

ESSB 5628 - H COMM AMD
By Committee on Public Safety

ADOPTED 03/04/2022

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

3 "Sec. 1. RCW 9.61.260 and 2004 c 94 s 1 are each amended to read
4 as follows:

5 (1) A person is guilty of (~~cyberstalking~~) cyber harassment if
6 (~~he or she~~) the person, with intent to harass(~~(7)~~) or intimidate(~~(7~~
7 ~~torment, or embarrass)~~) any other person, and under circumstances not
8 constituting telephone harassment, makes an electronic communication
9 to (~~such other~~) that person or a third party and the communication:

10 (a) (~~Using~~) (i) Uses any lewd, lascivious, indecent, or obscene
11 words, images, or language, or (~~suggesting~~) suggests the commission
12 of any lewd or lascivious act;

13 (~~(b) Anonymously~~) (ii) Is made anonymously or repeatedly
14 (~~whether or not conversation occurs~~); (~~or~~

15 ~~(c) Threatening to inflict injury on the person or property of~~
16 ~~the person called or any member of his or her family or household)~~

17 (iii) Contains a threat to inflict bodily injury immediately or in
18 the future on the person threatened or to any other person; or

19 (iv) Contains a threat to damage, immediately or in the future,
20 the property of the person threatened or of any other person; and

21 (b) With respect to any offense committed under the circumstances
22 identified in (a)(iii) or (iv) of this subsection:

23 (i) Would cause a reasonable person, with knowledge of the
24 sender's history, to suffer emotional distress or to fear for the
25 safety of the person threatened; or

26 (ii) Reasonably caused the threatened person to suffer emotional
27 distress or fear for the threatened person's safety.

28 (2) (~~Cyberstalking is a gross misdemeanor, except as provided in~~
29 ~~subsection (3) of this section.~~

30 ~~(3) Cyberstalking is a class C felony if either of the following~~
31 ~~applies:~~

1 ~~(a) The perpetrator has previously been convicted of the crime of~~
2 ~~harassment, as defined in RCW 9A.46.060, with the same victim or a~~
3 ~~member of the victim's family or household or any person specifically~~
4 ~~named in a no-contact order or no-harassment order in this or any~~
5 ~~other state; or~~

6 ~~(b) The perpetrator engages in the behavior prohibited under~~
7 ~~subsection (1)(c) of this section by threatening to kill the person~~
8 ~~threatened or any other person.~~

9 (4)) (a) Except as provided in (b) of this subsection, cyber
10 harassment is a gross misdemeanor.

11 (b) A person who commits cyber harassment is guilty of a class C
12 felony if any of the following apply:

13 (i) The person has previously been convicted in this or any other
14 state of any crime of harassment, as defined in RCW 9A.46.060, of the
15 same victim or members of the victim's family or household or any
16 person specifically named in a no-contact or no-harassment order;

17 (ii) The person cyber harasses another person under subsection
18 (1)(a)(iii) of this section by threatening to kill the person
19 threatened or any other person;

20 (iii) The person cyber harasses a criminal justice participant or
21 election official who is performing the participant's official duties
22 or election official's official duties at the time the communication
23 is made;

24 (iv) The person cyber harasses a criminal justice participant or
25 election official because of an action taken or decision made by the
26 criminal justice participant or election official during the
27 performance of the participant's official duties or election
28 official's official duties; or

29 (v) The person commits cyber harassment in violation of any
30 protective order protecting the victim.

31 (3) Any criminal justice participant or election official who is
32 a target for threats or harassment prohibited under subsection
33 (2)(b)(iii) or (iv) of this section, and any family members residing
34 with the participant or election official, shall be eligible for the
35 address confidentiality program created under RCW 40.24.030.

36 (4) For purposes of this section, a criminal justice participant
37 includes any:

38 (a) Federal, state, or municipal court judge;

39 (b) Federal, state, or municipal court staff;

40 (c) Federal, state, or local law enforcement agency employee;

1 (d) Federal, state, or local prosecuting attorney or deputy
2 prosecuting attorney;

3 (e) Staff member of any adult corrections institution or local
4 adult detention facility;

5 (f) Staff member of any juvenile corrections institution or local
6 juvenile detention facility;

7 (g) Community corrections officer, probation officer, or parole
8 officer;

9 (h) Member of the indeterminate sentence review board;

10 (i) Advocate from a crime victim/witness program; or

11 (j) Defense attorney.

12 (5) For the purposes of this section, an election official
13 includes any staff member of the office of the secretary of state or
14 staff member of a county auditor's office, regardless of whether the
15 member is employed on a temporary or part-time basis, whose duties
16 relate to voter registration or the processing of votes as provided
17 in Title 29A RCW.

18 (6) The penalties provided in this section for cyber harassment
19 do not preclude the victim from seeking any other remedy otherwise
20 available under law.

21 (7) Any offense committed under this section may be deemed to
22 have been committed either at the place from which the communication
23 was made or at the place where the communication was received.

24 ~~((+5))~~ (8) For purposes of this section, "electronic
25 communication" means the transmission of information by wire, radio,
26 optical cable, electromagnetic, or other similar means. "Electronic
27 communication" includes, but is not limited to, ~~((electronic mail))~~
28 email, internet-based communications, pager service, and electronic
29 text messaging.

30 **Sec. 2.** RCW 9A.90.030 and 2016 c 164 s 3 are each amended to
31 read as follows:

32 The definitions in this section apply throughout this chapter
33 unless the context clearly requires otherwise.

34 (1) "Access" means to gain entry to, instruct, communicate with,
35 store data in, retrieve data from, or otherwise make use of any
36 resources of electronic data, data network, or data system, including
37 via electronic means.

38 (2) "Cybercrime" includes crimes of this chapter.

1 (3) "Data" means a digital representation of information,
2 knowledge, facts, concepts, data software, data programs, or
3 instructions that are being prepared or have been prepared in a
4 formalized manner and are intended for use in a data network, data
5 program, data services, or data system.

6 (4) "Data network" means any system that provides digital
7 communications between one or more data systems or other digital
8 input/output devices including, but not limited to, display
9 terminals, remote systems, mobile devices, and printers.

10 (5) "Data program" means an ordered set of electronic data
11 representing coded instructions or statements that when executed by a
12 computer causes the device to process electronic data.

13 (6) "Data services" includes data processing, storage functions,
14 internet services, email services, electronic message services,
15 website access, internet-based electronic gaming services, and other
16 similar system, network, or internet-based services.

17 (7) "Data system" means an electronic device or collection of
18 electronic devices, including support devices one or more of which
19 contain data programs, input data, and output data, and that performs
20 functions including, but not limited to, logic, arithmetic, data
21 storage and retrieval, communication, and control. This term does not
22 include calculators that are not programmable and incapable of being
23 used in conjunction with external files.

24 (8) "Electronic tracking device" means an electronic device that
25 permits a person to remotely determine or monitor the position and
26 movement of another person, vehicle, device, or other personal
27 possession. As used in this definition, "electronic device" includes
28 computer code or other digital instructions that once installed on a
29 digital device, allows a person to remotely track the position of
30 that device.

31 (9) "Identifying information" means information that, alone or in
32 combination, is linked or linkable to a trusted entity that would be
33 reasonably expected to request or provide credentials to access a
34 targeted data system or network. It includes, but is not limited to,
35 recognizable names, addresses, telephone numbers, logos, HTML links,
36 email addresses, registered domain names, reserved IP addresses, user
37 names, social media profiles, cryptographic keys, and biometric
38 identifiers.

39 ((+9)) (10) "Malware" means any set of data instructions that
40 are designed, without authorization and with malicious intent, to

1 disrupt computer operations, gather sensitive information, or gain
2 access to private computer systems. "Malware" does not include
3 software that installs security updates, removes malware, or causes
4 unintentional harm due to some deficiency. It includes, but is not
5 limited to, a group of data instructions commonly called viruses or
6 worms, that are self-replicating or self-propagating and are designed
7 to infect other data programs or data, consume data resources,
8 modify, destroy, record, or transmit data, or in some other fashion
9 usurp the normal operation of the data, data system, or data network.

10 ~~((10))~~ (11) "White hat security research" means accessing a
11 data program, service, or system solely for purposes of good faith
12 testing, investigation, identification, and/or correction of a
13 security flaw or vulnerability, where such activity is carried out,
14 and where the information derived from the activity is used,
15 primarily to promote security or safety.

16 ~~((11))~~ (12) "Without authorization" means to knowingly
17 circumvent technological access barriers to a data system in order to
18 obtain information without the express or implied permission of the
19 owner, where such technological access measures are specifically
20 designed to exclude or prevent unauthorized individuals from
21 obtaining such information, but does not include white hat security
22 research or circumventing a technological measure that does not
23 effectively control access to a computer. The term "without the
24 express or implied permission" does not include access in violation
25 of a duty, agreement, or contractual obligation, such as an
26 acceptable use policy or terms of service agreement, with an internet
27 service provider, internet website, or employer. The term "circumvent
28 technological access barriers" may include unauthorized elevation of
29 privileges, such as allowing a normal user to execute code as
30 administrator, or allowing a remote person without any privileges to
31 run code.

32 NEW SECTION. **Sec. 3.** A new section is added to chapter 9A.90
33 RCW to read as follows:

34 (1) A person commits the crime of cyberstalking if, without
35 lawful authority and under circumstances not amounting to a felony
36 attempt of another crime:

37 (a) The person knowingly and without consent:

38 (i) Installs or monitors an electronic tracking device with the
39 intent to track the location of another person; or

1 (ii) Causes an electronic tracking device to be installed,
2 placed, or used with the intent to track the location of another
3 person; and

4 (b)(i) The person knows or reasonably should know that knowledge
5 of the installation or monitoring of the tracking device would cause
6 the other person reasonable fear;

7 (ii) The person has notice that the other person does not want to
8 be contacted or monitored by him or her; or

9 (iii) The other person has a protective order in effect
10 protecting him or her from the person.

11 (2)(a) It is not a defense to the crime of cyberstalking that the
12 person was not given actual notice that the other person did not want
13 the person to contact or monitor him or her; and

14 (b) It is not a defense to the crime of cyberstalking that the
15 person did not intend to frighten, intimidate, or harass the other
16 person.

17 (3)(a) Except as provided in (b) of this subsection, a person who
18 cyberstalks another person is guilty of a gross misdemeanor.

19 (b) A person who cyberstalks another person is guilty of a class
20 C felony if any of the following applies:

21 (i) The person has previously been convicted in this state or any
22 other state of any crime of harassment, as defined in RCW 9A.46.060,
23 of the same victim or members of the victim's family or household or
24 any person specifically named in a protective order;

25 (ii) There is a protective order in effect protecting the victim
26 from contact with the person;

27 (iii) The person has previously been convicted of a gross
28 misdemeanor or felony stalking offense for stalking another person;

29 (iv) The person has previously been convicted of a gross
30 misdemeanor or felony cyberstalking offense for cyberstalking another
31 person;

32 (v)(A) The victim is or was a law enforcement officer; judge;
33 juror; attorney; victim advocate; legislator; community corrections
34 officer; employee, contract staff person, or volunteer of a
35 correctional agency; court employee, court clerk, or courthouse
36 facilitator; or employee of the child protective, child welfare, or
37 adult protective services division within the department of social
38 and health services; and

39 (B) The person cyberstalked the victim to retaliate against the
40 victim for an act the victim performed during the course of official

1 duties or to influence the victim's performance of official duties;
2 or

3 (vi) The victim is a current, former, or prospective witness in
4 an adjudicative proceeding, and the person cyberstalked the victim to
5 retaliate against the victim as a result of the victim's testimony or
6 potential testimony.

7 (4) The provisions of this section do not apply to the
8 installation, placement, or use of an electronic tracking device by
9 any of the following:

10 (a) A law enforcement officer, judicial officer, probation or
11 parole officer, or other public employee when any such person is
12 engaged in the lawful performance of official duties and in
13 accordance with state or federal law;

14 (b) The installation, placement, or use of an electronic tracking
15 device authorized by an order of a state or federal court;

16 (c) A legal guardian for a disabled adult or a legally authorized
17 individual or organization designated to provide protective services
18 to a disabled adult when the electronic tracking device is installed,
19 placed, or used to track the location of the disabled adult for which
20 the person is a legal guardian or the individual or organization is
21 designated to provide protective services;

22 (d) A parent or legal guardian of a minor when the electronic
23 tracking device is installed, placed, or used to track the location
24 of that minor unless the parent or legal guardian is subject to a
25 court order that orders the parent or legal guardian not to assault,
26 threaten, harass, follow, or contact that minor;

27 (e) An employer, school, or other organization, who owns the
28 device on which the tracking device is installed and provides the
29 device to a person for use in connection with the person's
30 involvement with the employer, school, or other organization and the
31 use of the device is limited to recovering lost or stolen items; or

32 (f) The owner of fleet vehicles, when tracking such vehicles. For
33 the purposes of this section, "fleet vehicle" means any of the
34 following:

35 (i) One or more motor vehicles owned by a single entity and
36 operated by employees or agents of the entity for business or
37 government purposes;

38 (ii) Motor vehicles held for lease or rental to the general
39 public; or

1 (iii) Motor vehicles held for sale, or used as demonstrators,
2 test vehicles, or loaner vehicles, by motor vehicle dealers.

3 NEW SECTION. **Sec. 4.** RCW 9.61.260 is recodified as a new
4 section in chapter 9A.90 RCW.

5 **Sec. 5.** RCW 40.24.030 and 2019 c 278 s 3 are each amended to
6 read as follows:

7 (1)(a) An adult person, a parent or guardian acting on behalf of
8 a minor, or a guardian acting on behalf of an incapacitated person,
9 as defined in RCW 11.88.010, ~~((and))~~ (b) any election official as
10 described in RCW 9.61.260 (as recodified by this act) who is a target
11 for threats or harassment prohibited under RCW 9.61.260(2)(b) (iii)
12 or (iv) (as recodified by this act), and any family members residing
13 with him or her, and (c) any criminal justice participant as defined
14 in RCW 9A.46.020 who is a target for threats or harassment prohibited
15 under RCW 9A.46.020(2)(b) (iii) or (iv) and any criminal justice
16 participant as defined in RCW 9.61.260 (as recodified by this act)
17 who is a target for threats or harassment prohibited under RCW
18 9.61.260(2)(b) (iii) or (iv) (as recodified by this act), and any
19 family members residing with him or her, may apply to the secretary
20 of state to have an address designated by the secretary of state
21 serve as the person's address or the address of the minor or
22 incapacitated person. The secretary of state shall approve an
23 application if it is filed in the manner and on the form prescribed
24 by the secretary of state and if it contains:

25 (i) A sworn statement, under penalty of perjury, by the applicant
26 that the applicant has good reason to believe (A) that the applicant,
27 or the minor or incapacitated person on whose behalf the application
28 is made, is a victim of domestic violence, sexual assault,
29 trafficking, or stalking and that the applicant fears for his or her
30 safety or his or her children's safety, or the safety of the minor or
31 incapacitated person on whose behalf the application is made; ~~((or))~~
32 (B) that the applicant, as an election official as described in RCW
33 9.61.260 (as recodified by this act), is a target for threats or
34 harassment prohibited under RCW 9.61.260(2)(b) (iii) or (iv) (as
35 recodified by this act); or (C) that the applicant, as a criminal
36 justice participant as defined in RCW 9A.46.020, is a target for
37 threats or harassment prohibited under RCW 9A.46.020(2)(b) (iii) or
38 (iv), or that the applicant, as a criminal justice participant as

1 defined in RCW 9.61.260 (as recodified by this act) is a target for
2 threats or harassment prohibited under RCW 9.61.260(2)(b) (iii) or
3 (iv) (as recodified by this act);

4 (ii) If applicable, a sworn statement, under penalty of perjury,
5 by the applicant, that the applicant has reason to believe they are a
6 victim of (A) domestic violence, sexual assault, or stalking
7 perpetrated by an employee of a law enforcement agency, or; (B)
8 threats or harassment prohibited under RCW 9.61.260(2)(b) (iii) or
9 (iv) (as recodified by this act) or 9A.46.020(2)(b) (iii) or (iv);

10 (iii) A designation of the secretary of state as agent for
11 purposes of service of process and for the purpose of receipt of
12 mail;

13 (iv) The residential address and any telephone number where the
14 applicant can be contacted by the secretary of state, which shall not
15 be disclosed because disclosure will increase the risk of (A)
16 domestic violence, sexual assault, trafficking, or stalking, or (B)
17 threats or harassment prohibited under RCW 9.61.260(2)(b) (iii) or
18 (iv) (as recodified by this act) or 9A.46.020(2)(b) (iii) or (iv);

19 (v) The signature of the applicant and of any individual or
20 representative of any office designated in writing under RCW
21 40.24.080 who assisted in the preparation of the application, and the
22 date on which the applicant signed the application.

