

EHB 1632 - S COMM AMD

By Committee on Law & Justice

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 9.94A.525 and 2013 2nd sp.s. c 35 s 8 are each  
4 amended to read as follows:

5 The offender score is measured on the horizontal axis of the  
6 sentencing grid. The offender score rules are as follows:

7 The offender score is the sum of points accrued under this  
8 section rounded down to the nearest whole number.

9 (1) A prior conviction is a conviction which exists before the  
10 date of sentencing for the offense for which the offender score is  
11 being computed. Convictions entered or sentenced on the same date as  
12 the conviction for which the offender score is being computed shall  
13 be deemed "other current offenses" within the meaning of RCW  
14 9.94A.589.

15 (2)(a) Class A and sex prior felony convictions shall always be  
16 included in the offender score.

17 (b) Class B prior felony convictions other than sex offenses  
18 shall not be included in the offender score, if since the last date  
19 of release from confinement (including full-time residential  
20 treatment) pursuant to a felony conviction, if any, or entry of  
21 judgment and sentence, the offender had spent ten consecutive years  
22 in the community without committing any crime that subsequently  
23 results in a conviction.

24 (c) Except as provided in (e) of this subsection, class C prior  
25 felony convictions other than sex offenses shall not be included in  
26 the offender score if, since the last date of release from  
27 confinement (including full-time residential treatment) pursuant to a  
28 felony conviction, if any, or entry of judgment and sentence, the  
29 offender had spent five consecutive years in the community without  
30 committing any crime that subsequently results in a conviction.

31 (d) Except as provided in (e) of this subsection, serious traffic  
32 convictions shall not be included in the offender score if, since the  
33 last date of release from confinement (including full-time  
34 residential treatment) pursuant to a conviction, if any, or entry of

1 judgment and sentence, the offender spent five years in the community  
2 without committing any crime that subsequently results in a  
3 conviction.

4 (e) If the present conviction is felony driving while under the  
5 influence of intoxicating liquor or any drug (RCW 46.61.502(6)) or  
6 felony physical control of a vehicle while under the influence of  
7 intoxicating liquor or any drug (RCW 46.61.504(6)), all predicate  
8 crimes for the offense as defined by RCW 46.61.5055(14) shall be  
9 included in the offender score, and prior convictions for felony  
10 driving while under the influence of intoxicating liquor or any drug  
11 (RCW 46.61.502(6)) or felony physical control of a vehicle while  
12 under the influence of intoxicating liquor or any drug (RCW  
13 46.61.504(6)) shall always be included in the offender score. All  
14 other convictions of the defendant shall be scored according to this  
15 section.

16 (f) Prior convictions for a repetitive domestic violence offense,  
17 as defined in RCW 9.94A.030, shall not be included in the offender  
18 score if, since the last date of release from confinement or entry of  
19 judgment and sentence, the offender had spent ten consecutive years  
20 in the community without committing any crime that subsequently  
21 results in a conviction.

22 (g) This subsection applies to both adult and juvenile prior  
23 convictions.

24 (3) Out-of-state convictions for offenses shall be classified  
25 according to the comparable offense definitions and sentences  
26 provided by Washington law. Federal convictions for offenses shall be  
27 classified according to the comparable offense definitions and  
28 sentences provided by Washington law. If there is no clearly  
29 comparable offense under Washington law or the offense is one that is  
30 usually considered subject to exclusive federal jurisdiction, the  
31 offense shall be scored as a class C felony equivalent if it was a  
32 felony under the relevant federal statute.

33 (4) Score prior convictions for felony anticipatory offenses  
34 (attempts, criminal solicitations, and criminal conspiracies) the  
35 same as if they were convictions for completed offenses.

36 (5)(a) In the case of multiple prior convictions, for the purpose  
37 of computing the offender score, count all convictions separately,  
38 except:

39 (i) Prior offenses which were found, under RCW 9.94A.589(1)(a),  
40 to encompass the same criminal conduct, shall be counted as one

1 offense, the offense that yields the highest offender score. The  
2 current sentencing court shall determine with respect to other prior  
3 adult offenses for which sentences were served concurrently or prior  
4 juvenile offenses for which sentences were served consecutively,  
5 whether those offenses shall be counted as one offense or as separate  
6 offenses using the "same criminal conduct" analysis found in RCW  
7 9.94A.589(1)(a), and if the court finds that they shall be counted as  
8 one offense, then the offense that yields the highest offender score  
9 shall be used. The current sentencing court may presume that such  
10 other prior offenses were not the same criminal conduct from  
11 sentences imposed on separate dates, or in separate counties or  
12 jurisdictions, or in separate complaints, indictments, or  
13 informations;

14 (ii) In the case of multiple prior convictions for offenses  
15 committed before July 1, 1986, for the purpose of computing the  
16 offender score, count all adult convictions served concurrently as  
17 one offense, and count all juvenile convictions entered on the same  
18 date as one offense. Use the conviction for the offense that yields  
19 the highest offender score.

20 (b) As used in this subsection (5), "served concurrently" means  
21 that: (i) The latter sentence was imposed with specific reference to  
22 the former; (ii) the concurrent relationship of the sentences was  
23 judicially imposed; and (iii) the concurrent timing of the sentences  
24 was not the result of a probation or parole revocation on the former  
25 offense.

26 (6) If the present conviction is one of the anticipatory offenses  
27 of criminal attempt, solicitation, or conspiracy, count each prior  
28 conviction as if the present conviction were for a completed offense.  
29 When these convictions are used as criminal history, score them the  
30 same as a completed crime.

31 (7) If the present conviction is for a nonviolent offense and not  
32 covered by subsection (11), (12), or (13) of this section, count one  
33 point for each adult prior felony conviction and one point for each  
34 juvenile prior violent felony conviction and 1/2 point for each  
35 juvenile prior nonviolent felony conviction.

36 (8) If the present conviction is for a violent offense and not  
37 covered in subsection (9), (10), (11), (12), or (13) of this section,  
38 count two points for each prior adult and juvenile violent felony  
39 conviction, one point for each prior adult nonviolent felony

1 conviction, and 1/2 point for each prior juvenile nonviolent felony  
2 conviction.

3 (9) If the present conviction is for a serious violent offense,  
4 count three points for prior adult and juvenile convictions for  
5 crimes in this category, two points for each prior adult and juvenile  
6 violent conviction (not already counted), one point for each prior  
7 adult nonviolent felony conviction, and 1/2 point for each prior  
8 juvenile nonviolent felony conviction.

9 (10) If the present conviction is for Burglary 1, count prior  
10 convictions as in subsection (8) of this section; however count two  
11 points for each prior adult Burglary 2 or residential burglary  
12 conviction, and one point for each prior juvenile Burglary 2 or  
13 residential burglary conviction.

14 (11) If the present conviction is for a felony traffic offense  
15 count two points for each adult or juvenile prior conviction for  
16 Vehicular Homicide or Vehicular Assault; for each felony offense  
17 count one point for each adult and 1/2 point for each juvenile prior  
18 conviction; for each serious traffic offense, other than those used  
19 for an enhancement pursuant to RCW 46.61.520(2), count one point for  
20 each adult and 1/2 point for each juvenile prior conviction; count  
21 one point for each adult and 1/2 point for each juvenile prior  
22 conviction for operation of a vessel while under the influence of  
23 intoxicating liquor or any drug.

