority as described in subsection (4) of this section, is immune
15 from civil or criminal liability or professional licensure action
16 arising out of or related to the report and its contents or the absence
17 of information in the report, cooperation in an investigation or
18 criminal or judicial proceeding, and the maintenance or provision to a
19 law enforcement authority of bullets, clothing, or other foreign
20 objects under subsection (4) of this section.

21 (6) The physician-patient privilege described in RCW 5.60.060(4),
22 the registered nurse-patient privilege described in RCW 5.62.020, and
23 any other health care provider-patient privilege created or recognized
24 by law are not a basis for excluding as evidence in any criminal
25 proceeding any report, or information contained in a report made under
26 this section.

27 (7) All reporting, preservation, or other requirements of this
28 section are secondary to patient care needs and may be delayed or
29 compromised without penalty to the hospital or person required to
30 fulfill the requirements of this section.

31 NEW SECTION. **Sec. 33.** If any provision of this act or its
32 application to any person or circumstance is held invalid, the
33 remainder of the act or the application of the provision to other
34 persons or circumstances is not affected.

35 NEW SECTION. **Sec. 34.** Sections 12 through 21 of this act
36 constitute a new chapter in Title 7 RCW.

1 NEW SECTION. **Sec. 35.** Sections 22 through 31 of this act
2 constitute a new chapter in Title 10 RCW.

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