23 (2) Applications shall be filed with the office of the secretary
24 of state.

25 (3) Upon filing a properly completed application, the secretary
26 of state shall certify the applicant as a program participant.
27 Applicants shall be certified for four years following the date of
28 filing unless the certification is withdrawn or invalidated before
29 that date. The secretary of state shall by rule establish a renewal
30 procedure.

31 (4)(a) During the application process, the secretary of state
32 shall provide each applicant a form to direct the department of
33 licensing to change the address of registration for vehicles or
34 vessels solely or jointly registered to the applicant and the address
35 associated with the applicant's driver's license or identicard to the
36 applicant's address as designated by the secretary of state upon
37 certification in the program. The directive to the department of
38 licensing is only valid if signed by the applicant. The directive may
39 only include information required by the department of licensing to

1 verify the applicant's identity and ownership information for
2 vehicles and vessels. This information is limited to the:

3 (i) Applicant's full legal name;

4 (ii) Applicant's Washington driver's license or identicard
5 number;

6 (iii) Applicant's date of birth;

7 (iv) Vehicle identification number and license plate number for
8 each vehicle solely or jointly registered to the applicant; and

9 (v) Hull identification number or vessel document number and
10 vessel decal number for each vessel solely or jointly registered to
11 the applicant.

12 (b) Upon certification of the applicants, the secretary of state
13 shall transmit completed and signed directives to the department of
14 licensing.

15 (c) Within (~~thirty~~) 30 days of receiving a completed and signed
16 directive, the department of licensing shall update the applicant's
17 address on registration and licensing records.

18 (d) Applicants are not required to sign the directive to the
19 department of licensing to be certified as a program participant.

20 (5) A person who knowingly provides false or incorrect
21 information upon making an application or falsely attests in an
22 application that disclosure of the applicant's address would endanger

23 (a) the applicant's safety or the safety of the applicant's children
24 or the minor or incapacitated person on whose behalf the application
25 is made, (~~or~~) (b) the safety of any election official as described

26 in RCW 9.61.260 (as recodified by this act) who is a target for

27 threats or harassment prohibited under RCW 9.61.260(2)(b) (iii) or

28 (iv) (as recodified by this act), or (c) the safety of any criminal

29 justice participant as defined in RCW 9A.46.020 who is a target for

30 threats or harassment prohibited under RCW 9A.46.020(2)(b) (iii) or

31 (iv) or of any criminal justice participant as defined in RCW
32 9.61.260 (as recodified by this act) who is a target for threats or
33 harassment prohibited under RCW 9.61.260(2)(b) (iii) or (iv) (as
34 recodified by this act), or any family members residing with him or
35 her, shall be punished under RCW 40.16.030 or other applicable
36 statutes.

37 **Sec. 6.** RCW 7.77.170 and 2013 c 119 s 18 are each amended to
38 read as follows:

1 (1) There is no privilege under RCW 7.77.150 for a collaborative
2 law communication that is:

3 (a) Available to the public under chapter 42.56 RCW or made
4 during a session of a collaborative law process that is open, or is
5 required by law to be open, to the public;

6 (b) A threat or statement of a plan to inflict bodily injury or
7 commit a crime of violence;

8 (c) Intentionally used to plan a crime, commit or attempt to
9 commit a crime, or conceal an ongoing crime or ongoing criminal
10 activity; or

11 (d) In an agreement resulting from the collaborative law process,
12 evidenced by a record signed by all parties to the agreement.

13 (2) The privileges under RCW 7.77.150 for a collaborative law
14 communication do not apply to the extent that a communication is:

15 (a) Sought or offered to prove or disprove a claim or complaint
16 of professional misconduct or malpractice arising from or related to
17 a collaborative law process;

18 (b) Sought or offered to prove or disprove abuse, neglect,
19 abandonment, or exploitation of a child or adult, unless the child
20 protective services agency or adult protective services agency is a
21 party to or otherwise participates in the process; or

22 (c) Sought or offered to prove or disprove stalking or
23 (~~cyberstalking~~) cyber harassment of a party or child.

24 (3) There is no privilege under RCW 7.77.150 if a tribunal finds,
25 after a hearing in camera, that the party seeking discovery or the
26 proponent of the evidence has shown the evidence is not otherwise
27 available, the need for the evidence substantially outweighs the
28 interest in protecting confidentiality, and the collaborative law
29 communication is sought or offered in:

30 (a) A court proceeding involving a felony or misdemeanor; or

31 (b) A proceeding seeking rescission or reformation of a contract
32 arising out of the collaborative law process or in which a defense to
33 avoid liability on the contract is asserted.

34 (4) If a collaborative law communication is subject to an
35 exception under subsection (2) or (3) of this section, only the part
36 of the communication necessary for the application of the exception
37 may be disclosed or admitted.

38 (5) Disclosure or admission of evidence excepted from the
39 privilege under subsection (2) or (3) of this section does not make

1 the evidence or any other collaborative law communication
2 discoverable or admissible for any other purpose.

3 (6) The privileges under RCW 7.77.150 do not apply if the parties
4 agree in advance in a signed record, or if a record of a proceeding
5 reflects agreement by the parties, that all or part of a
6 collaborative law process is not privileged. This subsection does not
7 apply to a collaborative law communication made by a person that did
8 not receive actual notice of the agreement before the communication
9 was made.

10 **Sec. 7.** RCW 7.92.020 and 2020 c 296 s 4 are each amended to read
11 as follows:

12 The definitions in this section apply throughout this chapter
13 unless the context clearly requires otherwise.

14 (1) "Electronic monitoring" means the same as in RCW 9.94A.030.

15 (2) "Minor" means a person who is under (~~eighteen~~) 18 years of
16 age.

17 (3) "Petitioner" means any named petitioner for the stalking
18 protection order or any named victim of stalking conduct on whose
19 behalf the petition is brought.

20 (4) "Stalking conduct" means any of the following:

21 (a) Any act of stalking as defined under RCW 9A.46.110;

22 (b) Any act of (~~cyberstalking~~) cyber harassment as defined
23 under RCW 9.61.260 (as recodified by this act);

24 (c) Any course of conduct involving repeated or continuing
25 contacts, attempts to contact, monitoring, tracking, keeping under
26 observation, or following of another that:

27 (i) Would cause a reasonable person to feel intimidated,
28 frightened, or threatened and that actually causes such a feeling;

29 (ii) Serves no lawful purpose; and

30 (iii) The stalker knows or reasonably should know threatens,
31 frightens, or intimidates the person, even if the stalker did not
32 intend to intimidate, frighten, or threaten the person.

33 (5) "Stalking no-contact order" means a temporary order or a
34 final order granted under this chapter against a person charged with
35 or arrested for stalking, which includes a remedy authorized under
36 RCW 7.92.160.

37 (6) "Stalking protection order" means an ex parte temporary order
38 or a final order granted under this chapter, which includes a remedy
39 authorized in RCW 7.92.100.

1 **Sec. 8.** RCW 7.105.010 and 2021 c 215 s 2 are each amended to
2 read as follows:

3 The definitions in this section apply throughout this chapter
4 unless the context clearly requires otherwise.

5 (1) "Abandonment" means action or inaction by a person or entity
6 with a duty of care for a vulnerable adult that leaves the vulnerable
7 adult without the means or ability to obtain necessary food,
8 clothing, shelter, or health care.

9 (2) "Abuse," for the purposes of a vulnerable adult protection
10 order, means intentional, willful, or reckless action or inaction
11 that inflicts injury, unreasonable confinement, intimidation, or
12 punishment on a vulnerable adult. In instances of abuse of a
13 vulnerable adult who is unable to express or demonstrate physical
14 harm, pain, or mental anguish, the abuse is presumed to cause
15 physical harm, pain, or mental anguish. "Abuse" includes sexual
16 abuse, mental abuse, physical abuse, personal exploitation, and
17 improper use of restraint against a vulnerable adult, which have the
18 following meanings:

19 (a) "Improper use of restraint" means the inappropriate use of
20 chemical, physical, or mechanical restraints for convenience or
21 discipline, or in a manner that: (i) Is inconsistent with federal or
22 state licensing or certification requirements for facilities,
23 hospitals, or programs authorized under chapter 71A.12 RCW; (ii) is
24 not medically authorized; or (iii) otherwise constitutes abuse under
25 this section.

26 (b) "Mental abuse" means an intentional, willful, or reckless
27 verbal or nonverbal action that threatens, humiliates, harasses,
28 coerces, intimidates, isolates, unreasonably confines, or punishes a
29 vulnerable adult. "Mental abuse" may include ridiculing, yelling,
30 swearing, or withholding or tampering with prescribed medications or
31 their dosage.

32 (c) "Personal exploitation" means an act of forcing, compelling,
33 or exerting undue influence over a vulnerable adult causing the
34 vulnerable adult to act in a way that is inconsistent with relevant
35 past behavior, or causing the vulnerable adult to perform services
36 for the benefit of another.

37 (d) "Physical abuse" means the intentional, willful, or reckless
38 action of inflicting bodily injury or physical mistreatment.
39 "Physical abuse" includes, but is not limited to, striking with or

1 without an object, slapping, pinching, strangulation, suffocation,
2 kicking, shoving, or prodding.

3 (e) "Sexual abuse" means any form of nonconsensual sexual conduct
4 including, but not limited to, unwanted or inappropriate touching,
5 rape, molestation, indecent liberties, sexual coercion, sexually
6 explicit photographing or recording, voyeurism, indecent exposure,
7 and sexual harassment. "Sexual abuse" also includes any sexual
8 conduct between a staff person, who is not also a resident or client,
9 of a facility or a staff person of a program authorized under chapter
10 71A.12 RCW, and a vulnerable adult living in that facility or
11 receiving service from a program authorized under chapter 71A.12 RCW,
12 whether or not the sexual conduct is consensual.

13 (3) "Chemical restraint" means the administration of any drug to
14 manage a vulnerable adult's behavior in a way that reduces the safety
15 risk to the vulnerable adult or others, has the temporary effect of
16 restricting the vulnerable adult's freedom of movement, and is not
17 standard treatment for the vulnerable adult's medical or psychiatric
18 condition.

19 (4) "Consent" in the context of sexual acts means that at the
20 time of sexual contact, there are actual words or conduct indicating
21 freely given agreement to that sexual contact. Consent must be
22 ongoing and may be revoked at any time. Conduct short of voluntary
23 agreement does not constitute consent as a matter of law. Consent
24 cannot be freely given when a person does not have capacity due to
25 disability, intoxication, or age. Consent cannot be freely given when
26 the other party has authority or control over the care or custody of
27 a person incarcerated or detained.

28 (5) (a) "Course of conduct" means a pattern of conduct composed of
29 a series of acts over a period of time, however short, evidencing a
30 continuity of purpose. "Course of conduct" includes any form of
31 communication, contact, or conduct, including the sending of an
32 electronic communication, but does not include constitutionally
33 protected free speech. Constitutionally protected activity is not
34 included within the meaning of "course of conduct."

35 (b) In determining whether the course of conduct serves any
36 legitimate or lawful purpose, a court should consider whether:

37 (i) Any current contact between the parties was initiated by the
38 respondent only or was initiated by both parties;

39 (ii) The respondent has been given clear notice that all further
40 contact with the petitioner is unwanted;

1 (iii) The respondent's course of conduct appears designed to
2 alarm, annoy, or harass the petitioner;

3 (iv) The respondent is acting pursuant to any statutory authority
4 including, but not limited to, acts which are reasonably necessary
5 to:

6 (A) Protect property or liberty interests;

7 (B) Enforce the law; or

8 (C) Meet specific statutory duties or requirements;

9 (v) The respondent's course of conduct has the purpose or effect
10 of unreasonably interfering with the petitioner's privacy or the
11 purpose or effect of creating an intimidating, hostile, or offensive
12 living environment for the petitioner; or

13 (vi) Contact by the respondent with the petitioner or the
14 petitioner's family has been limited in any manner by any previous
15 court order.

16 (6) "Court clerk" means court administrators in courts of limited
17 jurisdiction and elected court clerks.

18 (7) "Dating relationship" means a social relationship of a
19 romantic nature. Factors that the court may consider in making this
20 determination include: (a) The length of time the relationship has
21 existed; (b) the nature of the relationship; and (c) the frequency of
22 interaction between the parties.

23 (8) "Domestic violence" means:

24 (a) Physical harm, bodily injury, assault, or the infliction of
25 fear of physical harm, bodily injury, or assault; nonconsensual
26 sexual conduct or nonconsensual sexual penetration; unlawful
27 harassment; or stalking of one intimate partner by another intimate
28 partner; or

29 (b) Physical harm, bodily injury, assault, or the infliction of
30 fear of physical harm, bodily injury, or assault; nonconsensual
31 sexual conduct or nonconsensual sexual penetration; unlawful
32 harassment; or stalking of one family or household member by another
33 family or household member.

34 (9) "Electronic monitoring" has the same meaning as in RCW
35 9.94A.030.

36 (10) "Essential personal effects" means those items necessary for
37 a person's immediate health, welfare, and livelihood. "Essential
38 personal effects" includes, but is not limited to, clothing, cribs,
39 bedding, medications, personal hygiene items, cellular phones and

1 other electronic devices, and documents, including immigration,
2 health care, financial, travel, and identity documents.