24 (12) If the present conviction is for homicide by watercraft or  
25 assault by watercraft count two points for each adult or juvenile  
26 prior conviction for homicide by watercraft or assault by watercraft;  
27 for each felony offense count one point for each adult and 1/2 point  
28 for each juvenile prior conviction; count one point for each adult  
29 and 1/2 point for each juvenile prior conviction for driving under  
30 the influence of intoxicating liquor or any drug, actual physical  
31 control of a motor vehicle while under the influence of intoxicating  
32 liquor or any drug, or operation of a vessel while under the  
33 influence of intoxicating liquor or any drug.

34 (13) If the present conviction is for manufacture of  
35 methamphetamine count three points for each adult prior manufacture  
36 of methamphetamine conviction and two points for each juvenile  
37 manufacture of methamphetamine offense. If the present conviction is  
38 for a drug offense and the offender has a criminal history that  
39 includes a sex offense or serious violent offense, count three points  
40 for each adult prior felony drug offense conviction and two points

1 for each juvenile drug offense. All other adult and juvenile felonies  
2 are scored as in subsection (8) of this section if the current drug  
3 offense is violent, or as in subsection (7) of this section if the  
4 current drug offense is nonviolent.

5 (14) If the present conviction is for Escape from Community  
6 Custody, RCW 72.09.310, count only prior escape convictions in the  
7 offender score. Count adult prior escape convictions as one point and  
8 juvenile prior escape convictions as 1/2 point.

9 (15) If the present conviction is for Escape 1, RCW 9A.76.110, or  
10 Escape 2, RCW 9A.76.120, count adult prior convictions as one point  
11 and juvenile prior convictions as 1/2 point.

12 (16) If the present conviction is for Burglary 2 or residential  
13 burglary, count priors as in subsection (7) of this section; however,  
14 count two points for each adult and juvenile prior Burglary 1  
15 conviction, two points for each adult prior Burglary 2 or residential  
16 burglary conviction, and one point for each juvenile prior Burglary 2  
17 or residential burglary conviction.

18 (17) If the present conviction is for a sex offense, count priors  
19 as in subsections (7) through (11) and (13) through (16) of this  
20 section; however count three points for each adult and juvenile prior  
21 sex offense conviction.

22 (18) If the present conviction is for failure to register as a  
23 sex offender under RCW 9A.44.130 or 9A.44.132, count priors as in  
24 subsections (7) through (11) and (13) through (16) of this section;  
25 however count three points for each adult and juvenile prior sex  
26 offense conviction, excluding prior convictions for failure to  
27 register as a sex offender under RCW 9A.44.130 or 9A.44.132, which  
28 shall count as one point.

29 (19) If the present conviction is for an offense committed while  
30 the offender was under community custody, add one point. For purposes  
31 of this subsection, community custody includes community placement or  
32 postrelease supervision, as defined in chapter 9.94B RCW.

33 (20) If the present conviction is for Theft of a Motor Vehicle,  
34 Possession of a Stolen Vehicle, Taking a Motor Vehicle Without  
35 Permission 1, or Taking a Motor Vehicle Without Permission 2, count  
36 priors as in subsections (7) through (18) of this section; however  
37 count one point for prior convictions of Vehicle Prowling 2, and  
38 three points for each adult and juvenile prior Theft 1 (of a motor  
39 vehicle), Theft 2 (of a motor vehicle), Possession of Stolen Property  
40 1 (of a motor vehicle), Possession of Stolen Property 2 (of a motor

1 vehicle), Theft of a Motor Vehicle, Possession of a Stolen Vehicle,  
2 Taking a Motor Vehicle Without Permission 1, or Taking a Motor  
3 Vehicle Without Permission 2 conviction.

4 (21) If the present conviction is for a felony domestic violence  
5 offense where domestic violence as defined in RCW 9.94A.030 was plead  
6 and proven, count priors as in subsections (7) through (20) of this  
7 section; however, count points as follows:

8 (a) Count two points for each adult prior conviction where  
9 domestic violence as defined in RCW 9.94A.030 was plead and proven  
10 after August 1, 2011, for any of the following offenses: A felony  
11 violation of a no-contact or protection order (~~that is a felony~~  
12 ~~offense, a violation of a protection order that is a felony offense,~~  
13 a)) (RCW 26.50.110), felony (~~domestic violence~~) Harassment  
14 (~~offense~~) (RCW 9A.46.020(2)(b)), ((a)) felony (~~domestic violence~~)  
15 Stalking (~~offense, a domestic violence~~) (RCW 9A.46.110(5)(b)),  
16 Burglary 1 (~~offense~~) (RCW 9A.52.020), ((a domestic violence))  
17 Kidnapping 1 (~~offense~~) (RCW 9A.40.020), ((a domestic violence))  
18 Kidnapping 2 (~~offense~~) (RCW 9A.40.030), ((a domestic violence))  
19 Unlawful imprisonment (~~offense~~) (RCW 9A.40.040), ((a domestic  
20 ~~violence)) Robbery 1 (~~offense~~) (RCW 9A.56.200), ((a domestic~~  
21 ~~violence)) Robbery 2 (~~offense~~) (RCW 9A.56.210), ((a domestic~~  
22 ~~violence)) Assault 1 (~~offense~~) (RCW 9A.36.011), ((a domestic~~  
23 ~~violence)) Assault 2 (~~offense~~) (RCW 9A.36.021), ((a domestic~~  
24 ~~violence)) Assault 3 (~~offense~~) (RCW 9A.36.031), ((a domestic~~  
25 ~~violence)) Arson 1 (~~offense~~) (RCW 9A.48.020), or ((a domestic~~  
26 ~~violence)) Arson 2 (~~offense~~) (RCW 9A.48.030);~~

27 (b) Count two points for each adult prior conviction where  
28 domestic violence as defined in RCW 9.94A.030 was plead and proven  
29 after the effective date of this section, for any of the following  
30 offenses: Assault of a child in the first degree, RCW 9A.36.120;  
31 Assault of a child in the second degree, RCW 9A.36.130; Assault of a  
32 child in the third degree, RCW 9A.36.140; Criminal Mistreatment in  
33 the first degree, RCW 9A.42.020; or Criminal Mistreatment in the  
34 second degree, RCW 9A.42.030;

35 (c) Count one point for each second and subsequent juvenile  
36 conviction where domestic violence as defined in RCW 9.94A.030 was  
37 plead and proven after August 1, 2011, for the offenses listed in (a)  
38 of this subsection; and

39 ((+e)) (d) Count one point for each adult prior conviction for a  
40 repetitive domestic violence offense as defined in RCW 9.94A.030,

1 where domestic violence as defined in RCW 9.94A.030, was plead and  
2 proven after August 1, 2011.

3 (22) The fact that a prior conviction was not included in an  
4 offender's offender score or criminal history at a previous  
5 sentencing shall have no bearing on whether it is included in the  
6 criminal history or offender score for the current offense. Prior  
7 convictions that were not counted in the offender score or included  
8 in criminal history under repealed or previous versions of the  
9 sentencing reform act shall be included in criminal history and shall  
10 count in the offender score if the current version of the sentencing  
11 reform act requires including or counting those convictions. Prior  
12 convictions that were not included in criminal history or in the  
13 offender score shall be included upon any resentencing to ensure  
14 imposition of an accurate sentence.