3 (11) "Facility" means a residence licensed or required to be
4 licensed under chapter 18.20 RCW, assisted living facilities; chapter
5 18.51 RCW, nursing homes; chapter 70.128 RCW, adult family homes;
6 chapter 72.36 RCW, soldiers' homes; chapter 71A.20 RCW, residential
7 habilitation centers; or any other facility licensed or certified by
8 the department of social and health services.

9 (12) "Family or household members" means: (a) Persons related by
10 blood, marriage, domestic partnership, or adoption; (b) persons who
11 currently or formerly resided together; (c) persons who have a
12 biological or legal parent-child relationship, including stepparents
13 and stepchildren and grandparents and grandchildren, or a parent's
14 intimate partner and children; and (d) a person who is acting or has
15 acted as a legal guardian.

16 (13) "Financial exploitation" means the illegal or improper use
17 of, control over, or withholding of, the property, income, resources,
18 or trust funds of the vulnerable adult by any person or entity for
19 any person's or entity's profit or advantage other than for the
20 vulnerable adult's profit or advantage. "Financial exploitation"
21 includes, but is not limited to:

22 (a) The use of deception, intimidation, or undue influence by a
23 person or entity in a position of trust and confidence with a
24 vulnerable adult to obtain or use the property, income, resources,
25 government benefits, health insurance benefits, or trust funds of the
26 vulnerable adult for the benefit of a person or entity other than the
27 vulnerable adult;

28 (b) The breach of a fiduciary duty, including, but not limited
29 to, the misuse of a power of attorney, trust, or a guardianship or
30 conservatorship appointment, that results in the unauthorized
31 appropriation, sale, or transfer of the property, income, resources,
32 or trust funds of the vulnerable adult for the benefit of a person or
33 entity other than the vulnerable adult; or

34 (c) Obtaining or using a vulnerable adult's property, income,
35 resources, or trust funds without lawful authority, by a person or
36 entity who knows or clearly should know that the vulnerable adult
37 lacks the capacity to consent to the release or use of the vulnerable
38 adult's property, income, resources, or trust funds.

39 (14) "Firearm" means a weapon or device from which a projectile
40 or projectiles may be fired by an explosive such as gunpowder.

1 "Firearm" does not include a flare gun or other pyrotechnic visual
2 distress signaling device, or a powder-actuated tool or other device
3 designed solely to be used for construction purposes. "Firearm" also
4 includes parts that can be assembled to make a firearm.

5 (15) "Full hearing" means a hearing where the court determines
6 whether to issue a full protection order.

7 (16) "Full protection order" means a protection order that is
8 issued by the court after notice to the respondent and where the
9 parties had the opportunity for a full hearing by the court. "Full
10 protection order" includes a protection order entered by the court by
11 agreement of the parties to resolve the petition for a protection
12 order without a full hearing.

13 (17) "Hospital" means a facility licensed under chapter 70.41 or
14 71.12 RCW or a state hospital defined in chapter 72.23 RCW and any
15 employee, agent, officer, director, or independent contractor
16 thereof.

17 (18) "Interested person" means a person who demonstrates to the
18 court's satisfaction that the person is interested in the welfare of
19 a vulnerable adult, that the person has a good faith belief that the
20 court's intervention is necessary, and that the vulnerable adult is
21 unable, due to incapacity, undue influence, or duress at the time the
22 petition is filed, to protect his or her own interests.

23 (19) "Intimate partner" means: (a) Spouses or domestic partners;
24 (b) former spouses or former domestic partners; (c) persons who have
25 a child in common regardless of whether they have been married or
26 have lived together at any time; or (d) persons who have or have had
27 a dating relationship where both persons are at least 13 years of age
28 or older.

29 (20)(a) "Isolate" or "isolation" means to restrict a person's
30 ability to communicate, visit, interact, or otherwise associate with
31 persons of his or her choosing. Isolation may be evidenced by acts
32 including, but not limited to:

33 (i) Acts that prevent a person from sending, making, or receiving
34 his or her personal mail, electronic communications, or telephone
35 calls; or

36 (ii) Acts that prevent or obstruct a person from meeting with
37 others, such as telling a prospective visitor or caller that the
38 person is not present or does not wish contact, where the statement
39 is contrary to the express wishes of the person.

1 (b) The term "isolate" or "isolation" may not be construed in a
2 manner that prevents a guardian or limited guardian from performing
3 his or her fiduciary obligations under chapter 11.92 RCW or prevents
4 a hospital or facility from providing treatment consistent with the
5 standard of care for delivery of health services.

6 (21) "Judicial day" means days of the week other than Saturdays,
7 Sundays, or legal holidays.

8 (22) "Mechanical restraint" means any device attached or adjacent
9 to a vulnerable adult's body that the vulnerable adult cannot easily
10 remove that restricts freedom of movement or normal access to the
11 vulnerable adult's body. "Mechanical restraint" does not include the
12 use of devices, materials, or equipment that are (a) medically
13 authorized, as required, and (b) used in a manner that is consistent
14 with federal or state licensing or certification requirements for
15 facilities, hospitals, or programs authorized under chapter 71A.12
16 RCW.

17 (23) "Minor" means a person who is under 18 years of age.

18 (24) "Neglect" means: (a) A pattern of conduct or inaction by a
19 person or entity with a duty of care that fails to provide the goods
20 and services that maintain the physical or mental health of a
21 vulnerable adult, or that fails to avoid or prevent physical or
22 mental harm or pain to a vulnerable adult; or (b) an act or omission
23 by a person or entity with a duty of care that demonstrates a serious
24 disregard of consequences of such a magnitude as to constitute a
25 clear and present danger to the vulnerable adult's health, welfare,
26 or safety including, but not limited to, conduct prohibited under RCW
27 9A.42.100.

28 (25) "Nonconsensual" means a lack of freely given consent.

29 (26) "Nonphysical contact" includes, but is not limited to,
30 written notes, mail, telephone calls, email, text messages, contact
31 through social media applications, contact through other
32 technologies, and contact through third parties.

33 (27) "Petitioner" means any named petitioner or any other person
34 identified in the petition on whose behalf the petition is brought.

35 (28) "Physical restraint" means the application of physical force
36 without the use of any device, for the purpose of restraining the
37 free movement of a vulnerable adult's body. "Physical restraint" does
38 not include (a) briefly holding, without undue force, a vulnerable
39 adult in order to calm or comfort him or her, or (b) holding a

1 vulnerable adult's hand to safely escort him or her from one area to
2 another.

3 (29) "Possession" means having an item in one's custody or
4 control. Possession may be either actual or constructive. Actual
5 possession occurs when the item is in the actual physical custody of
6 the person charged with possession. Constructive possession occurs
7 when there is no actual physical possession, but there is dominion
8 and control over the item.

9 (30) "Respondent" means the person who is identified as the
10 respondent in a petition filed under this chapter.

11 (31) "Sexual conduct" means any of the following:

12 (a) Any intentional or knowing touching or fondling of the
13 genitals, anus, or breasts, directly or indirectly, including through
14 clothing;

15 (b) Any intentional or knowing display of the genitals, anus, or
16 breasts for the purposes of arousal or sexual gratification of the
17 respondent;

18 (c) Any intentional or knowing touching or fondling of the
19 genitals, anus, or breasts, directly or indirectly, including through
20 clothing, that the petitioner is forced to perform by another person
21 or the respondent;

22 (d) Any forced display of the petitioner's genitals, anus, or
23 breasts for the purposes of arousal or sexual gratification of the
24 respondent or others;

25 (e) Any intentional or knowing touching of the clothed or
26 unclothed body of a child under the age of 16, if done for the
27 purpose of sexual gratification or arousal of the respondent or
28 others; or

29 (f) Any coerced or forced touching or fondling by a child under
30 the age of 16, directly or indirectly, including through clothing, of
31 the genitals, anus, or breasts of the respondent or others.

32 (32) "Sexual penetration" means any contact, however slight,
33 between the sex organ or anus of one person by an object, the sex
34 organ, mouth, or anus of another person, or any intrusion, however
35 slight, of any part of the body of one person or of any animal or
36 object into the sex organ or anus of another person including, but
37 not limited to, cunnilingus, fellatio, or anal penetration. Evidence
38 of emission of semen is not required to prove sexual penetration.

39 (33) "Stalking" means any of the following:

40 (a) Any act of stalking as defined under RCW 9A.46.110;

1 (b) Any act of (~~cyberstalking~~) cyber harassment as defined
2 under RCW 9.61.260 (as recodified by this act); or

3 (c) Any course of conduct involving repeated or continuing
4 contacts, attempts to contact, monitoring, tracking, surveillance,
5 keeping under observation, disrupting activities in a harassing
6 manner, or following of another person that:

7 (i) Would cause a reasonable person to feel intimidated,
8 frightened, under duress, significantly disrupted, or threatened and
9 that actually causes such a feeling;

10 (ii) Serves no lawful purpose; and

11 (iii) The respondent knows, or reasonably should know, threatens,
12 frightens, or intimidates the person, even if the respondent did not
13 intend to intimidate, frighten, or threaten the person.

14 (34) "Temporary protection order" means a protection order that
15 is issued before the court has decided whether to issue a full
16 protection order. "Temporary protection order" includes ex parte
17 temporary protection orders, as well as temporary protection orders
18 that are reissued by the court pending the completion of a full
19 hearing to decide whether to issue a full protection order. An "ex
20 parte temporary protection order" means a temporary protection order
21 that is issued without prior notice to the respondent.

22 (35) "Unlawful harassment" means:

23 (a) A knowing and willful course of conduct directed at a
24 specific person that seriously alarms, annoys, harasses, or is
25 detrimental to such person, and that serves no legitimate or lawful
26 purpose. The course of conduct must be such as would cause a
27 reasonable person to suffer substantial emotional distress, and must
28 actually cause substantial emotional distress to the petitioner; or

29 (b) A single act of violence or threat of violence directed at a
30 specific person that seriously alarms, annoys, harasses, or is
31 detrimental to such person, and that serves no legitimate or lawful
32 purpose, which would cause a reasonable person to suffer substantial
33 emotional distress, and must actually cause substantial emotional
34 distress to the petitioner. A single threat of violence must include:

35 (i) A malicious and intentional threat as described in RCW
36 9A.36.080(1)(c); or (ii) the presence of a firearm or other weapon.

37 (36) "Vulnerable adult" includes a person:

38 (a) Sixty years of age or older who has the functional, mental,
39 or physical inability to care for himself or herself; or

1 (b) Subject to a guardianship under RCW 11.130.265 or adult
2 subject to conservatorship under RCW 11.130.360; or

3 (c) Who has a developmental disability as defined under RCW
4 71A.10.020; or

5 (d) Admitted to any facility; or

6 (e) Receiving services from home health, hospice, or home care
7 agencies licensed or required to be licensed under chapter 70.127
8 RCW; or

9 (f) Receiving services from a person under contract with the
10 department of social and health services to provide services in the
11 home under chapter 74.09 or 74.39A RCW; or

12 (g) Who self-directs his or her own care and receives services
13 from a personal aide under chapter 74.39 RCW.

14 **Sec. 9.** RCW 7.105.310 and 2021 c 215 s 39 are each amended to
15 read as follows:

16 (1) In issuing any type of protection order, other than an
17 extreme risk protection order, the court shall have broad discretion
18 to grant such relief as the court deems proper, including an order
19 that provides relief as follows:

20 (a) Restrain the respondent from committing any of the following
21 acts against the petitioner and other persons protected by the order:
22 Domestic violence; nonconsensual sexual conduct or nonconsensual
23 sexual penetration; sexual abuse; stalking; acts of abandonment,
24 abuse, neglect, or financial exploitation against a vulnerable adult;
25 and unlawful harassment;

26 (b) Restrain the respondent from making any attempts to have
27 contact, including nonphysical contact, with the petitioner or the
28 petitioner's family or household members who are minors or other
29 members of the petitioner's household, either directly, indirectly,
30 or through third parties regardless of whether those third parties
31 know of the order;

32 (c) Exclude the respondent from the dwelling that the parties
33 share; from the residence, workplace, or school of the petitioner; or
34 from the day care or school of a minor child;

35 (d) Restrain the respondent from knowingly coming within, or
36 knowingly remaining within, a specified distance from a specified
37 location including, but not limited to, a residence, school, day
38 care, workplace, the protected party's person, and the protected
39 party's vehicle. The specified distance shall presumptively be at

1 least 1,000 feet, unless the court for good cause finds that a
2 shorter specified distance is appropriate;

3 (e) If the parties have children in common, make residential
4 provisions with regard to their minor children on the same basis as
5 is provided in chapter 26.09 RCW. However, parenting plans as
6 specified in chapter 26.09 RCW must not be required under this
7 chapter. The court may not delay or defer relief under this chapter
8 on the grounds that the parties could seek a parenting plan or
9 modification to a parenting plan in a different action. A protection
10 order must not be denied on the grounds that the parties have an
11 existing parenting plan in effect. A protection order may suspend the
12 respondent's contact with the parties' children under an existing
13 parenting plan, subject to further orders in a family law proceeding;

14 (f) Order the respondent to participate in a state-certified
15 domestic violence perpetrator treatment program approved under RCW
16 43.20A.735 or a state-certified sex offender treatment program
17 approved under RCW 18.155.070;

18 (g) Order the respondent to obtain a mental health or chemical
19 dependency evaluation. If the court determines that a mental health
20 evaluation is necessary, the court shall clearly document the reason
21 for this determination and provide a specific question or questions
22 to be answered by the mental health professional. The court shall
23 consider the ability of the respondent to pay for an evaluation.
24 Minors are presumed to be unable to pay. The parent or legal guardian
25 is responsible for costs unless the parent or legal guardian
26 demonstrates inability to pay;

27 (h) In cases where the petitioner and the respondent are students
28 who attend the same public or private elementary, middle, or high
29 school, the court, when issuing a protection order and providing
30 relief, shall consider, among the other facts of the case, the
31 severity of the act, any continuing physical danger, emotional
32 distress, or educational disruption to the petitioner, and the
33 financial difficulty and educational disruption that would be caused
34 by a transfer of the respondent to another school. The court may
35 order that the respondent not attend the public or private
36 elementary, middle, or high school attended by the petitioner. If a
37 minor respondent is prohibited attendance at the minor's assigned
38 public school, the school district must provide the student
39 comparable educational services in another setting. In such a case,
40 the district shall provide transportation at no cost to the

1 respondent if the respondent's parent or legal guardian is unable to
2 pay for transportation. The district shall put in place any needed
3 supports to ensure successful transition to the new school
4 environment. The court shall send notice of the restriction on
5 attending the same school as the petitioner to the public or private
6 school the respondent will attend and to the school the petitioner
7 attends;

8 (i) Require the respondent to pay the administrative court costs
9 and service fees, as established by the county or municipality
10 incurring the expense, and to reimburse the petitioner for costs
11 incurred in bringing the action, including reasonable attorneys' fees
12 or limited license legal technician fees when such fees are incurred
13 by a person licensed and practicing in accordance with state supreme
14 court admission and practice rule 28, the limited practice rule for
15 limited license legal technicians. Minors are presumed to be unable
16 to pay. The parent or legal guardian is responsible for costs unless
17 the parent or legal guardian demonstrates inability to pay;

18 (j) Restrain the respondent from harassing, following,
19 monitoring, keeping under physical or electronic surveillance,
20 (~~cyberstalking~~) cyber harassment as defined in RCW 9.61.260 (as
21 recodified by this act), and using telephonic, audiovisual, or other
22 electronic means to monitor the actions, location, or communication
23 of the petitioner or the petitioner's family or household members who
24 are minors or other members of the petitioner's household. For the
25 purposes of this subsection, "communication" includes both "wire
26 communication" and "electronic communication" as defined in RCW
27 9.73.260;

28 (k) Other than for respondents who are minors, require the
29 respondent to submit to electronic monitoring. The order must specify
30 who shall provide the electronic monitoring services and the terms
31 under which the monitoring must be performed. The order also may
32 include a requirement that the respondent pay the costs of the
33 monitoring. The court shall consider the ability of the respondent to
34 pay for electronic monitoring;

35 (l) Consider the provisions of RCW 9.41.800, and order the
36 respondent to surrender, and prohibit the respondent from accessing,
37 having in his or her custody or control, possessing, purchasing,
38 attempting to purchase or receive, or receiving, all firearms,
39 dangerous weapons, and any concealed pistol license, as required in
40 RCW 9.41.800;

1 (m) Order possession and use of essential personal effects. The
2 court shall list the essential personal effects with sufficient
3 specificity to make it clear which property is included. Personal
4 effects may include pets. The court may order that a petitioner be
5 granted the exclusive custody or control of any pet owned, possessed,
6 leased, kept, or held by the petitioner, respondent, or minor child
7 residing with either the petitioner or respondent, and may prohibit
8 the respondent from interfering with the petitioner's efforts to
9 obtain the pet. The court may also prohibit the respondent from
10 knowingly coming within, or knowingly remaining within, a specified
11 distance of specified locations where the pet is regularly found;

12 (n) Order use of a vehicle;

13 (o) Enter an order restricting the respondent from engaging in
14 abusive litigation as set forth in chapter 26.51 RCW or in frivolous
15 filings against the petitioner, making harassing or libelous
16 communications about the petitioner to third parties, or making false
17 reports to investigative agencies. A petitioner may request this
18 relief in the petition or by separate motion. A petitioner may
19 request this relief by separate motion at any time within five years
20 of the date the protection order is entered even if the order has
21 since expired. A stand-alone motion for an order restricting abusive
22 litigation may be brought by a party who meets the requirements of
23 chapter 26.51 RCW regardless of whether the party has previously
24 sought a protection order under this chapter, provided the motion is
25 made within five years of the date the order that made a finding of
26 domestic violence was entered. In cases where a finding of domestic
27 violence was entered pursuant to an order under chapter 26.09, 26.26,
28 or 26.26A RCW, a motion for an order restricting abusive litigation
29 may be brought under the family law case or as a stand-alone action
30 filed under this chapter, when it is not reasonable or practical to
31 file under the family law case;

32 (p) Restrain the respondent from committing acts of abandonment,
33 abuse, neglect, or financial exploitation against a vulnerable adult;

34 (q) Require an accounting by the respondent of the disposition of
35 the vulnerable adult's income or other resources;

36 (r) Restrain the transfer of either the respondent's or
37 vulnerable adult's property, or both, for a specified period not
38 exceeding 90 days;

39 (s) Order financial relief and restrain the transfer of jointly
40 owned assets;

1 (t) Restrain the respondent from possessing or distributing
2 intimate images, as defined in RCW 9A.86.010, depicting the
3 petitioner including, but not limited to, requiring the respondent
4 to: Take down and delete all intimate images and recordings of the
5 petitioner in the respondent's possession or control; and cease any
6 and all disclosure of those intimate images. The court may also
7 inform the respondent that it would be appropriate to ask third
8 parties in possession or control of the intimate images of this
9 protection order to take down and delete the intimate images so that
10 the order may not inadvertently be violated; or

11 (u) Order other relief as it deems necessary for the protection
12 of the petitioner and other family or household members who are
13 minors or vulnerable adults for whom the petitioner has sought
14 protection, including orders or directives to a law enforcement
15 officer, as allowed under this chapter.

16 (2) The court in granting a temporary antiharassment protection
17 order or a civil antiharassment protection order shall not prohibit
18 the respondent from exercising constitutionally protected free
19 speech. Nothing in this section prohibits the petitioner from
20 utilizing other civil or criminal remedies to restrain conduct or
21 communications not otherwise constitutionally protected.

22 (3) The court shall not take any of the following actions in
23 issuing a protection order.

24 (a) The court may not order the petitioner to obtain services
25 including, but not limited to, drug testing, victim support services,
26 a mental health assessment, or a psychological evaluation.

27 (b) The court may not order the petitioner to pay the
28 respondent's attorneys' fees or other costs.

29 (c) The court shall not issue a full protection order to any
30 party except upon notice to the respondent and the opportunity for a
31 hearing pursuant to a petition or counter-petition filed and served
32 by the party seeking relief in accordance with this chapter. Except
33 as provided in RCW 7.105.210, the court shall not issue a temporary
34 protection order to any party unless the party has filed a petition
35 or counter-petition for a protection order seeking relief in
36 accordance with this chapter.

37 (d) Under no circumstances shall the court deny the petitioner
38 the type of protection order sought in the petition on the grounds
39 that the court finds that a different type of protection order would
40 have a less severe impact on the respondent.

1 (4) The order shall specify the date the order expires, if any.
2 For permanent orders, the court shall set the date to expire 99 years
3 from the issuance date. The order shall also state whether the court
4 issued the protection order following personal service, service by
5 electronic means, service by mail, or service by publication, and
6 whether the court has approved service by mail or publication of an
7 order issued under this section.

8 **Sec. 10.** RCW 9.94A.030 and 2021 c 237 s 1 are each amended to
9 read as follows:

10 Unless the context clearly requires otherwise, the definitions in
11 this section apply throughout this chapter.

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

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

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

24 (4) "Community corrections officer" means an employee of the
25 department who is responsible for carrying out specific duties in
26 supervision of sentenced offenders and monitoring of sentence
27 conditions.

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

33 (6) "Community protection zone" means the area within (~~eight~~
34 ~~hundred eighty~~) 880 feet of the facilities and grounds of a public
35 or private school.

36 (7) "Community restitution" means compulsory service, without
37 compensation, performed for the benefit of the community by the
38 offender.

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

1 (9) "Conviction" means an adjudication of guilt pursuant to Title
2 10 or 13 RCW and includes a verdict of guilty, a finding of guilty,
3 and acceptance of a plea of guilty.

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

12 (11) "Criminal history" means the list of a defendant's prior
13 convictions and juvenile adjudications, whether in this state, in
14 federal court, or elsewhere, and any issued certificates of
15 restoration of opportunity pursuant to RCW 9.97.020.

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

20 (b) A conviction may be removed from a defendant's criminal
21 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,
22 9.95.240, or a similar out-of-state statute, or if the conviction has
23 been vacated pursuant to a governor's pardon. However, when a
24 defendant is charged with a recidivist offense, "criminal history"
25 includes a vacated prior conviction for the sole purpose of
26 establishing that such vacated prior conviction constitutes an
27 element of the present recidivist offense as provided in RCW
28 9.94A.640(4)(b) and 9.96.060(7)(c).

29 (c) The determination of a defendant's criminal history is
30 distinct from the determination of an offender score. A prior
31 conviction that was not included in an offender score calculated
32 pursuant to a former version of the sentencing reform act remains
33 part of the defendant's criminal history.

34 (12) "Criminal street gang" means any ongoing organization,
35 association, or group of three or more persons, whether formal or
36 informal, having a common name or common identifying sign or symbol,
37 having as one of its primary activities the commission of criminal
38 acts, and whose members or associates individually or collectively
39 engage in or have engaged in a pattern of criminal street gang
40 activity. This definition does not apply to employees engaged in

1 concerted activities for their mutual aid and protection, or to the
2 activities of labor and bona fide nonprofit organizations or their
3 members or agents.

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

8 (14) "Criminal street gang-related offense" means any felony or
9 misdemeanor offense, whether in this state or elsewhere, that is
10 committed for the benefit of, at the direction of, or in association
11 with any criminal street gang, or is committed with the intent to
12 promote, further, or assist in any criminal conduct by the gang, or
13 is committed for one or more of the following reasons:

14 (a) To gain admission, prestige, or promotion within the gang;

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

17 (c) To exact revenge or retribution for the gang or any member of
18 the gang;

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

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

24 (f) To provide the gang with any advantage in, or any control or
25 dominance over any criminal market sector, including, but not limited
26 to, manufacturing, delivering, or selling any controlled substance
27 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
28 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88
29 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual
30 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter
31 9.68 RCW).

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

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

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

2 (18) "Determinate sentence" means a sentence that states with
3 exactitude the number of actual years, months, or days of total
4 confinement, of partial confinement, of community custody, the number
5 of actual hours or days of community restitution work, or dollars or
6 terms of a legal financial obligation. The fact that an offender
7 through earned release can reduce the actual period of confinement
8 shall not affect the classification of the sentence as a determinate
9 sentence.

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

22 (20) "Domestic violence" has the same meaning as defined in RCW
23 10.99.020 and 26.50.010.

24 (21) "Drug offender sentencing alternative" is a sentencing
25 option available to persons convicted of a felony offense who are
26 eligible for the option under RCW 9.94A.660.

27 (22) "Drug offense" means:

28 (a) Any felony violation of chapter 69.50 RCW except possession
29 of a controlled substance (RCW 69.50.4013) or forged prescription for
30 a controlled substance (RCW 69.50.403);

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

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

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

39 (24) "Electronic monitoring" means tracking the location of an
40 individual through the use of technology that is capable of

1 determining or identifying the monitored individual's presence or
2 absence at a particular location including, but not limited to:

3 (a) Radio frequency signaling technology, which detects if the
4 monitored individual is or is not at an approved location and
5 notifies the monitoring agency of the time that the monitored
6 individual either leaves the approved location or tampers with or
7 removes the monitoring device; or

8 (b) Active or passive global positioning system technology, which
9 detects the location of the monitored individual and notifies the
10 monitoring agency of the monitored individual's location and which
11 may also include electronic monitoring with victim notification
12 technology that is capable of notifying a victim or protected party,
13 either directly or through a monitoring agency, if the monitored
14 individual enters within the restricted distance of a victim or
15 protected party, or within the restricted distance of a designated
16 location.

17 (25) "Escape" means:

18 (a) Sexually violent predator escape (RCW 9A.76.115), escape in
19 the first degree (RCW 9A.76.110), escape in the second degree (RCW
20 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
21 willful failure to return from work release (RCW 72.65.070), or
22 willful failure to be available for supervision by the department
23 while in community custody (RCW 72.09.310); or

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

27 (26) "Felony traffic offense" means:

28 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
29 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-
30 run injury-accident (RCW 46.52.020(4)), felony driving while under
31 the influence of intoxicating liquor or any drug (RCW 46.61.502(6)),
32 or felony physical control of a vehicle while under the influence of
33 intoxicating liquor or any drug (RCW 46.61.504(6)); or

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

37 (27) "Fine" means a specific sum of money ordered by the
38 sentencing court to be paid by the offender to the court over a
39 specific period of time.

1 (28) "First-time offender" means any person who has no prior
2 convictions for a felony and is eligible for the first-time offender
3 waiver under RCW 9.94A.650.

4 (29) "Home detention" is a subset of electronic monitoring and
5 means a program of partial confinement available to offenders wherein
6 the offender is confined in a private residence (~~((twenty-four))~~) 24
7 hours a day, unless an absence from the residence is approved,
8 authorized, or otherwise permitted in the order by the court or other
9 supervising agency that ordered home detention, and the offender is
10 subject to electronic monitoring.

11 (30) "Homelessness" or "homeless" means a condition where an
12 individual lacks a fixed, regular, and adequate nighttime residence
13 and who has a primary nighttime residence that is:

14 (a) A supervised, publicly or privately operated shelter designed
15 to provide temporary living accommodations;

16 (b) A public or private place not designed for, or ordinarily
17 used as, a regular sleeping accommodation for human beings; or

18 (c) A private residence where the individual stays as a transient
19 invitee.

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

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

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

39 (b) Assault in the second degree;

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

- 1 (d) Child molestation in the second degree;
2 (e) Controlled substance homicide;
3 (f) Extortion in the first degree;
4 (g) Incest when committed against a child under age (~~fourteen~~)
5 14;
6 (h) Indecent liberties;
7 (i) Kidnapping in the second degree;
8 (j) Leading organized crime;
9 (k) Manslaughter in the first degree;
10 (l) Manslaughter in the second degree;
11 (m) Promoting prostitution in the first degree;
12 (n) Rape in the third degree;
13 (o) Sexual exploitation;
14 (p) Vehicular assault, when caused by the operation or driving of
15 a vehicle by a person while under the influence of intoxicating
16 liquor or any drug or by the operation or driving of a vehicle in a
17 reckless manner;
18 (q) Vehicular homicide, when proximately caused by the driving of
19 any vehicle by any person while under the influence of intoxicating
20 liquor or any drug as defined by RCW 46.61.502, or by the operation
21 of any vehicle in a reckless manner;
22 (r) Any other class B felony offense with a finding of sexual
23 motivation;
24 (s) Any other felony with a deadly weapon verdict under RCW
25 9.94A.825;
26 (t) Any felony offense in effect at any time prior to December 2,
27 1993, that is comparable to a most serious offense under this
28 subsection, or any federal or out-of-state conviction for an offense
29 that under the laws of this state would be a felony classified as a
30 most serious offense under this subsection;
31 (u) (i) A prior conviction for indecent liberties under RCW
32 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex.
33 sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b),
34 and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW
35 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986,
36 until July 1, 1988;
37 (ii) A prior conviction for indecent liberties under RCW
38 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
39 if: (A) The crime was committed against a child under the age of
40 (~~fourteen~~) 14; or (B) the relationship between the victim and

1 perpetrator is included in the definition of indecent liberties under
2 RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27,
3 1997, or RCW 9A.44.100(1)(d) or (e) as it existed from July 25,
4 1993, through July 27, 1997;

5 (v) Any out-of-state conviction for a felony offense with a
6 finding of sexual motivation if the minimum sentence imposed was
7 (~~ten~~) 10 years or more; provided that the out-of-state felony
8 offense must be comparable to a felony offense under this title and
9 Title 9A RCW and the out-of-state definition of sexual motivation
10 must be comparable to the definition of sexual motivation contained
11 in this section.

12 (33) "Nonviolent offense" means an offense which is not a violent
13 offense.

14 (34) "Offender" means a person who has committed a felony
15 established by state law and is (~~eighteen~~) 18 years of age or older
16 or is less than (~~eighteen~~) 18 years of age but whose case is under
17 superior court jurisdiction under RCW 13.04.030 or has been
18 transferred by the appropriate juvenile court to a criminal court
19 pursuant to RCW 13.40.110. In addition, for the purpose of community
20 custody requirements under this chapter, "offender" also means a
21 misdemeanor or gross misdemeanor probationer ordered by a superior
22 court to probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210
23 and supervised by the department pursuant to RCW 9.94A.501 and
24 9.94A.5011. Throughout this chapter, the terms "offender" and
25 "defendant" are used interchangeably.