15 **Sec. 2.** RCW 9A.36.041 and 1987 c 188 s 2 are each amended to  
16 read as follows:

17 (1) A person is guilty of assault in the fourth degree if, under  
18 circumstances not amounting to assault in the first, second, or third  
19 degree, or custodial assault, he or she assaults another.

20 (2) Assault in the fourth degree is a gross misdemeanor, except  
21 as provided in subsection (3) of this section.

22 (3) Assault in the fourth degree, where domestic violence was  
23 plead and proven after August 1, 2011, is a class C felony if the  
24 person has two or more prior adult convictions within ten years for  
25 any of the following offenses where domestic violence as defined in  
26 RCW 9.94A.030 was plead and proven after August 1, 2011:

27 (a) Assault in the fourth degree;

28 (b) Assault in the third degree;

29 (c) Assault in the second degree;

30 (d) Assault in the first degree; or

31 (e) An out-of-state comparable offense.

32 (4) For purposes of subsection (3) of this section, family or  
33 household members means spouses, former spouses, persons who have a  
34 child in common regardless of whether they have been married or have  
35 lived together at any time, persons sixteen years of age or older who  
36 are presently residing together or who have resided together in the  
37 past and who have or have had a dating relationship, and persons  
38 sixteen years of age or older with whom a person sixteen years of age  
39 or older has or has had a dating relationship.

1       **Sec. 3.** RCW 9.94A.411 and 2006 c 271 s 1 and 2006 c 73 s 13 are  
2 each reenacted and amended to read as follows:

3       (1) Decision not to prosecute.

4       STANDARD: A prosecuting attorney may decline to prosecute, even  
5 though technically sufficient evidence to prosecute exists, in  
6 situations where prosecution would serve no public purpose, would  
7 defeat the underlying purpose of the law in question or would result  
8 in decreased respect for the law.

9       GUIDELINE/COMMENTARY:

10       Examples

11       The following are examples of reasons not to prosecute which  
12 could satisfy the standard.

13       (a) Contrary to Legislative Intent - It may be proper to decline  
14 to charge where the application of criminal sanctions would be  
15 clearly contrary to the intent of the legislature in enacting the  
16 particular statute.

17       (b) Antiquated Statute - It may be proper to decline to charge  
18 where the statute in question is antiquated in that:

19       (i) It has not been enforced for many years; and

20       (ii) Most members of society act as if it were no longer in  
21 existence; and

22       (iii) It serves no deterrent or protective purpose in today's  
23 society; and

24       (iv) The statute has not been recently reconsidered by the  
25 legislature.

26       This reason is not to be construed as the basis for declining  
27 cases because the law in question is unpopular or because it is  
28 difficult to enforce.

29       (c) De Minimis Violation - It may be proper to decline to charge  
30 where the violation of law is only technical or insubstantial and  
31 where no public interest or deterrent purpose would be served by  
32 prosecution.

33       (d) Confinement on Other Charges - It may be proper to decline to  
34 charge because the accused has been sentenced on another charge to a  
35 lengthy period of confinement; and

36       (i) Conviction of the new offense would not merit any additional  
37 direct or collateral punishment;

38       (ii) The new offense is either a misdemeanor or a felony which is  
39 not particularly aggravated; and



1 (iii) Conviction of the new offense would not serve any  
2 significant deterrent purpose.

3 (e) Pending Conviction on Another Charge - It may be proper to  
4 decline to charge because the accused is facing a pending prosecution  
5 in the same or another county; and

6 (i) Conviction of the new offense would not merit any additional  
7 direct or collateral punishment;

8 (ii) Conviction in the pending prosecution is imminent;

9 (iii) The new offense is either a misdemeanor or a felony which  
10 is not particularly aggravated; and

11 (iv) Conviction of the new offense would not serve any  
12 significant deterrent purpose.

13 (f) High Disproportionate Cost of Prosecution - It may be proper  
14 to decline to charge where the cost of locating or transporting, or  
15 the burden on, prosecution witnesses is highly disproportionate to  
16 the importance of prosecuting the offense in question. This reason  
17 should be limited to minor cases and should not be relied upon in  
18 serious cases.

19 (g) Improper Motives of Complainant - It may be proper to decline  
20 charges because the motives of the complainant are improper and  
21 prosecution would serve no public purpose, would defeat the  
22 underlying purpose of the law in question or would result in  
23 decreased respect for the law.

24 (h) Immunity - It may be proper to decline to charge where  
25 immunity is to be given to an accused in order to prosecute another  
26 where the accused's information or testimony will reasonably lead to  
27 the conviction of others who are responsible for more serious  
28 criminal conduct or who represent a greater danger to the public  
29 interest.

30 (i) Victim Request - It may be proper to decline to charge  
31 because the victim requests that no criminal charges be filed and the  
32 case involves the following crimes or situations:

33 (i) Assault cases where the victim has suffered little or no  
34 injury;

35 (ii) Crimes against property, not involving violence, where no  
36 major loss was suffered;

37 (iii) Where doing so would not jeopardize the safety of society.

38 Care should be taken to insure that the victim's request is  
39 freely made and is not the product of threats or pressure by the  
40 accused.

1 The presence of these factors may also justify the decision to  
2 dismiss a prosecution which has been commenced.

3 Notification

4 The prosecutor is encouraged to notify the victim, when  
5 practical, and the law enforcement personnel, of the decision not to  
6 prosecute.

7 (2) Decision to prosecute.

8 (a) STANDARD:

9 Crimes against persons will be filed if sufficient admissible  
10 evidence exists, which, when considered with the most plausible,  
11 reasonably foreseeable defense that could be raised under the  
12 evidence, would justify conviction by a reasonable and objective fact  
13 finder. With regard to offenses prohibited by RCW 9A.44.040,  
14 9A.44.050, 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086,  
15 9A.44.089, and 9A.64.020 the prosecutor should avoid pre-filing  
16 agreements or diversions intended to place the accused in a program  
17 of treatment or counseling, so that treatment, if determined to be  
18 beneficial, can be provided pursuant to RCW 9.94A.670.

19 Crimes against property/other crimes will be filed if the  
20 admissible evidence is of such convincing force as to make it  
21 probable that a reasonable and objective fact finder would convict  
22 after hearing all the admissible evidence and the most plausible  
23 defense that could be raised.

24 See table below for the crimes within these categories.

25 CATEGORIZATION OF CRIMES FOR PROSECUTING STANDARDS

26 CRIMES AGAINST PERSONS

27 Aggravated Murder

28 1st Degree Murder

29 2nd Degree Murder

30 1st Degree Manslaughter

31 2nd Degree Manslaughter

32 1st Degree Kidnapping

33 2nd Degree Kidnapping

34 1st Degree Assault

35 2nd Degree Assault

36 3rd Degree Assault

37 4th Degree Assault (if a violation of RCW 9A.36.041(3))