26 (35) "Partial confinement" means confinement for no more than one
27 year in a facility or institution operated or utilized under contract
28 by the state or any other unit of government, or, if home detention,
29 electronic monitoring, or work crew has been ordered by the court or
30 home detention has been ordered by the department as part of the
31 parenting program or the graduated reentry program, in an approved
32 residence, for a substantial portion of each day with the balance of
33 the day spent in the community. Partial confinement includes work
34 release, home detention, work crew, electronic monitoring, and a
35 combination of work crew, electronic monitoring, and home detention.

36 (36) "Pattern of criminal street gang activity" means:

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

1 (i) Any "serious violent" felony offense as defined in this
2 section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a
3 Child 1 (RCW 9A.36.120);
4 (ii) Any "violent" offense as defined by this section, excluding
5 Assault of a Child 2 (RCW 9A.36.130);
6 (iii) Deliver or Possession with Intent to Deliver a Controlled
7 Substance (chapter 69.50 RCW);
8 (iv) Any violation of the firearms and dangerous weapon act
9 (chapter 9.41 RCW);
10 (v) Theft of a Firearm (RCW 9A.56.300);
11 (vi) Possession of a Stolen Firearm (RCW 9A.56.310);
12 (vii) Hate Crime (RCW 9A.36.080);
13 (viii) Harassment where a subsequent violation or deadly threat
14 is made (RCW 9A.46.020(2)(b));
15 (ix) Criminal Gang Intimidation (RCW 9A.46.120);
16 (x) Any felony conviction by a person (~~(eighteen)~~) 18 years of
17 age or older with a special finding of involving a juvenile in a
18 felony offense under RCW 9.94A.833;
19 (xi) Residential Burglary (RCW 9A.52.025);
20 (xii) Burglary 2 (RCW 9A.52.030);
21 (xiii) Malicious Mischief 1 (RCW 9A.48.070);
22 (xiv) Malicious Mischief 2 (RCW 9A.48.080);
23 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);
24 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);
25 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW
26 9A.56.070);
27 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
28 9A.56.075);
29 (xix) Extortion 1 (RCW 9A.56.120);
30 (xx) Extortion 2 (RCW 9A.56.130);
31 (xxi) Intimidating a Witness (RCW 9A.72.110);
32 (xxii) Tampering with a Witness (RCW 9A.72.120);
33 (xxiii) Reckless Endangerment (RCW 9A.36.050);
34 (xxiv) Coercion (RCW 9A.36.070);
35 (xxv) Harassment (RCW 9A.46.020); or
36 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);
37 (b) That at least one of the offenses listed in (a) of this
38 subsection shall have occurred after July 1, 2008;

1 (c) That the most recent committed offense listed in (a) of this
2 subsection occurred within three years of a prior offense listed in
3 (a) of this subsection; and

4 (d) Of the offenses that were committed in (a) of this
5 subsection, the offenses occurred on separate occasions or were
6 committed by two or more persons.

7 (37) "Persistent offender" is an offender who:

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

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

18 (b) (i) Has been convicted of: (A) Rape in the first degree, rape
19 of a child in the first degree, child molestation in the first
20 degree, rape in the second degree, rape of a child in the second
21 degree, or indecent liberties by forcible compulsion; (B) any of the
22 following offenses with a finding of sexual motivation: Murder in the
23 first degree, murder in the second degree, homicide by abuse,
24 kidnapping in the first degree, kidnapping in the second degree,
25 assault in the first degree, assault in the second degree, assault of
26 a child in the first degree, assault of a child in the second degree,
27 or burglary in the first degree; or (C) an attempt to commit any
28 crime listed in this subsection (37) (b) (i); and

29 (ii) Has, before the commission of the offense under (b) (i) of
30 this subsection, been convicted as an offender on at least one
31 occasion, whether in this state or elsewhere, of an offense listed in
32 (b) (i) of this subsection or any federal or out-of-state offense or
33 offense under prior Washington law that is comparable to the offenses
34 listed in (b) (i) of this subsection. A conviction for rape of a child
35 in the first degree constitutes a conviction under (b) (i) of this
36 subsection only when the offender was (~~sixteen~~) 16 years of age or
37 older when the offender committed the offense. A conviction for rape
38 of a child in the second degree constitutes a conviction under (b) (i)
39 of this subsection only when the offender was (~~eighteen~~) 18 years
40 of age or older when the offender committed the offense.

1 (38) "Predatory" means: (a) The perpetrator of the crime was a
2 stranger to the victim, as defined in this section; (b) the
3 perpetrator established or promoted a relationship with the victim
4 prior to the offense and the victimization of the victim was a
5 significant reason the perpetrator established or promoted the
6 relationship; or (c) the perpetrator was: (i) A teacher, counselor,
7 volunteer, or other person in authority in any public or private
8 school and the victim was a student of the school under his or her
9 authority or supervision. For purposes of this subsection, "school"
10 does not include home-based instruction as defined in RCW
11 28A.225.010; (ii) a coach, trainer, volunteer, or other person in
12 authority in any recreational activity and the victim was a
13 participant in the activity under his or her authority or
14 supervision; (iii) a pastor, elder, volunteer, or other person in
15 authority in any church or religious organization, and the victim was
16 a member or participant of the organization under his or her
17 authority; or (iv) a teacher, counselor, volunteer, or other person
18 in authority providing home-based instruction and the victim was a
19 student receiving home-based instruction while under his or her
20 authority or supervision. For purposes of this subsection: (A) "Home-
21 based instruction" has the same meaning as defined in RCW
22 28A.225.010; and (B) "teacher, counselor, volunteer, or other person
23 in authority" does not include the parent or legal guardian of the
24 victim.

25 (39) "Private school" means a school regulated under chapter
26 28A.195 or 28A.205 RCW.

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

28 (41) "Recidivist offense" means a felony offense where a prior
29 conviction of the same offense or other specified offense is an
30 element of the crime including, but not limited to:

31 (a) Assault in the fourth degree where domestic violence is
32 pleaded and proven, RCW 9A.36.041(3);

33 (b) (~~Cyberstalking~~) Cyber harassment, RCW 9.61.260(~~(+3)(a)~~)
34 (2)(b)(i) (as recodified by this act);

35 (c) Harassment, RCW 9A.46.020(2)(b)(i);

36 (d) Indecent exposure, RCW 9A.88.010(2)(c);

37 (e) Stalking, RCW 9A.46.110(5)(b)(i) and (iii);

38 (f) Telephone harassment, RCW 9.61.230(2)(a); and

39 (g) Violation of a no-contact or protection order, RCW
40 26.50.110(5).

1 (42) "Repetitive domestic violence offense" means any:

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

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

6 (iii) Domestic violence violation of a protection order under
7 chapter 26.09, 26.26A, 26.26B, or 26.50 RCW that is not a felony
8 offense;

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

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

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

17 (43) "Restitution" means a specific sum of money ordered by the
18 sentencing court to be paid by the offender to the court over a
19 specified period of time as payment of damages. The sum may include
20 both public and private costs.

21 (44) "Risk assessment" means the application of the risk
22 instrument recommended to the department by the Washington state
23 institute for public policy as having the highest degree of
24 predictive accuracy for assessing an offender's risk of reoffense.

25 (45) "Serious traffic offense" means:

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

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

34 (46) "Serious violent offense" is a subcategory of violent
35 offense and means:

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

37 (ii) Homicide by abuse;

38 (iii) Murder in the second degree;

39 (iv) Manslaughter in the first degree;

40 (v) Assault in the first degree;

1 (vi) Kidnapping in the first degree;

2 (vii) Rape in the first degree;

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

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

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

9 (47) "Sex offense" means:

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

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

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

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

18 (v) A felony violation of RCW 9A.44.132(1) (failure to register
19 as a sex offender) if the person has been convicted of violating RCW
20 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130
21 prior to June 10, 2010, on at least one prior occasion;

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

25 (c) A felony with a finding of sexual motivation under RCW
26 9.94A.835 or 13.40.135; or

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

30 (48) "Sexual motivation" means that one of the purposes for which
31 the defendant committed the crime was for the purpose of his or her
32 sexual gratification.

33 (49) "Standard sentence range" means the sentencing court's
34 discretionary range in imposing a nonappealable sentence.

35 (50) "Statutory maximum sentence" means the maximum length of
36 time for which an offender may be confined as punishment for a crime
37 as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute
38 defining the crime, or other statute defining the maximum penalty for
39 a crime.

1 (51) "Stranger" means that the victim did not know the offender
2 ((~~twenty-four~~)) 24 hours before the offense.

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

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

13 (54) "Victim" means any person who has sustained emotional,
14 psychological, physical, or financial injury to person or property as
15 a direct result of the crime charged.

16 (55) "Victim of domestic violence" means an intimate partner or
17 household member who has been subjected to the infliction of physical
18 harm or sexual and psychological abuse by an intimate partner or
19 household member as part of a pattern of assaultive, coercive, and
20 controlling behaviors directed at achieving compliance from or
21 control over that intimate partner or household member. Domestic
22 violence includes, but is not limited to, the offenses listed in RCW
23 10.99.020 and 26.50.010 committed by an intimate partner or household
24 member against a victim who is an intimate partner or household
25 member.

26 (56) "Victim of sex trafficking, prostitution, or commercial
27 sexual abuse of a minor" means a person who has been forced or
28 coerced to perform a commercial sex act including, but not limited
29 to, being a victim of offenses defined in RCW 9A.40.100, 9A.88.070,
30 9.68A.101, and the trafficking victims protection act of 2000, 22
31 U.S.C. Sec. 7101 et seq.; or a person who was induced to perform a
32 commercial sex act when they were less than 18 years of age including
33 but not limited to the offenses defined in chapter 9.68A RCW.

34 (57) "Victim of sexual assault" means any person who is a victim
35 of a sexual assault offense, nonconsensual sexual conduct, or
36 nonconsensual sexual penetration and as a result suffers physical,
37 emotional, financial, or psychological impacts. Sexual assault
38 offenses include, but are not limited to, the offenses defined in
39 chapter 9A.44 RCW.

40 (58) "Violent offense" means:

1 (a) Any of the following felonies:
2 (i) Any felony defined under any law as a class A felony or an
3 attempt to commit a class A felony;
4 (ii) Criminal solicitation of or criminal conspiracy to commit a
5 class A felony;
6 (iii) Manslaughter in the first degree;
7 (iv) Manslaughter in the second degree;
8 (v) Indecent liberties if committed by forcible compulsion;
9 (vi) Kidnapping in the second degree;
10 (vii) Arson in the second degree;
11 (viii) Assault in the second degree;
12 (ix) Assault of a child in the second degree;
13 (x) Extortion in the first degree;
14 (xi) Robbery in the second degree;
15 (xii) Drive-by shooting;
16 (xiii) Vehicular assault, when caused by the operation or driving
17 of a vehicle by a person while under the influence of intoxicating
18 liquor or any drug or by the operation or driving of a vehicle in a
19 reckless manner; and
20 (xiv) Vehicular homicide, when proximately caused by the driving
21 of any vehicle by any person while under the influence of
22 intoxicating liquor or any drug as defined by RCW 46.61.502, or by
23 the operation of any vehicle in a reckless manner;
24 (b) Any conviction for a felony offense in effect at any time
25 prior to July 1, 1976, that is comparable to a felony classified as a
26 violent offense in (a) of this subsection; and
27 (c) Any federal or out-of-state conviction for an offense that
28 under the laws of this state would be a felony classified as a
29 violent offense under (a) or (b) of this subsection.
30 (59) "Work crew" means a program of partial confinement
31 consisting of civic improvement tasks for the benefit of the
32 community that complies with RCW 9.94A.725.
33 (60) "Work ethic camp" means an alternative incarceration program
34 as provided in RCW 9.94A.690 designed to reduce recidivism and lower
35 the cost of corrections by requiring offenders to complete a
36 comprehensive array of real-world job and vocational experiences,
37 character-building work ethics training, life management skills
38 development, substance abuse rehabilitation, counseling, literacy
39 training, and basic adult education.

1 (61) "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 **Sec. 11.** RCW 9.94A.030 and 2021 c 237 s 1 and 2021 c 215 s 97
5 are each reenacted and amended to read as follows:

6 Unless the context clearly requires otherwise, the definitions in
7 this section apply throughout this chapter.

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

10 (2) "Collect," or any derivative thereof, "collect and remit," or
11 "collect and deliver," when used with reference to the department,
12 means that the department, either directly or through a collection
13 agreement authorized by RCW 9.94A.760, is responsible for monitoring
14 and enforcing the offender's sentence with regard to the legal
15 financial obligation, receiving payment thereof from the offender,
16 and, consistent with current law, delivering daily the entire payment
17 to the superior court clerk without depositing it in a departmental
18 account.

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

20 (4) "Community corrections officer" means an employee of the
21 department who is responsible for carrying out specific duties in
22 supervision of sentenced offenders and monitoring of sentence
23 conditions.

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

29 (6) "Community protection zone" means the area within (~~eight~~
30 ~~hundred eighty~~) 880 feet of the facilities and grounds of a public
31 or private school.

32 (7) "Community restitution" means compulsory service, without
33 compensation, performed for the benefit of the community by the
34 offender.

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

36 (9) "Conviction" means an adjudication of guilt pursuant to Title
37 10 or 13 RCW and includes a verdict of guilty, a finding of guilty,
38 and acceptance of a plea of guilty.

1 (10) "Crime-related prohibition" means an order of a court
2 prohibiting conduct that directly relates to the circumstances of the
3 crime for which the offender has been convicted, and shall not be
4 construed to mean orders directing an offender affirmatively to
5 participate in rehabilitative programs or to otherwise perform
6 affirmative conduct. However, affirmative acts necessary to monitor
7 compliance with the order of a court may be required by the
8 department.

9 (11) "Criminal history" means the list of a defendant's prior
10 convictions and juvenile adjudications, whether in this state, in
11 federal court, or elsewhere, and any issued certificates of
12 restoration of opportunity pursuant to RCW 9.97.020.

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

17 (b) A conviction may be removed from a defendant's criminal
18 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,
19 9.95.240, or a similar out-of-state statute, or if the conviction has
20 been vacated pursuant to a governor's pardon. However, when a
21 defendant is charged with a recidivist offense, "criminal history"
22 includes a vacated prior conviction for the sole purpose of
23 establishing that such vacated prior conviction constitutes an
24 element of the present recidivist offense as provided in RCW
25 9.94A.640(4)(b) and 9.96.060(7)(c).

26 (c) The determination of a defendant's criminal history is
27 distinct from the determination of an offender score. A prior
28 conviction that was not included in an offender score calculated
29 pursuant to a former version of the sentencing reform act remains
30 part of the defendant's criminal history.

31 (12) "Criminal street gang" means any ongoing organization,
32 association, or group of three or more persons, whether formal or
33 informal, having a common name or common identifying sign or symbol,
34 having as one of its primary activities the commission of criminal
35 acts, and whose members or associates individually or collectively
36 engage in or have engaged in a pattern of criminal street gang
37 activity. This definition does not apply to employees engaged in
38 concerted activities for their mutual aid and protection, or to the
39 activities of labor and bona fide nonprofit organizations or their
40 members or agents.

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

5 (14) "Criminal street gang-related offense" means any felony or
6 misdemeanor offense, whether in this state or elsewhere, that is
7 committed for the benefit of, at the direction of, or in association
8 with any criminal street gang, or is committed with the intent to
9 promote, further, or assist in any criminal conduct by the gang, or
10 is committed for one or more of the following reasons:

11 (a) To gain admission, prestige, or promotion within the gang;

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

14 (c) To exact revenge or retribution for the gang or any member of
15 the gang;

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

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

21 (f) To provide the gang with any advantage in, or any control or
22 dominance over any criminal market sector, including, but not limited
23 to, manufacturing, delivering, or selling any controlled substance
24 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
25 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88
26 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual
27 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter
28 9.68 RCW).

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

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

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

39 (18) "Determinate sentence" means a sentence that states with
40 exactitude the number of actual years, months, or days of total

1 confinement, of partial confinement, of community custody, the number
2 of actual hours or days of community restitution work, or dollars or
3 terms of a legal financial obligation. The fact that an offender
4 through earned release can reduce the actual period of confinement
5 shall not affect the classification of the sentence as a determinate
6 sentence.

7 (19) "Disposable earnings" means that part of the earnings of an
8 offender remaining after the deduction from those earnings of any
9 amount required by law to be withheld. For the purposes of this
10 definition, "earnings" means compensation paid or payable for
11 personal services, whether denominated as wages, salary, commission,
12 bonuses, or otherwise, and, notwithstanding any other provision of
13 law making the payments exempt from garnishment, attachment, or other
14 process to satisfy a court-ordered legal financial obligation,
15 specifically includes periodic payments pursuant to pension or
16 retirement programs, or insurance policies of any type, but does not
17 include payments made under Title 50 RCW, except as provided in RCW
18 50.40.020 and 50.40.050, or Title 74 RCW.

19 (20)(a) "Domestic violence" has the same meaning as defined in
20 RCW 10.99.020.

21 (b) "Domestic violence" also means: (i) Physical harm, bodily
22 injury, assault, or the infliction of fear of imminent physical harm,
23 bodily injury, or assault, sexual assault, or stalking, as defined in
24 RCW 9A.46.110, of one intimate partner by another intimate partner as
25 defined in RCW 10.99.020; or (ii) physical harm, bodily injury,
26 assault, or the infliction of fear of imminent physical harm, bodily
27 injury, or assault, sexual assault, or stalking, as defined in RCW
28 9A.46.110, of one family or household member by another family or
29 household member as defined in RCW 10.99.020.

30 (21) "Drug offender sentencing alternative" is a sentencing
31 option available to persons convicted of a felony offense who are
32 eligible for the option under RCW 9.94A.660.

33 (22) "Drug offense" means:

34 (a) Any felony violation of chapter 69.50 RCW except possession
35 of a controlled substance (RCW 69.50.4013) or forged prescription for
36 a controlled substance (RCW 69.50.403);

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

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

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

6 (24) "Electronic monitoring" means tracking the location of an
7 individual through the use of technology that is capable of
8 determining or identifying the monitored individual's presence or
9 absence at a particular location including, but not limited to:

10 (a) Radio frequency signaling technology, which detects if the
11 monitored individual is or is not at an approved location and
12 notifies the monitoring agency of the time that the monitored
13 individual either leaves the approved location or tampers with or
14 removes the monitoring device; or

15 (b) Active or passive global positioning system technology, which
16 detects the location of the monitored individual and notifies the
17 monitoring agency of the monitored individual's location and which
18 may also include electronic monitoring with victim notification
19 technology that is capable of notifying a victim or protected party,
20 either directly or through a monitoring agency, if the monitored
21 individual enters within the restricted distance of a victim or
22 protected party, or within the restricted distance of a designated
23 location.

24 (25) "Escape" means:

25 (a) Sexually violent predator escape (RCW 9A.76.115), escape in
26 the first degree (RCW 9A.76.110), escape in the second degree (RCW
27 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
28 willful failure to return from work release (RCW 72.65.070), or
29 willful failure to be available for supervision by the department
30 while in community custody (RCW 72.09.310); or

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

34 (26) "Felony traffic offense" means:

35 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
36 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-
37 run injury-accident (RCW 46.52.020(4)), felony driving while under
38 the influence of intoxicating liquor or any drug (RCW 46.61.502(6)),
39 or felony physical control of a vehicle while under the influence of
40 intoxicating liquor or any drug (RCW 46.61.504(6)); or

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

4 (27) "Fine" means a specific sum of money ordered by the
5 sentencing court to be paid by the offender to the court over a
6 specific period of time.

7 (28) "First-time offender" means any person who has no prior
8 convictions for a felony and is eligible for the first-time offender
9 waiver under RCW 9.94A.650.

10 (29) "Home detention" is a subset of electronic monitoring and
11 means a program of partial confinement available to offenders wherein
12 the offender is confined in a private residence (~~(twenty-four)~~) 24
13 hours a day, unless an absence from the residence is approved,
14 authorized, or otherwise permitted in the order by the court or other
15 supervising agency that ordered home detention, and the offender is
16 subject to electronic monitoring.

17 (30) "Homelessness" or "homeless" means a condition where an
18 individual lacks a fixed, regular, and adequate nighttime residence
19 and who has a primary nighttime residence that is:

20 (a) A supervised, publicly or privately operated shelter designed
21 to provide temporary living accommodations;

22 (b) A public or private place not designed for, or ordinarily
23 used as, a regular sleeping accommodation for human beings; or

24 (c) A private residence where the individual stays as a transient
25 invitee.

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

1 (32) "Most serious offense" means any of the following felonies
2 or a felony attempt to commit any of the following felonies:

3 (a) Any felony defined under any law as a class A felony or
4 criminal solicitation of or criminal conspiracy to commit a class A
5 felony;

6 (b) Assault in the second degree;

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

8 (d) Child molestation in the second degree;

9 (e) Controlled substance homicide;

10 (f) Extortion in the first degree;

11 (g) Incest when committed against a child under age (~~fourteen~~)
12 14;

13 (h) Indecent liberties;

14 (i) Kidnapping in the second degree;

15 (j) Leading organized crime;

16 (k) Manslaughter in the first degree;

17 (l) Manslaughter in the second degree;

18 (m) Promoting prostitution in the first degree;

19 (n) Rape in the third degree;

20 (o) Sexual exploitation;

21 (p) Vehicular assault, when caused by the operation or driving of
22 a vehicle by a person while under the influence of intoxicating
23 liquor or any drug or by the operation or driving of a vehicle in a
24 reckless manner;

25 (q) Vehicular homicide, when proximately caused by the driving of
26 any vehicle by any person while under the influence of intoxicating
27 liquor or any drug as defined by RCW 46.61.502, or by the operation
28 of any vehicle in a reckless manner;

29 (r) Any other class B felony offense with a finding of sexual
30 motivation;

31 (s) Any other felony with a deadly weapon verdict under RCW
32 9.94A.825;

33 (t) Any felony offense in effect at any time prior to December 2,
34 1993, that is comparable to a most serious offense under this
35 subsection, or any federal or out-of-state conviction for an offense
36 that under the laws of this state would be a felony classified as a
37 most serious offense under this subsection;

38 (u)(i) A prior conviction for indecent liberties under RCW
39 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex.
40 sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b),

1 and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW
2 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986,
3 until July 1, 1988;

4 (ii) A prior conviction for indecent liberties under RCW
5 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
6 if: (A) The crime was committed against a child under the age of
7 (~~fourteen~~) 14; or (B) the relationship between the victim and
8 perpetrator is included in the definition of indecent liberties under
9 RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27,
10 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25,
11 1993, through July 27, 1997;

12 (v) Any out-of-state conviction for a felony offense with a
13 finding of sexual motivation if the minimum sentence imposed was
14 (~~ten~~) 10 years or more; provided that the out-of-state felony
15 offense must be comparable to a felony offense under this title and
16 Title 9A RCW and the out-of-state definition of sexual motivation
17 must be comparable to the definition of sexual motivation contained
18 in this section.

19 (33) "Nonviolent offense" means an offense which is not a violent
20 offense.

21 (34) "Offender" means a person who has committed a felony
22 established by state law and is (~~eighteen~~) 18 years of age or older
23 or is less than (~~eighteen~~) 18 years of age but whose case is under
24 superior court jurisdiction under RCW 13.04.030 or has been
25 transferred by the appropriate juvenile court to a criminal court
26 pursuant to RCW 13.40.110. In addition, for the purpose of community
27 custody requirements under this chapter, "offender" also means a
28 misdemeanor or gross misdemeanor probationer ordered by a superior
29 court to probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210
30 and supervised by the department pursuant to RCW 9.94A.501 and
31 9.94A.5011. Throughout this chapter, the terms "offender" and
32 "defendant" are used interchangeably.

33 (35) "Partial confinement" means confinement for no more than one
34 year in a facility or institution operated or utilized under contract
35 by the state or any other unit of government, or, if home detention,
36 electronic monitoring, or work crew has been ordered by the court or
37 home detention has been ordered by the department as part of the
38 parenting program or the graduated reentry program, in an approved
39 residence, for a substantial portion of each day with the balance of
40 the day spent in the community. Partial confinement includes work

1 release, home detention, work crew, electronic monitoring, and a
2 combination of work crew, electronic monitoring, and home detention.

3 (36) "Pattern of criminal street gang activity" means:

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

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

10 (ii) Any "violent" offense as defined by this section, excluding
11 Assault of a Child 2 (RCW 9A.36.130);

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

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

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

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

18 (vii) Hate Crime (RCW 9A.36.080);

19 (viii) Harassment where a subsequent violation or deadly threat
20 is made (RCW 9A.46.020(2)(b));

21 (ix) Criminal Gang Intimidation (RCW 9A.46.120);

22 (x) Any felony conviction by a person (~~(eighteen)~~) 18 years of
23 age or older with a special finding of involving a juvenile in a
24 felony offense under RCW 9.94A.833;

25 (xi) Residential Burglary (RCW 9A.52.025);

26 (xii) Burglary 2 (RCW 9A.52.030);

27 (xiii) Malicious Mischief 1 (RCW 9A.48.070);

28 (xiv) Malicious Mischief 2 (RCW 9A.48.080);

29 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);

30 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);

31 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW
32 9A.56.070);

33 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
34 9A.56.075);

35 (xix) Extortion 1 (RCW 9A.56.120);

36 (xx) Extortion 2 (RCW 9A.56.130);

37 (xxi) Intimidating a Witness (RCW 9A.72.110);

38 (xxii) Tampering with a Witness (RCW 9A.72.120);

39 (xxiii) Reckless Endangerment (RCW 9A.36.050);

40 (xxiv) Coercion (RCW 9A.36.070);

1 (xxv) Harassment (RCW 9A.46.020); or

2 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);

3 (b) That at least one of the offenses listed in (a) of this
4 subsection shall have occurred after July 1, 2008;

5 (c) That the most recent committed offense listed in (a) of this
6 subsection occurred within three years of a prior offense listed in
7 (a) of this subsection; and

8 (d) Of the offenses that were committed in (a) of this
9 subsection, the offenses occurred on separate occasions or were
10 committed by two or more persons.

11 (37) "Persistent offender" is an offender who:

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

14 (ii) Has, before the commission of the offense under (a) of this
15 subsection, been convicted as an offender on at least two separate
16 occasions, whether in this state or elsewhere, of felonies that under
17 the laws of this state would be considered most serious offenses and
18 would be included in the offender score under RCW 9.94A.525; provided
19 that of the two or more previous convictions, at least one conviction
20 must have occurred before the commission of any of the other most
21 serious offenses for which the offender was previously convicted; or

22 (b) (i) Has been convicted of: (A) Rape in the first degree, rape
23 of a child in the first degree, child molestation in the first
24 degree, rape in the second degree, rape of a child in the second
25 degree, or indecent liberties by forcible compulsion; (B) any of the
26 following offenses with a finding of sexual motivation: Murder in the
27 first degree, murder in the second degree, homicide by abuse,
28 kidnapping in the first degree, kidnapping in the second degree,
29 assault in the first degree, assault in the second degree, assault of
30 a child in the first degree, assault of a child in the second degree,
31 or burglary in the first degree; or (C) an attempt to commit any
32 crime listed in this subsection (37) (b) (i); and

33 (ii) Has, before the commission of the offense under (b) (i) of
34 this subsection, been convicted as an offender on at least one
35 occasion, whether in this state or elsewhere, of an offense listed in
36 (b) (i) of this subsection or any federal or out-of-state offense or
37 offense under prior Washington law that is comparable to the offenses
38 listed in (b) (i) of this subsection. A conviction for rape of a child
39 in the first degree constitutes a conviction under (b) (i) of this
40 subsection only when the offender was (~~sixteen~~) 16 years of age or

1 older when the offender committed the offense. A conviction for rape
2 of a child in the second degree constitutes a conviction under (b) (i)
3 of this subsection only when the offender was (~~(eighteen)~~) 18 years
4 of age or older when the offender committed the offense.

5 (38) "Predatory" means: (a) The perpetrator of the crime was a
6 stranger to the victim, as defined in this section; (b) the
7 perpetrator established or promoted a relationship with the victim
8 prior to the offense and the victimization of the victim was a
9 significant reason the perpetrator established or promoted the
10 relationship; or (c) the perpetrator was: (i) A teacher, counselor,
11 volunteer, or other person in authority in any public or private
12 school and the victim was a student of the school under his or her
13 authority or supervision. For purposes of this subsection, "school"
14 does not include home-based instruction as defined in RCW
15 28A.225.010; (ii) a coach, trainer, volunteer, or other person in
16 authority in any recreational activity and the victim was a
17 participant in the activity under his or her authority or
18 supervision; (iii) a pastor, elder, volunteer, or other person in
19 authority in any church or religious organization, and the victim was
20 a member or participant of the organization under his or her
21 authority; or (iv) a teacher, counselor, volunteer, or other person
22 in authority providing home-based instruction and the victim was a
23 student receiving home-based instruction while under his or her
24 authority or supervision. For purposes of this subsection: (A) "Home-
25 based instruction" has the same meaning as defined in RCW
26 28A.225.010; and (B) "teacher, counselor, volunteer, or other person
27 in authority" does not include the parent or legal guardian of the
28 victim.

29 (39) "Private school" means a school regulated under chapter
30 28A.195 or 28A.205 RCW.

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

32 (41) "Recidivist offense" means a felony offense where a prior
33 conviction of the same offense or other specified offense is an
34 element of the crime including, but not limited to:

35 (a) Assault in the fourth degree where domestic violence is
36 pleaded and proven, RCW 9A.36.041(3);

37 (b) (~~(Cyberstalking)~~) Cyber harassment, RCW 9.61.260(~~((3)(a))~~)
38 (2)(b)(i) (as recodified by this act);

39 (c) Harassment, RCW 9A.46.020(2)(b)(i);

40 (d) Indecent exposure, RCW 9A.88.010(2)(c);

1 (e) Stalking, RCW 9A.46.110(5)(b)(i) and (iii);
2 (f) Telephone harassment, RCW 9.61.230(2)(a); and
3 (g) Violation of a no-contact or protection order, RCW 7.105.450
4 or former RCW 26.50.110(5).