38 1st Degree Assault of a Child

39 2nd Degree Assault of a Child

1 3rd Degree Assault of a Child  
2 1st Degree Rape  
3 2nd Degree Rape  
4 3rd Degree Rape  
5 1st Degree Rape of a Child  
6 2nd Degree Rape of a Child  
7 3rd Degree Rape of a Child  
8 1st Degree Robbery  
9 2nd Degree Robbery  
10 1st Degree Arson  
11 1st Degree Burglary  
12 1st Degree Identity Theft  
13 2nd Degree Identity Theft  
14 1st Degree Extortion  
15 2nd Degree Extortion  
16 Indecent Liberties  
17 Incest  
18 Vehicular Homicide  
19 Vehicular Assault  
20 1st Degree Child Molestation  
21 2nd Degree Child Molestation  
22 3rd Degree Child Molestation  
23 1st Degree Promoting Prostitution  
24 Intimidating a Juror  
25 Communication with a Minor  
26 Intimidating a Witness  
27 Intimidating a Public Servant  
28 Bomb Threat (if against person)  
29 Unlawful Imprisonment  
30 Promoting a Suicide Attempt  
31 Riot (if against person)  
32 Stalking  
33 Custodial Assault  
34 Domestic Violence Court Order Violation (RCW 10.99.040,  
35 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or  
36 74.34.145)  
37 Counterfeiting (if a violation of RCW 9.16.035(4))  
38 Felony Driving a Motor Vehicle While Under the Influence of  
39 Intoxicating Liquor or Any Drug (RCW 46.61.502(6))

1 Felony Physical Control of a Motor Vehicle While Under the  
2 Influence of Intoxicating Liquor or Any Drug (RCW 46.61.504(6))

3 CRIMES AGAINST PROPERTY/OTHER CRIMES

4 2nd Degree Arson

5 1st Degree Escape

6 2nd Degree Escape

7 2nd Degree Burglary

8 1st Degree Theft

9 2nd Degree Theft

10 1st Degree Perjury

11 2nd Degree Perjury

12 1st Degree Introducing Contraband

13 2nd Degree Introducing Contraband

14 1st Degree Possession of Stolen Property

15 2nd Degree Possession of Stolen Property

16 Bribery

17 Bribing a Witness

18 Bribe received by a Witness

19 Bomb Threat (if against property)

20 1st Degree Malicious Mischief

21 2nd Degree Malicious Mischief

22 1st Degree Reckless Burning

23 Taking a Motor Vehicle without Authorization

24 Forgery

25 2nd Degree Promoting Prostitution

26 Tampering with a Witness

27 Trading in Public Office

28 Trading in Special Influence

29 Receiving/Granting Unlawful Compensation

30 Bigamy

31 Eluding a Pursuing Police Vehicle

32 Willful Failure to Return from Furlough

33 Escape from Community Custody

34 Riot (if against property)

35 1st Degree Theft of Livestock

36 2nd Degree Theft of Livestock

37 ALL OTHER UNCLASSIFIED FELONIES

38 Selection of Charges/Degree of Charge

1 (i) The prosecutor should file charges which adequately describe  
2 the nature of defendant's conduct. Other offenses may be charged only  
3 if they are necessary to ensure that the charges:

4 (A) Will significantly enhance the strength of the state's case  
5 at trial; or

6 (B) Will result in restitution to all victims.

7 (ii) The prosecutor should not overcharge to obtain a guilty  
8 plea. Overcharging includes:

9 (A) Charging a higher degree;

10 (B) Charging additional counts.

11 This standard is intended to direct prosecutors to charge those  
12 crimes which demonstrate the nature and seriousness of a defendant's  
13 criminal conduct, but to decline to charge crimes which are not  
14 necessary to such an indication. Crimes which do not merge as a  
15 matter of law, but which arise from the same course of conduct, do  
16 not all have to be charged.

17 (b) GUIDELINES/COMMENTARY:

18 (i) Police Investigation

19 A prosecuting attorney is dependent upon law enforcement agencies  
20 to conduct the necessary factual investigation which must precede the  
21 decision to prosecute. The prosecuting attorney shall ensure that a  
22 thorough factual investigation has been conducted before a decision  
23 to prosecute is made. In ordinary circumstances the investigation  
24 should include the following:

25 (A) The interviewing of all material witnesses, together with the  
26 obtaining of written statements whenever possible;

27 (B) The completion of necessary laboratory tests; and

28 (C) The obtaining, in accordance with constitutional  
29 requirements, of the suspect's version of the events.

30 If the initial investigation is incomplete, a prosecuting  
31 attorney should insist upon further investigation before a decision  
32 to prosecute is made, and specify what the investigation needs to  
33 include.

34 (ii) Exceptions

35 In certain situations, a prosecuting attorney may authorize  
36 filing of a criminal complaint before the investigation is complete  
37 if:

38 (A) Probable cause exists to believe the suspect is guilty; and

1 (B) The suspect presents a danger to the community or is likely  
2 to flee if not apprehended; or

3 (C) The arrest of the suspect is necessary to complete the  
4 investigation of the crime.

5 In the event that the exception to the standard is applied, the  
6 prosecuting attorney shall obtain a commitment from the law  
7 enforcement agency involved to complete the investigation in a timely  
8 manner. If the subsequent investigation does not produce sufficient  
9 evidence to meet the normal charging standard, the complaint should  
10 be dismissed.

11 (iii) Investigation Techniques

12 The prosecutor should be fully advised of the investigatory  
13 techniques that were used in the case investigation including:

14 (A) Polygraph testing;

15 (B) Hypnosis;

16 (C) Electronic surveillance;

17 (D) Use of informants.

18 (iv) Pre-Filing Discussions with Defendant

19 Discussions with the defendant or his/her representative  
20 regarding the selection or disposition of charges may occur prior to  
21 the filing of charges, and potential agreements can be reached.

22 (v) Pre-Filing Discussions with Victim(s)

23 Discussions with the victim(s) or victims' representatives  
24 regarding the selection or disposition of charges may occur before  
25 the filing of charges. The discussions may be considered by the  
26 prosecutor in charging and disposition decisions, and should be  
27 considered before reaching any agreement with the defendant regarding  
28 these decisions.

29 **Sec. 4.** RCW 43.43.830 and 2012 c 44 s 1 are each amended to read  
30 as follows:

31 Unless the context clearly requires otherwise, the definitions in  
32 this section apply throughout RCW 43.43.830 through 43.43.845.

33 (1) "Agency" means any person, firm, partnership, association,  
34 corporation, or facility which receives, provides services to, houses  
35 or otherwise cares for vulnerable adults, juveniles, or children, or  
36 which provides child day care, early learning, or early childhood  
37 education services.

38 (2) "Applicant" means:

1 (a) Any prospective employee who will or may have unsupervised  
2 access to children under sixteen years of age or developmentally  
3 disabled persons or vulnerable adults during the course of his or her  
4 employment or involvement with the business or organization;

5 (b) Any prospective volunteer who will have regularly scheduled  
6 unsupervised access to children under sixteen years of age,  
7 developmentally disabled persons, or vulnerable adults during the  
8 course of his or her employment or involvement with the business or  
9 organization under circumstances where such access will or may  
10 involve groups of (i) five or fewer children under twelve years of  
11 age, (ii) three or fewer children between twelve and sixteen years of  
12 age, (iii) developmentally disabled persons, or (iv) vulnerable  
13 adults;

14 (c) Any prospective adoptive parent, as defined in RCW 26.33.020;  
15 or

16 (d) Any prospective custodian in a nonparental custody proceeding  
17 under chapter 26.10 RCW.

18 (3) "Business or organization" means a person, business, or  
19 organization licensed in this state, any agency of the state, or  
20 other governmental entity, that educates, trains, treats, supervises,  
21 houses, or provides recreation to developmentally disabled persons,  
22 vulnerable adults, or children under sixteen years of age, or that  
23 provides child day care, early learning, or early learning childhood  
24 education services, including but not limited to public housing  
25 authorities, school districts, and educational service districts.