5 (42) "Repetitive domestic violence offense" means any:

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

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

10 (iii) Domestic violence violation of a protection order under
11 chapter 26.09, 26.26A, or 26.26B RCW or former chapter 26.50 RCW, or
12 violation of a domestic violence protection order under chapter 7.105
13 RCW, that is not a felony offense;

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

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

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

22 (43) "Restitution" means a specific sum of money ordered by the
23 sentencing court to be paid by the offender to the court over a
24 specified period of time as payment of damages. The sum may include
25 both public and private costs.

26 (44) "Risk assessment" means the application of the risk
27 instrument recommended to the department by the Washington state
28 institute for public policy as having the highest degree of
29 predictive accuracy for assessing an offender's risk of reoffense.

30 (45) "Serious traffic offense" means:

31 (a) Nonfelony driving while under the influence of intoxicating
32 liquor or any drug (RCW 46.61.502), nonfelony actual physical control
33 while under the influence of intoxicating liquor or any drug (RCW
34 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an
35 attended vehicle (RCW 46.52.020(5)); or

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

39 (46) "Serious violent offense" is a subcategory of violent
40 offense and means:

1 (a) (i) Murder in the first degree;
2 (ii) Homicide by abuse;
3 (iii) Murder in the second degree;
4 (iv) Manslaughter in the first degree;
5 (v) Assault in the first degree;
6 (vi) Kidnapping in the first degree;
7 (vii) Rape in the first degree;
8 (viii) Assault of a child in the first degree; or
9 (ix) An attempt, criminal solicitation, or criminal conspiracy to
10 commit one of these felonies; or
11 (b) Any federal or out-of-state conviction for an offense that
12 under the laws of this state would be a felony classified as a
13 serious violent offense under (a) of this subsection.
14 (47) "Sex offense" means:
15 (a) (i) A felony that is a violation of chapter 9A.44 RCW other
16 than RCW 9A.44.132;
17 (ii) A violation of RCW 9A.64.020;
18 (iii) A felony that is a violation of chapter 9.68A RCW other
19 than RCW 9.68A.080;
20 (iv) A felony that is, under chapter 9A.28 RCW, a criminal
21 attempt, criminal solicitation, or criminal conspiracy to commit such
22 crimes; or
23 (v) A felony violation of RCW 9A.44.132(1) (failure to register
24 as a sex offender) if the person has been convicted of violating RCW
25 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130
26 prior to June 10, 2010, on at least one prior occasion;
27 (b) Any conviction for a felony offense in effect at any time
28 prior to July 1, 1976, that is comparable to a felony classified as a
29 sex offense in (a) of this subsection;
30 (c) A felony with a finding of sexual motivation under RCW
31 9.94A.835 or 13.40.135; or
32 (d) Any federal or out-of-state conviction for an offense that
33 under the laws of this state would be a felony classified as a sex
34 offense under (a) of this subsection.
35 (48) "Sexual motivation" means that one of the purposes for which
36 the defendant committed the crime was for the purpose of his or her
37 sexual gratification.
38 (49) "Standard sentence range" means the sentencing court's
39 discretionary range in imposing a nonappealable sentence.

1 (50) "Statutory maximum sentence" means the maximum length of
2 time for which an offender may be confined as punishment for a crime
3 as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute
4 defining the crime, or other statute defining the maximum penalty for
5 a crime.

6 (51) "Stranger" means that the victim did not know the offender
7 (~~((twenty-four))~~) 24 hours before the offense.

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

12 (53) "Transition training" means written and verbal instructions
13 and assistance provided by the department to the offender during the
14 two weeks prior to the offender's successful completion of the work
15 ethic camp program. The transition training shall include
16 instructions in the offender's requirements and obligations during
17 the offender's period of community custody.

18 (54) "Victim" means any person who has sustained emotional,
19 psychological, physical, or financial injury to person or property as
20 a direct result of the crime charged.

21 (55) "Victim of domestic violence" means an intimate partner or
22 household member who has been subjected to the infliction of physical
23 harm or sexual and psychological abuse by an intimate partner or
24 household member as part of a pattern of assaultive, coercive, and
25 controlling behaviors directed at achieving compliance from or
26 control over that intimate partner or household member. Domestic
27 violence includes, but is not limited to, the offenses listed in RCW
28 10.99.020 and 26.50.010 committed by an intimate partner or household
29 member against a victim who is an intimate partner or household
30 member.

31 (56) "Victim of sex trafficking, prostitution, or commercial
32 sexual abuse of a minor" means a person who has been forced or
33 coerced to perform a commercial sex act including, but not limited
34 to, being a victim of offenses defined in RCW 9A.40.100, 9A.88.070,
35 9.68A.101, and the trafficking victims protection act of 2000, 22
36 U.S.C. Sec. 7101 et seq.; or a person who was induced to perform a
37 commercial sex act when they were less than 18 years of age including
38 but not limited to the offenses defined in chapter 9.68A RCW.

39 (57) "Victim of sexual assault" means any person who is a victim
40 of a sexual assault offense, nonconsensual sexual conduct, or

1 nonconsensual sexual penetration and as a result suffers physical,
2 emotional, financial, or psychological impacts. Sexual assault
3 offenses include, but are not limited to, the offenses defined in
4 chapter 9A.44 RCW.

5 (58) "Violent offense" means:

6 (a) Any of the following felonies:

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

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

11 (iii) Manslaughter in the first degree;

12 (iv) Manslaughter in the second degree;

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

14 (vi) Kidnapping in the second degree;

15 (vii) Arson in the second degree;

16 (viii) Assault in the second degree;

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

18 (x) Extortion in the first degree;

19 (xi) Robbery in the second degree;

20 (xii) Drive-by shooting;

21 (xiii) Vehicular assault, when caused by the operation or driving
22 of a vehicle by a person while under the influence of intoxicating
23 liquor or any drug or by the operation or driving of a vehicle in a
24 reckless manner; and

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

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

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

35 (59) "Work crew" means a program of partial confinement
36 consisting of civic improvement tasks for the benefit of the
37 community that complies with RCW 9.94A.725.

38 (60) "Work ethic camp" means an alternative incarceration program
39 as provided in RCW 9.94A.690 designed to reduce recidivism and lower
40 the cost of corrections by requiring offenders to complete a

1 comprehensive array of real-world job and vocational experiences,
2 character-building work ethics training, life management skills
3 development, substance abuse rehabilitation, counseling, literacy
4 training, and basic adult education.

5 (61) "Work release" means a program of partial confinement
6 available to offenders who are employed or engaged as a student in a
7 regular course of study at school.

8 **Sec. 12.** RCW 9.94A.515 and 2020 c 344 s 4 are each amended to
9 read as follows:

10 TABLE 2

11 CRIMES INCLUDED WITHIN EACH
12 SERIOUSNESS LEVEL

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

1 Rape of a Child 2 (RCW 9A.44.076)
2 Vehicular Homicide, by being under the
3 influence of intoxicating liquor or
4 any drug (RCW 46.61.520)
5 Vehicular Homicide, by the operation of
6 any vehicle in a reckless manner
7 (RCW 46.61.520)
8 X Child Molestation 1 (RCW 9A.44.083)
9 Criminal Mistreatment 1 (RCW
10 9A.42.020)
11 Indecent Liberties (with forcible
12 compulsion) (RCW
13 9A.44.100(1)(a))
14 Kidnapping 1 (RCW 9A.40.020)
15 Leading Organized Crime (RCW
16 9A.82.060(1)(a))
17 Malicious explosion 3 (RCW
18 70.74.280(3))
19 Sexually Violent Predator Escape (RCW
20 9A.76.115)
21 IX Abandonment of Dependent Person 1
22 (RCW 9A.42.060)
23 Assault of a Child 2 (RCW 9A.36.130)
24 Explosive devices prohibited (RCW
25 70.74.180)
26 Hit and Run—Death (RCW
27 46.52.020(4)(a))
28 Homicide by Watercraft, by being under
29 the influence of intoxicating liquor
30 or any drug (RCW 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)

1 Sexual Exploitation (RCW 9.68A.040)
2 VIII Arson 1 (RCW 9A.48.020)
3 Commercial Sexual Abuse of a Minor
4 (RCW 9.68A.100)
5 Homicide by Watercraft, by the
6 operation of any vessel in a reckless
7 manner (RCW 79A.60.050)
8 Manslaughter 2 (RCW 9A.32.070)
9 Promoting Prostitution 1 (RCW
10 9A.88.070)
11 Theft of Ammonia (RCW 69.55.010)
12 VII Air bag diagnostic systems (causing
13 bodily injury or death) (RCW
14 46.37.660(2)(b))
15 Air bag replacement requirements
16 (causing bodily injury or death)
17 (RCW 46.37.660(1)(b))
18 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 False Reporting 1 (RCW
27 9A.84.040(2)(a))
28 Homicide by Watercraft, by disregard
29 for the safety of others (RCW
30 79A.60.050)
31 Indecent Liberties (without forcible
32 compulsion) (RCW 9A.44.100(1)
33 (b) and (c))
34 Introducing Contraband 1 (RCW
35 9A.76.140)

1 Malicious placement of an explosive 3
2 (RCW 70.74.270(3))
3 Manufacture or import counterfeit,
4 nonfunctional, damaged, or
5 previously deployed air bag
6 (causing bodily injury or death)
7 (RCW 46.37.650(1)(b))
8 Negligently Causing Death By Use of a
9 Signal Preemption Device (RCW
10 46.37.675)
11 Sell, install, or reinstall counterfeit,
12 nonfunctional, damaged, or
13 previously deployed airbag (RCW
14 46.37.650(2)(b))
15 Sending, bringing into state depictions
16 of minor engaged in sexually
17 explicit conduct 1 (RCW
18 9.68A.060(1))
19 Unlawful Possession of a Firearm in the
20 first degree (RCW 9.41.040(1))
21 Use of a Machine Gun or Bump-fire
22 Stock in Commission of a Felony
23 (RCW 9.41.225)
24 Vehicular Homicide, by disregard for
25 the safety of others (RCW
26 46.61.520)
27 VI Bail Jumping with Murder 1 (RCW
28 9A.76.170(3)(a))
29 Bribery (RCW 9A.68.010)
30 Incest 1 (RCW 9A.64.020(1))
31 Intimidating a Judge (RCW 9A.72.160)
32 Intimidating a Juror/Witness (RCW
33 9A.72.110, 9A.72.130)
34 Malicious placement of an imitation
35 device 2 (RCW 70.74.272(1)(b))

1 Possession of Depictions of a Minor
2 Engaged in Sexually Explicit
3 Conduct 1 (RCW 9.68A.070(1))
4 Rape of a Child 3 (RCW 9A.44.079)
5 Theft of a Firearm (RCW 9A.56.300)
6 Theft from a Vulnerable Adult 1 (RCW
7 9A.56.400(1))
8 Unlawful Storage of Ammonia (RCW
9 69.55.020)
10 V Abandonment of Dependent Person 2
11 (RCW 9A.42.070)
12 Advancing money or property for
13 extortionate extension of credit
14 (RCW 9A.82.030)
15 Air bag diagnostic systems (RCW
16 46.37.660(2)(c))
17 Air bag replacement requirements
18 (RCW 46.37.660(1)(c))
19 Bail Jumping with class A Felony
20 (RCW 9A.76.170(3)(b))
21 Child Molestation 3 (RCW 9A.44.089)
22 Criminal Mistreatment 2 (RCW
23 9A.42.030)
24 Custodial Sexual Misconduct 1 (RCW
25 9A.44.160)
26 Dealing in Depictions of Minor
27 Engaged in Sexually Explicit
28 Conduct 2 (RCW 9.68A.050(2))
29 Domestic Violence Court Order
30 Violation (RCW 10.99.040,
31 10.99.050, 26.09.300, 26.10.220,
32 26.26B.050, 26.50.110, 26.52.070,
33 or 74.34.145)
34 Extortion 1 (RCW 9A.56.120)
35 Extortionate Extension of Credit (RCW
36 9A.82.020)

1 Extortionate Means to Collect
2 Extensions of Credit (RCW
3 9A.82.040)
4 Incest 2 (RCW 9A.64.020(2))
5 Kidnapping 2 (RCW 9A.40.030)
6 Manufacture or import counterfeit,
7 nonfunctional, damaged, or
8 previously deployed air bag (RCW
9 46.37.650(1)(c))
10 Perjury 1 (RCW 9A.72.020)
11 Persistent prison misbehavior (RCW
12 9.94.070)
13 Possession of a Stolen Firearm (RCW
14 9A.56.310)
15 Rape 3 (RCW 9A.44.060)
16 Rendering Criminal Assistance 1 (RCW
17 9A.76.070)
18 Sell, install, or reinstall counterfeit,
19 nonfunctional, damaged, or
20 previously deployed airbag (RCW
21 46.37.650(2)(c))
22 Sending, Bringing into State Depictions
23 of Minor Engaged in Sexually
24 Explicit Conduct 2 (RCW
25 9.68A.060(2))
26 Sexual Misconduct with a Minor 1
27 (RCW 9A.44.093)
28 Sexually Violating Human Remains
29 (RCW 9A.44.105)
30 Stalking (RCW 9A.46.110)
31 Taking Motor Vehicle Without
32 Permission 1 (RCW 9A.56.070)
33 IV Arson 2 (RCW 9A.48.030)
34 Assault 2 (RCW 9A.36.021)

1 Assault 3 (of a Peace Officer with a
2 Projectile Stun Gun) (RCW
3 9A.36.031(1)(h))
4 Assault 4 (third domestic violence
5 offense) (RCW 9A.36.041(3))
6 Assault by Watercraft (RCW
7 79A.60.060)
8 Bribing a Witness/Bribe Received by
9 Witness (RCW 9A.72.090,
10 9A.72.100)
11 Cheating 1 (RCW 9.46.1961)
12 Commercial Bribery (RCW 9A.68.060)
13 Counterfeiting (RCW 9.16.035(4))
14 Driving While Under the Influence
15 (RCW 46.61.502(6))
16 Endangerment with a Controlled
17 Substance (RCW 9A.42.100)
18 Escape 1 (RCW 9A.76.110)
19 Hate Crime (RCW 9A.36.080)
20 Hit and Run—Injury (RCW
21 46.52.020(4)(b))
22 Hit and Run with Vessel—Injury
23 Accident (RCW 79A.60.200(3))
24 Identity Theft 1 (RCW 9.35.020(2))
25 Indecent Exposure to Person Under Age
26 ((~~Fourteen~~)) 14 (subsequent sex
27 offense) (RCW 9A.88.010)
28 Influencing Outcome of Sporting Event
29 (RCW 9A.82.070)
30 Physical Control of a Vehicle While
31 Under the Influence (RCW
32 46.61.504(6))
33 Possession of Depictions of a Minor
34 Engaged in Sexually Explicit
35 Conduct 2 (RCW 9.68A.070(2))