26 (4) "Civil adjudication proceeding" is a judicial or  
27 administrative adjudicative proceeding that results in a finding of,  
28 or upholds an agency finding of, domestic violence, abuse, sexual  
29 abuse, neglect, abandonment, violation of a professional licensing  
30 standard regarding a child or vulnerable adult, or exploitation or  
31 financial exploitation of a child or vulnerable adult under any  
32 provision of law, including but not limited to chapter 13.34, 26.44,  
33 or 74.34 RCW, or rules adopted under chapters 18.51 and 74.42 RCW.  
34 "Civil adjudication proceeding" also includes judicial or  
35 administrative findings that become final due to the failure of the  
36 alleged perpetrator to timely exercise a legal right to  
37 administratively challenge such findings.

38 (5) "Client" or "resident" means a child, person with  
39 developmental disabilities, or vulnerable adult applying for housing  
40 assistance from a business or organization.

1 (6) "Conviction record" means "conviction record" information as  
2 defined in RCW 10.97.030 and 10.97.050 relating to a crime committed  
3 by either an adult or a juvenile. It does not include a conviction  
4 for an offense that has been the subject of an expungement, pardon,  
5 annulment, certificate of rehabilitation, or other equivalent  
6 procedure based on a finding of the rehabilitation of the person  
7 convicted, or a conviction that has been the subject of a pardon,  
8 annulment, or other equivalent procedure based on a finding of  
9 innocence. It does include convictions for offenses for which the  
10 defendant received a deferred or suspended sentence, unless the  
11 record has been expunged according to law.

12 (7) "Crime against children or other persons" means a conviction  
13 of any of the following offenses: Aggravated murder; first or second  
14 degree murder; first or second degree kidnapping; first, second, or  
15 third degree assault; fourth degree assault (if a violation of RCW  
16 9A.36.041(3)); first, second, or third degree assault of a child;  
17 first, second, or third degree rape; first, second, or third degree  
18 rape of a child; first or second degree robbery; first degree arson;  
19 first degree burglary; first or second degree manslaughter; first or  
20 second degree extortion; indecent liberties; incest; vehicular  
21 homicide; first degree promoting prostitution; communication with a  
22 minor; unlawful imprisonment; simple assault; sexual exploitation of  
23 minors; first or second degree criminal mistreatment; endangerment  
24 with a controlled substance; child abuse or neglect as defined in RCW  
25 26.44.020; first or second degree custodial interference; first or  
26 second degree custodial sexual misconduct; malicious harassment;  
27 first, second, or third degree child molestation; first or second  
28 degree sexual misconduct with a minor; commercial sexual abuse of a  
29 minor; child abandonment; promoting pornography; selling or  
30 distributing erotic material to a minor; custodial assault; violation  
31 of child abuse restraining order; child buying or selling;  
32 prostitution; felony indecent exposure; criminal abandonment; or any  
33 of these crimes as they may be renamed in the future.

34 (8) "Crimes relating to drugs" means a conviction of a crime to  
35 manufacture, delivery, or possession with intent to manufacture or  
36 deliver a controlled substance.

37 (9) "Crimes relating to financial exploitation" means a  
38 conviction for first, second, or third degree extortion; first,  
39 second, or third degree theft; first or second degree robbery;  
40 forgery; or any of these crimes as they may be renamed in the future.



1 (10) "Financial exploitation" means "financial exploitation" as  
2 defined in RCW 74.34.020.

3 (11) "Health care facility" means a nursing home licensed under  
4 chapter 18.51 RCW, a boarding home licensed under chapter 18.20 RCW,  
5 or an adult family home licensed under chapter 70.128 RCW.

6 (12) "Peer counselor" means a nonprofessional person who has  
7 equal standing with another person, providing advice on a topic about  
8 which the nonprofessional person is more experienced or  
9 knowledgeable, and who is a counselor for a peer counseling program  
10 that contracts with or is otherwise approved by the department,  
11 another state or local agency, or the court.

12 (13) "Unsupervised" means not in the presence of:

13 (a) Another employee or volunteer from the same business or  
14 organization as the applicant; or

15 (b) Any relative or guardian of any of the children or  
16 developmentally disabled persons or vulnerable adults to which the  
17 applicant has access during the course of his or her employment or  
18 involvement with the business or organization.

19 With regard to peer counselors, "unsupervised" does not include  
20 incidental contact with children under age sixteen at the location at  
21 which the peer counseling is taking place. "Incidental contact" means  
22 minor or casual contact with a child in an area accessible to and  
23 within visual or auditory range of others. It could include passing a  
24 child while walking down a hallway but would not include being alone  
25 with a child for any period of time in a closed room or office.

26 (14) "Vulnerable adult" means "vulnerable adult" as defined in  
27 chapter 74.34 RCW, except that for the purposes of requesting and  
28 receiving background checks pursuant to RCW 43.43.832, it shall also  
29 include adults of any age who lack the functional, mental, or  
30 physical ability to care for themselves.

31 NEW SECTION. **Sec. 5.** A new section is added to chapter 7.36 RCW  
32 to read as follows:

33 Notwithstanding RCW 36.18.040, the sheriff may waive fees  
34 associated with service of a writ of habeas corpus that was issued  
35 for the return of a child when the person who was granted the writ  
36 is, by reason of poverty, unable to pay the cost of service.

1       **Sec. 6.** RCW 9.94A.515 and 2013 c 322 s 26, 2013 c 290 s 8, 2013  
2 c 267 s 2, and 2013 c 153 s 2 are each reenacted and amended to read  
3 as follows:

4                               TABLE 2

5                               CRIMES INCLUDED WITHIN  
6                               EACH SERIOUSNESS LEVEL

7	XVI	Aggravated Murder 1 (RCW
8		10.95.020)
9	XV	Homicide by abuse (RCW 9A.32.055)
10		Malicious explosion 1 (RCW
11		70.74.280(1))
12		Murder 1 (RCW 9A.32.030)
13	XIV	Murder 2 (RCW 9A.32.050)
14		Trafficking 1 (RCW 9A.40.100(1))
15	XIII	Malicious explosion 2 (RCW
16		70.74.280(2))
17		Malicious placement of an explosive 1
18		(RCW 70.74.270(1))
19	XII	Assault 1 (RCW 9A.36.011)
20		Assault of a Child 1 (RCW 9A.36.120)
21		Malicious placement of an imitation
22		device 1 (RCW 70.74.272(1)(a))
23		Promoting Commercial Sexual Abuse
24		of a Minor (RCW 9.68A.101)
25		Rape 1 (RCW 9A.44.040)
26		Rape of a Child 1 (RCW 9A.44.073)
27		Trafficking 2 (RCW 9A.40.100((2))
28		(3))
29	XI	Manslaughter 1 (RCW 9A.32.060)
30		Rape 2 (RCW 9A.44.050)
31		Rape of a Child 2 (RCW 9A.44.076)
32		Vehicular Homicide, by being under
33		the influence of intoxicating liquor
34		or any drug (RCW 46.61.520)

1 X Child Molestation 1 (RCW 9A.44.083)  
2 Criminal Mistreatment 1 (RCW  
3 9A.42.020)  
4 Indecent Liberties (with forcible  
5 compulsion) (RCW  
6 9A.44.100(1)(a))  
7 Kidnapping 1 (RCW 9A.40.020)  
8 Leading Organized Crime (RCW  
9 9A.82.060(1)(a))  
10 Malicious explosion 3 (RCW  
11 70.74.280(3))  
12 Sexually Violent Predator Escape  
13 (RCW 9A.76.115)  
14 IX Abandonment of Dependent Person 1  
15 (RCW 9A.42.060)  
16 Assault of a Child 2 (RCW 9A.36.130)  
17 Explosive devices prohibited (RCW  
18 70.74.180)  
19 Hit and Run—Death (RCW  
20 46.52.020(4)(a))  
21 Homicide by Watercraft, by being  
22 under the influence of intoxicating  
23 liquor or any drug (RCW  
24 79A.60.050)  
25 Inciting Criminal Profiteering (RCW  
26 9A.82.060(1)(b))  
27 Malicious placement of an explosive 2  
28 (RCW 70.74.270(2))  
29 Robbery 1 (RCW 9A.56.200)  
30 Sexual Exploitation (RCW 9.68A.040)  
31 VIII Arson 1 (RCW 9A.48.020)  
32 Commercial Sexual Abuse of a Minor  
33 (RCW 9.68A.100)

1 Homicide by Watercraft, by the  
2 operation of any vessel in a  
3 reckless manner (RCW  
4 79A.60.050)  
5 Manslaughter 2 (RCW 9A.32.070)  
6 Promoting Prostitution 1 (RCW  
7 9A.88.070)  
8 Theft of Ammonia (RCW 69.55.010)  
9 Vehicular Homicide, by the operation  
10 of any vehicle in a reckless  
11 manner (RCW 46.61.520)  
12 VII Burglary 1 (RCW 9A.52.020)  
13 Child Molestation 2 (RCW 9A.44.086)  
14 Civil Disorder Training (RCW  
15 9A.48.120)  
16 Dealing in depictions of minor engaged  
17 in sexually explicit conduct 1  
18 (RCW 9.68A.050(1))  
19 Drive-by Shooting (RCW 9A.36.045)  
20 Homicide by Watercraft, by disregard  
21 for the safety of others (RCW  
22 79A.60.050)  
23 Indecent Liberties (without forcible  
24 compulsion) (RCW 9A.44.100(1)  
25 (b) and (c))  
26 Introducing Contraband 1 (RCW  
27 9A.76.140)  
28 Malicious placement of an explosive 3  
29 (RCW 70.74.270(3))  
30 Negligently Causing Death By Use of a  
31 Signal Preemption Device (RCW  
32 46.37.675)  
33 Sending, bringing into state depictions  
34 of minor engaged in sexually  
35 explicit conduct 1 (RCW  
36 9.68A.060(1))

1 Unlawful Possession of a Firearm in  
2 the first degree (RCW  
3 9.41.040(1))  
4 Use of a Machine Gun in Commission  
5 of a Felony (RCW 9.41.225)  
6 Vehicular Homicide, by disregard for  
7 the safety of others (RCW  
8 46.61.520)  
9 VI Bail Jumping with Murder 1 (RCW  
10 9A.76.170(3)(a))  
11 Bribery (RCW 9A.68.010)  
12 Incest 1 (RCW 9A.64.020(1))  
13 Intimidating a Judge (RCW 9A.72.160)  
14 Intimidating a Juror/Witness (RCW  
15 9A.72.110, 9A.72.130)  
16 Malicious placement of an imitation  
17 device 2 (RCW 70.74.272(1)(b))  
18 Possession of Depictions of a Minor  
19 Engaged in Sexually Explicit  
20 Conduct 1 (RCW 9.68A.070(1))  
21 Rape of a Child 3 (RCW 9A.44.079)  
22 Theft of a Firearm (RCW 9A.56.300)  
23 Unlawful Storage of Ammonia (RCW  
24 69.55.020)  
25 V Abandonment of Dependent Person 2  
26 (RCW 9A.42.070)  
27 Advancing money or property for  
28 extortionate extension of credit  
29 (RCW 9A.82.030)  
30 Bail Jumping with class A Felony  
31 (RCW 9A.76.170(3)(b))  
32 Child Molestation 3 (RCW 9A.44.089)  
33 Criminal Mistreatment 2 (RCW  
34 9A.42.030)

1 Custodial Sexual Misconduct 1 (RCW  
2 9A.44.160)  
3 Dealing in Depictions of Minor  
4 Engaged in Sexually Explicit  
5 Conduct 2 (RCW 9.68A.050(2))  
6 Domestic Violence Court Order  
7 Violation (RCW 10.99.040,  
8 10.99.050, 26.09.300, 26.10.220,  
9 26.26.138, 26.50.110, 26.52.070,  
10 or 74.34.145)  
11 Driving While Under the Influence  
12 (RCW 46.61.502(6))  
13 Extortion 1 (RCW 9A.56.120)  
14 Extortionate Extension of Credit (RCW  
15 9A.82.020)  
16 Extortionate Means to Collect  
17 Extensions of Credit (RCW  
18 9A.82.040)  
19 Incest 2 (RCW 9A.64.020(2))  
20 Kidnapping 2 (RCW 9A.40.030)  
21 Perjury 1 (RCW 9A.72.020)  
22 Persistent prison misbehavior (RCW  
23 9.94.070)  
24 Physical Control of a Vehicle While  
25 Under the Influence (RCW  
26 46.61.504(6))  
27 Possession of a Stolen Firearm (RCW  
28 9A.56.310)  
29 Rape 3 (RCW 9A.44.060)  
30 Rendering Criminal Assistance 1  
31 (RCW 9A.76.070)  
32 Sending, Bringing into State  
33 Depictions of Minor Engaged in  
34 Sexually Explicit Conduct 2  
35 (RCW 9.68A.060(2))

1 Sexual Misconduct with a Minor 1  
2 (RCW 9A.44.093)  
3 Sexually Violating Human Remains  
4 (RCW 9A.44.105)  
5 Stalking (RCW 9A.46.110)  
6 Taking Motor Vehicle Without  
7 Permission 1 (RCW 9A.56.070)  
8 IV Arson 2 (RCW 9A.48.030)  
9 Assault 2 (RCW 9A.36.021)  
10 Assault 3 (of a Peace Officer with a  
11 Projectile Stun Gun) (RCW  
12 9A.36.031(1)(h))  
13 Assault 4 (where domestic violence  
14 was pleaded and proven (RCW  
15 9A.36.041(3))  
16 Assault by Watercraft (RCW  
17 79A.60.060)  
18 Bribing a Witness/Bribe Received by  
19 Witness (RCW 9A.72.090,  
20 9A.72.100)  
21 Cheating 1 (RCW 9.46.1961)  
22 Commercial Bribery (RCW  
23 9A.68.060)  
24 Counterfeiting (RCW 9.16.035(4))  
25 Endangerment with a Controlled  
26 Substance (RCW 9A.42.100)  
27 Escape 1 (RCW 9A.76.110)  
28 Hit and Run—Injury (RCW  
29 46.52.020(4)(b))  
30 Hit and Run with Vessel—Injury  
31 Accident (RCW 79A.60.200(3))  
32 Identity Theft 1 (RCW 9.35.020(2))  
33 Indecent Exposure to Person Under  
34 Age Fourteen (subsequent sex  
35 offense) (RCW 9A.88.010)

1 Influencing Outcome of Sporting Event  
2 (RCW 9A.82.070)  
3 Malicious Harassment (RCW  
4 9A.36.080)  
5 Possession of Depictions of a Minor  
6 Engaged in Sexually Explicit  
7 Conduct 2 (RCW 9.68A.070(2))  
8 Residential Burglary (RCW  
9 9A.52.025)  
10 Robbery 2 (RCW 9A.56.210)  
11 Theft of Livestock 1 (RCW 9A.56.080)  
12 Threats to Bomb (RCW 9.61.160)  
13 Trafficking in Stolen Property 1 (RCW  
14 9A.82.050)  
15 Unlawful factoring of a credit card or  
16 payment card transaction (RCW  
17 9A.56.290(4)(b))  
18 Unlawful transaction of health  
19 coverage as a health care service  
20 contractor (RCW 48.44.016(3))  
21 Unlawful transaction of health  
22 coverage as a health maintenance  
23 organization (RCW 48.46.033(3))  
24 Unlawful transaction of insurance  
25 business (RCW 48.15.023(3))  
26 Unlicensed practice as an insurance  
27 professional (RCW 48.17.063(2))  
28 Use of Proceeds of Criminal  
29 Profiteering (RCW 9A.82.080 (1)  
30 and (2))  
31 Vehicle Prowling 2 (third or  
32 subsequent offense) (RCW  
33 9A.52.100(3))



1 Vehicular Assault, by being under the  
2 influence of intoxicating liquor or  
3 any drug, or by the operation or  
4 driving of a vehicle in a reckless  
5 manner (RCW 46.61.522)

6 Viewing of Depictions of a Minor  
7 Engaged in Sexually Explicit  
8 Conduct 1 (RCW 9.68A.075(1))

9 Willful Failure to Return from  
10 Furlough (RCW 72.66.060)

11 III Animal Cruelty 1 (Sexual Conduct or  
12 Contact) (RCW 16.52.205(3))

13 Assault 3 (Except Assault 3 of a Peace  
14 Officer With a Projectile Stun  
15 Gun) (RCW 9A.36.031 except  
16 subsection (1)(h))

17 Assault of a Child 3 (RCW 9A.36.140)

18 Bail Jumping with class B or C Felony  
19 (RCW 9A.76.170(3)(c))

20 Burglary 2 (RCW 9A.52.030)

21 Communication with a Minor for  
22 Immoral Purposes (RCW  
23 9.68A.090)

24 Criminal Gang Intimidation (RCW  
25 9A.46.120)

26 Custodial Assault (RCW 9A.36.100)

27 Cyberstalking (subsequent conviction  
28 or threat of death) (RCW  
29 9.61.260(3))

30 Escape 2 (RCW 9A.76.120)

31 Extortion 2 (RCW 9A.56.130)

32 Harassment (RCW 9A.46.020)

33 Intimidating a Public Servant (RCW  
34 9A.76.180)

35 Introducing Contraband 2 (RCW  
36 9A.76.150)

1 Malicious Injury to Railroad Property  
2 (RCW 81.60.070)  
3 Mortgage Fraud (RCW 19.144.080)  
4 Negligently Causing Substantial  
5 Bodily Harm By Use of a Signal  
6 Preemption Device (RCW  
7 46.37.674)  
8 Organized Retail Theft 1 (RCW  
9 9A.56.350(2))  
10 Perjury 2 (RCW 9A.72.030)  
11 Possession of Incendiary Device (RCW  
12 9.40.120)  
13 Possession of Machine Gun or Short-  
14 Barreled Shotgun or Rifle (RCW  
15 9.41.190)  
16 Promoting Prostitution 2 (RCW  
17 9A.88.080)  
18 Retail Theft with Special  
19 Circumstances 1 (RCW  
20 9A.56.360(2))  
21 Securities Act violation (RCW  
22 21.20.400)  
23 Tampering with a Witness (RCW  
24 9A.72.120)  
25 Telephone Harassment (subsequent  
26 conviction or threat of death)  
27 (RCW 9.61.230(2))  
28 Theft of Livestock 2 (RCW 9A.56.083)  
29 Theft with the Intent to Resell 1 (RCW  
30 9A.56.340(2))  
31 Trafficking in Stolen Property 2 (RCW  
32 9A.82.055)  
33 Unlawful Hunting of Big Game 1  
34 (RCW 77.15.410(3)(b))  
35 Unlawful Imprisonment (RCW  
36 9A.40.040)

1 Unlawful Misbranding of Food Fish or  
2 Shellfish 1 (RCW 69.04.938(3))  
3 Unlawful possession of firearm in the  
4 second degree (RCW 9.41.040(2))  
5 Unlawful Taking of Endangered Fish  
6 or Wildlife 1 (RCW  
7 77.15.120(3)(b))  
8 Unlawful Trafficking in Fish, Shellfish,  
9 or Wildlife 1 (RCW  
10 77.15.260(3)(b))  
11 Unlawful Use of a Nondesignated  
12 Vessel (RCW 77.15.530(4))  
13 Vehicular Assault, by the operation or  
14 driving of a vehicle with disregard  
15 for the safety of others (RCW  
16 46.61.522)  
17 Willful Failure to Return from Work  
18 Release (RCW 72.65.070)  
19 II Commercial Fishing Without a License  
20 1 (RCW 77.15.500(3)(b))  
21 Computer Trespass 1 (RCW  
22 9A.52.110)  
23 Counterfeiting (RCW 9.16.035(3))  
24 Engaging in Fish Dealing Activity  
25 Unlicensed 1 (RCW 77.15.620(3))  
26 Escape from Community Custody  
27 (RCW 72.09.310)  
28 Failure to Register as a Sex Offender  
29 (second or subsequent offense)  
30 (RCW 9A.44.132)  
31 Health Care False Claims (RCW  
32 48.80.030)  
33 Identity Theft 2 (RCW 9.35.020(3))  
34 Improperly Obtaining Financial  
35 Information (RCW 9.35.010)

1 Malicious Mischief 1 (RCW  
2 9A.48.070)  
3 Organized Retail Theft 2 (RCW  
4 9A.56.350(3))  
5 Possession of Stolen Property 1 (RCW  
6 9A.56.150)  
7 Possession of a Stolen Vehicle (RCW  
8 9A.56.068)  
9 Retail Theft with Special  
10 Circumstances 2 (RCW  
11 9A.56.360(3))  
12 Scrap Processing, Recycling, or  
13 Supplying Without a License  
14 (second or subsequent offense)  
15 (RCW 19.290.100)  
16 Theft 1 (RCW 9A.56.030)  
17 Theft of a Motor Vehicle (RCW  
18 9A.56.065)  
19 Theft of Rental, Leased, or Lease-  
20 purchased Property (valued at one  
21 thousand five hundred dollars or  
22 more) (RCW 9A.56.096(5)(a))  
23 Theft with the Intent to Resell 2 (RCW  
24 9A.56.340(3))  
25 Trafficking in Insurance Claims (RCW  
26 48.30A.015)  
27 Unlawful factoring of a credit card or  
28 payment card transaction (RCW  
29 9A.56.290(4)(a))  
30 Unlawful Participation of Non-Indians  
31 in Indian Fishery (RCW  
32 77.15.570(2))  
33 Unlawful Practice of Law (RCW  
34 2.48.180)  
35 Unlawful Purchase or Use of a License  
36 (RCW 77.15.650(3)(b))

1 Unlawful Trafficking in Fish, Shellfish,  
2 or Wildlife 2 (RCW  
3 77.15.260(3)(a))  
4 Unlicensed Practice of a Profession or  
5 Business (RCW 18.130.190(7))  
6 Voyeurism (RCW 9A.44.115)  
7 I Attempting to Elude a Pursuing Police  
8 Vehicle (RCW 46.61.024)  
9 False Verification for Welfare (RCW  
10 74.08.055)  
11 Forgery (RCW 9A.60.020)  
12 Fraudulent Creation or Revocation of a  
13 Mental Health Advance Directive  
14 (RCW 9A.60.060)  
15 Malicious Mischief 2 (RCW  
16 9A.48.080)  
17 Mineral Trespass (RCW 78.44.330)  
18 Possession of Stolen Property 2 (RCW  
19 9A.56.160)  
20 Reckless Burning 1 (RCW 9A.48.040)  
21 Spotlighting Big Game 1 (RCW  
22 77.15.450(3)(b))  
23 Suspension of Department Privileges 1  
24 (RCW 77.15.670(3)(b))  
25 Taking Motor Vehicle Without  
26 Permission 2 (RCW 9A.56.075)  
27 Theft 2 (RCW 9A.56.040)  
28 Theft of Rental, Leased, or Lease-  
29 purchased Property (valued at two  
30 hundred fifty dollars or more but  
31 less than one thousand five  
32 hundred dollars) (RCW  
33 9A.56.096(5)(b))  
34 Transaction of insurance business  
35 beyond the scope of licensure  
36 (RCW 48.17.063)

1 Unlawful Fish and Shellfish Catch  
2 Accounting (RCW  
3 77.15.630(3)(b))  
4 Unlawful Issuance of Checks or Drafts  
5 (RCW 9A.56.060)  
6 Unlawful Possession of Fictitious  
7 Identification (RCW 9A.56.320)  
8 Unlawful Possession of Instruments of  
9 Financial Fraud (RCW 9A.56.320)  
10 Unlawful Possession of Payment  
11 Instruments (RCW 9A.56.320)  
12 Unlawful Possession of a Personal  
13 Identification Device (RCW  
14 9A.56.320)  
15 Unlawful Production of Payment  
16 Instruments (RCW 9A.56.320)  
17 ~~((Unlawful Release of Deleterious  
18 Exotic Wildlife (RCW  
19 77.15.250(2)(b))))~~  
20 Unlawful Trafficking in Food Stamps  
21 (RCW 9.91.142)  
22 Unlawful Use of Food Stamps (RCW  
23 9.91.144)  
24 Unlawful Use of Net to Take Fish 1  
25 (RCW 77.15.580(3)(b))  
26 Unlawful Use of Prohibited Aquatic  
27 Animal Species (RCW  
28 77.15.253(3))  
29 Unlawfully Releasing, Planting,  
30 Possessing, or Placing Deleterious  
31 Exotic Wildlife (RCW  
32 77.15.250(2)(b))  
33 Vehicle Prowl 1 (RCW 9A.52.095)  
34 Violating Commercial Fishing Area or  
35 Time 1 (RCW 77.15.550(3)(b))"

1 [2013 c 322 § 26; 2013 c 290 § 8; 2013 c 267 § 2; 2013 c 153 § 2.  
2 Prior: 2012 c 176 § 3; 2012 c 162 § 1; prior: 2010 c 289 § 11; 2010 c  
3 227 § 9; prior: 2008 c 108 § 23; 2008 c 38 § 1; prior: 2007 c 368 §  
4 14; 2007 c 199 § 10; prior: 2006 c 277 § 6; 2006 c 228 § 9; 2006 c  
5 191 § 2; 2006 c 139 § 2; 2006 c 128 § 3; 2006 c 73 § 12; prior: (2006  
6 c 125 § 5 repealed by 2006 c 126 § 7); 2005 c 458 § 2; 2005 c 183 §  
7 9; prior: 2004 c 176 § 2; 2004 c 94 § 3; (2004 c 94 § 2 expired July  
8 1, 2004); prior: 2003 c 335 § 5; (2003 c 335 § 4 expired July 1,  
9 2004); 2003 c 283 § 33; (2003 c 283 § 32 expired July 1, 2004); 2003  
10 c 267 § 3; (2003 c 267 § 2 expired July 1, 2004); 2003 c 250 § 14;  
11 (2003 c 250 § 13 expired July 1, 2004); 2003 c 119 § 8; (2003 c 119 §  
12 7 expired July 1, 2004); 2003 c 53 § 56; 2003 c 52 § 4; (2003 c 52 §  
13 3 expired July 1, 2004); prior: 2002 c 340 § 2; 2002 c 324 § 2; 2002  
14 c 290 § 7; (2002 c 290 § 2 expired July 1, 2003); 2002 c 253 § 4;  
15 2002 c 229 § 2; 2002 c 134 § 2; 2002 c 133 § 4; prior: 2001 2nd sp.s.  
16 c 12 § 361; 2001 c 300 § 4; 2001 c 217 § 12; 2001 c 17 § 1; prior:  
17 2001 c 310 § 4; 2001 c 287 § 3; 2001 c 224 § 3; 2001 c 222 § 24; 2001  
18 c 207 § 3; 2000 c 225 § 5; 2000 c 119 § 17; 2000 c 66 § 2; prior:  
19 1999 c 352 § 3; 1999 c 322 § 5; 1999 c 45 § 4; prior: 1998 c 290 § 4;  
20 1998 c 219 § 4; 1998 c 82 § 1; 1998 c 78 § 1; prior: 1997 c 365 § 4;  
21 1997 c 346 § 3; 1997 c 340 § 1; 1997 c 338 § 51; 1997 c 266 § 15;  
22 1997 c 120 § 5; prior: 1996 c 302 § 6; 1996 c 205 § 3; 1996 c 36 § 2;  
23 prior: 1995 c 385 § 2; 1995 c 285 § 28; 1995 c 129 § 3 (Initiative  
24 Measure No. 159); prior: (1994 sp.s. c 7 § 510 repealed by 1995 c 129  
25 § 19 (Initiative Measure No. 159)); 1994 c 275 § 20; 1994 c 53 § 2;  
26 prior: 1992 c 145 § 4; 1992 c 75 § 3; 1991 c 32 § 3; 1990 c 3 § 702;  
27 prior: 1989 2nd ex.s. c 1 § 3; 1989 c 412 § 3; 1989 c 405 § 1; 1989 c  
28 271 § 102; 1989 c 99 § 1; prior: 1988 c 218 § 2; 1988 c 145 § 12;  
29 1988 c 62 § 2; prior: 1987 c 224 § 1; 1987 c 187 § 4; 1986 c 257 §  
30 23; 1984 c 209 § 17; 1983 c 115 § 3. Formerly RCW 9.94A.320.]

**EHB 1632** - S COMM AMD

By Committee on Law & Justice

31 On page 1, line 1 of the title, after "violence;" strike the  
32 remainder of the title and insert "amending RCW 9.94A.525, 9A.36.041,  
33 and 43.43.830; reenacting and amending RCW 9.94A.411 and 9.94A.515;  
34 adding a new section to chapter 7.36 RCW; and prescribing penalties."

EFFECT: Changes the unranked offense of assault in the fourth degree where domestic violence was pleaded and proven to a level 4 offense.

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