1 Residential Burglary (RCW 9A.52.025)
2 Robbery 2 (RCW 9A.56.210)
3 Theft of Livestock 1 (RCW 9A.56.080)
4 Threats to Bomb (RCW 9.61.160)
5 Trafficking in Stolen Property 1 (RCW
6 9A.82.050)
7 Unlawful factoring of a credit card or
8 payment card transaction (RCW
9 9A.56.290(4)(b))
10 Unlawful transaction of health coverage
11 as a health care service contractor
12 (RCW 48.44.016(3))
13 Unlawful transaction of health coverage
14 as a health maintenance
15 organization (RCW 48.46.033(3))
16 Unlawful transaction of insurance
17 business (RCW 48.15.023(3))
18 Unlicensed practice as an insurance
19 professional (RCW 48.17.063(2))
20 Use of Proceeds of Criminal
21 Profiteering (RCW 9A.82.080 (1)
22 and (2))
23 Vehicle Prowling 2 (third or subsequent
24 offense) (RCW 9A.52.100(3))
25 Vehicular Assault, by being under the
26 influence of intoxicating liquor or
27 any drug, or by the operation or
28 driving of a vehicle in a reckless
29 manner (RCW 46.61.522)
30 Viewing of Depictions of a Minor
31 Engaged in Sexually Explicit
32 Conduct 1 (RCW 9.68A.075(1))
33 Willful Failure to Return from Furlough
34 (RCW 72.66.060)
35 III Animal Cruelty 1 (Sexual Conduct or
36 Contact) (RCW 16.52.205(3))

1 Assault 3 (Except Assault 3 of a Peace
2 Officer With a Projectile Stun Gun)
3 (RCW 9A.36.031 except subsection
4 (1)(h))
5 Assault of a Child 3 (RCW 9A.36.140)
6 Bail Jumping with class B or C Felony
7 (RCW 9A.76.170(3)(c))
8 Burglary 2 (RCW 9A.52.030)
9 Communication with a Minor for
10 Immoral Purposes (RCW
11 9.68A.090)
12 Criminal Gang Intimidation (RCW
13 9A.46.120)
14 Custodial Assault (RCW 9A.36.100)
15 ~~((Cyberstalking (subsequent conviction
16 or threat of death)))~~ Cyber
17 Harassment (RCW 9.61.260(~~(3)~~))
18 (2)(b) (as recodified by this act)
19 Escape 2 (RCW 9A.76.120)
20 Extortion 2 (RCW 9A.56.130)
21 False Reporting 2 (RCW
22 9A.84.040(2)(b))
23 Harassment (RCW 9A.46.020)
24 Intimidating a Public Servant (RCW
25 9A.76.180)
26 Introducing Contraband 2 (RCW
27 9A.76.150)
28 Malicious Injury to Railroad Property
29 (RCW 81.60.070)
30 Manufacture of Untraceable Firearm
31 with Intent to Sell (RCW 9.41.190)
32 Manufacture or Assembly of an
33 Undetectable Firearm or
34 Untraceable Firearm (RCW
35 9.41.325)
36 Mortgage Fraud (RCW 19.144.080)

1 Negligently Causing Substantial Bodily
2 Harm By Use of a Signal
3 Preemption Device (RCW
4 46.37.674)
5 Organized Retail Theft 1 (RCW
6 9A.56.350(2))
7 Perjury 2 (RCW 9A.72.030)
8 Possession of Incendiary Device (RCW
9 9.40.120)
10 Possession of Machine Gun, Bump-Fire
11 Stock, Undetectable Firearm, or
12 Short-Barreled Shotgun or Rifle
13 (RCW 9.41.190)
14 Promoting Prostitution 2 (RCW
15 9A.88.080)
16 Retail Theft with Special Circumstances
17 1 (RCW 9A.56.360(2))
18 Securities Act violation (RCW
19 21.20.400)
20 Tampering with a Witness (RCW
21 9A.72.120)
22 Telephone Harassment (subsequent
23 conviction or threat of death) (RCW
24 9.61.230(2))
25 Theft of Livestock 2 (RCW 9A.56.083)
26 Theft with the Intent to Resell 1 (RCW
27 9A.56.340(2))
28 Trafficking in Stolen Property 2 (RCW
29 9A.82.055)
30 Unlawful Hunting of Big Game 1 (RCW
31 77.15.410(3)(b))
32 Unlawful Imprisonment (RCW
33 9A.40.040)
34 Unlawful Misbranding of Fish or
35 Shellfish 1 (RCW 77.140.060(3))

1 Unlawful possession of firearm in the
2 second degree (RCW 9A.04.020)

3 Unlawful Taking of Endangered Fish or
4 Wildlife 1 (RCW 77.15.120(3)(b))

5 Unlawful Trafficking in Fish, Shellfish,
6 or Wildlife 1 (RCW
7 77.15.260(3)(b))

8 Unlawful Use of a Nondesignated
9 Vessel (RCW 77.15.530(4))

10 Vehicular Assault, by the operation or
11 driving of a vehicle with disregard
12 for the safety of others (RCW
13 46.61.522)

14 Willful Failure to Return from Work
15 Release (RCW 72.65.070)

16 II Commercial Fishing Without a License
17 1 (RCW 77.15.500(3)(b))

18 Computer Trespass 1 (RCW 9A.90.040)

19 Counterfeiting (RCW 9.16.035(3))

20 Electronic Data Service Interference
21 (RCW 9A.90.060)

22 Electronic Data Tampering 1 (RCW
23 9A.90.080)

24 Electronic Data Theft (RCW 9A.90.100)

25 Engaging in Fish Dealing Activity
26 Unlicensed 1 (RCW 77.15.620(3))

27 Escape from Community Custody
28 (RCW 72.09.310)

29 Failure to Register as a Sex Offender
30 (second or subsequent offense)
31 (RCW 9A.44.130 prior to June 10,
32 2010, and RCW 9A.44.132)

33 Health Care False Claims (RCW
34 48.80.030)

35 Identity Theft 2 (RCW 9.35.020(3))

1 Improperly Obtaining Financial
2 Information (RCW 9.35.010)
3 Malicious Mischief 1 (RCW 9A.48.070)
4 Organized Retail Theft 2 (RCW
5 9A.56.350(3))
6 Possession of Stolen Property 1 (RCW
7 9A.56.150)
8 Possession of a Stolen Vehicle (RCW
9 9A.56.068)
10 Retail Theft with Special Circumstances
11 2 (RCW 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, Lease-
20 purchased, or Loaned Property
21 (valued at ~~((five thousand dollars))~~
22 \$5,000 or more) (RCW
23 9A.56.096(5)(a))
24 Theft with the Intent to Resell 2 (RCW
25 9A.56.340(3))
26 Trafficking in Insurance Claims (RCW
27 48.30A.015)
28 Unlawful factoring of a credit card or
29 payment card transaction (RCW
30 9A.56.290(4)(a))
31 Unlawful Participation of Non-Indians
32 in Indian Fishery (RCW
33 77.15.570(2))
34 Unlawful Practice of Law (RCW
35 2.48.180)

1 Unlawful Purchase or Use of a License
2 (RCW 77.15.650(3)(b))
3 Unlawful Trafficking in Fish, Shellfish,
4 or Wildlife 2 (RCW
5 77.15.260(3)(a))
6 Unlicensed Practice of a Profession or
7 Business (RCW 18.130.190(7))
8 Voyeurism 1 (RCW 9A.44.115)
9 I Attempting to Elude a Pursuing Police
10 Vehicle (RCW 46.61.024)
11 False Verification for Welfare (RCW
12 74.08.055)
13 Forgery (RCW 9A.60.020)
14 Fraudulent Creation or Revocation of a
15 Mental Health Advance Directive
16 (RCW 9A.60.060)
17 Malicious Mischief 2 (RCW 9A.48.080)
18 Mineral Trespass (RCW 78.44.330)
19 Possession of Stolen Property 2 (RCW
20 9A.56.160)
21 Reckless Burning 1 (RCW 9A.48.040)
22 Spotlighting Big Game 1 (RCW
23 77.15.450(3)(b))
24 Suspension of Department Privileges 1
25 (RCW 77.15.670(3)(b))
26 Taking Motor Vehicle Without
27 Permission 2 (RCW 9A.56.075)
28 Theft 2 (RCW 9A.56.040)
29 Theft from a Vulnerable Adult 2 (RCW
30 9A.56.400(2))
31 Theft of Rental, Leased, Lease-
32 purchased, or Loaned Property
33 (valued at (~~seven hundred fifty~~
34 ~~dollars~~) \$750 or more but less than
35 (~~five thousand dollars~~) \$5,000)
36 (RCW 9A.56.096(5)(b))

1 Transaction of insurance business
2 beyond the scope of licensure
3 (RCW 48.17.063)
4 Unlawful Fish and Shellfish Catch
5 Accounting (RCW 77.15.630(3)(b))
6 Unlawful Issuance of Checks or Drafts
7 (RCW 9A.56.060)
8 Unlawful Possession of Fictitious
9 Identification (RCW 9A.56.320)
10 Unlawful Possession of Instruments of
11 Financial Fraud (RCW 9A.56.320)
12 Unlawful Possession of Payment
13 Instruments (RCW 9A.56.320)
14 Unlawful Possession of a Personal
15 Identification Device (RCW
16 9A.56.320)
17 Unlawful Production of Payment
18 Instruments (RCW 9A.56.320)
19 Unlawful Releasing, Planting,
20 Possessing, or Placing Deleterious
21 Exotic Wildlife (RCW
22 77.15.250(2)(b))
23 Unlawful Trafficking in Food Stamps
24 (RCW 9.91.142)
25 Unlawful Use of Food Stamps (RCW
26 9.91.144)
27 Unlawful Use of Net to Take Fish 1
28 (RCW 77.15.580(3)(b))
29 Unlawful Use of Prohibited Aquatic
30 Animal Species (RCW
31 77.15.253(3))
32 Vehicle Prowl 1 (RCW 9A.52.095)
33 Violating Commercial Fishing Area or
34 Time 1 (RCW 77.15.550(3)(b))

- 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 (RCW
13 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 under
22 the influence of intoxicating liquor
23 or any drug (RCW 79A.60.050)
24 Inciting Criminal Profiteering (RCW
25 9A.82.060(1)(b))
26 Malicious placement of an explosive 2
27 (RCW 70.74.270(2))
28 Robbery 1 (RCW 9A.56.200)
29 Sexual Exploitation (RCW 9.68A.040)
30 VIII Arson 1 (RCW 9A.48.020)
31 Commercial Sexual Abuse of a Minor
32 (RCW 9.68A.100)
33 Homicide by Watercraft, by the
34 operation of any vessel in a reckless
35 manner (RCW 79A.60.050)

1 Manslaughter 2 (RCW 9A.32.070)
2 Promoting Prostitution 1 (RCW
3 9A.88.070)
4 Theft of Ammonia (RCW 69.55.010)
5 VII Air bag diagnostic systems (causing
6 bodily injury or death) (RCW
7 46.37.660(2)(b))
8 Air bag replacement requirements
9 (causing bodily injury or death)
10 (RCW 46.37.660(1)(b))
11 Burglary 1 (RCW 9A.52.020)
12 Child Molestation 2 (RCW 9A.44.086)
13 Civil Disorder Training (RCW
14 9A.48.120)
15 Dealing in depictions of minor engaged
16 in sexually explicit conduct 1
17 (RCW 9.68A.050(1))
18 Drive-by Shooting (RCW 9A.36.045)
19 False Reporting 1 (RCW
20 9A.84.040(2)(a))
21 Homicide by Watercraft, by disregard
22 for the safety of others (RCW
23 79A.60.050)
24 Indecent Liberties (without forcible
25 compulsion) (RCW 9A.44.100(1)
26 (b) and (c))
27 Introducing Contraband 1 (RCW
28 9A.76.140)
29 Malicious placement of an explosive 3
30 (RCW 70.74.270(3))
31 Manufacture or import counterfeit,
32 nonfunctional, damaged, or
33 previously deployed air bag
34 (causing bodily injury or death)
35 (RCW 46.37.650(1)(b))

1 Negligently Causing Death By Use of a
2 Signal Preemption Device (RCW
3 46.37.675)
4 Sell, install, or reinstall counterfeit,
5 nonfunctional, damaged, or
6 previously deployed airbag (RCW
7 46.37.650(2)(b))
8 Sending, bringing into state depictions
9 of minor engaged in sexually
10 explicit conduct 1 (RCW
11 9.68A.060(1))
12 Unlawful Possession of a Firearm in the
13 first degree (RCW 9.41.040(1))
14 Use of a Machine Gun or Bump-fire
15 Stock in Commission of a Felony
16 (RCW 9.41.225)
17 Vehicular Homicide, by disregard for
18 the safety of others (RCW
19 46.61.520)
20 VI Bail Jumping with Murder 1 (RCW
21 9A.76.170(3)(a))
22 Bribery (RCW 9A.68.010)
23 Incest 1 (RCW 9A.64.020(1))
24 Intimidating a Judge (RCW 9A.72.160)
25 Intimidating a Juror/Witness (RCW
26 9A.72.110, 9A.72.130)
27 Malicious placement of an imitation
28 device 2 (RCW 70.74.272(1)(b))
29 Possession of Depictions of a Minor
30 Engaged in Sexually Explicit
31 Conduct 1 (RCW 9.68A.070(1))
32 Rape of a Child 3 (RCW 9A.44.079)
33 Theft of a Firearm (RCW 9A.56.300)
34 Theft from a Vulnerable Adult 1 (RCW
35 9A.56.400(1))

1 Unlawful Storage of Ammonia (RCW
2 69.55.020)

3 V Abandonment of Dependent Person 2
4 (RCW 9A.42.070)

5 Advancing money or property for
6 extortionate extension of credit
7 (RCW 9A.82.030)

8 Air bag diagnostic systems (RCW
9 46.37.660(2)(c))

10 Air bag replacement requirements
11 (RCW 46.37.660(1)(c))

12 Bail Jumping with class A Felony
13 (RCW 9A.76.170(3)(b))

14 Child Molestation 3 (RCW 9A.44.089)

15 Criminal Mistreatment 2 (RCW
16 9A.42.030)

17 Custodial Sexual Misconduct 1 (RCW
18 9A.44.160)

19 Dealing in Depictions of Minor
20 Engaged in Sexually Explicit
21 Conduct 2 (RCW 9.68A.050(2))

22 Domestic Violence Court Order
23 Violation (RCW 7.105.450,
24 10.99.040, 10.99.050, 26.09.300,
25 26.10.220, 26.26B.050, 26.50.110,
26 26.52.070, or 74.34.145)

27 Extortion 1 (RCW 9A.56.120)

28 Extortionate Extension of Credit (RCW
29 9A.82.020)

30 Extortionate Means to Collect
31 Extensions of Credit (RCW
32 9A.82.040)

33 Incest 2 (RCW 9A.64.020(2))

34 Kidnapping 2 (RCW 9A.40.030)

1 Manufacture or import counterfeit,
2 nonfunctional, damaged, or
3 previously deployed air bag (RCW
4 46.37.650(1)(c))
5 Perjury 1 (RCW 9A.72.020)
6 Persistent prison misbehavior (RCW
7 9.94.070)
8 Possession of a Stolen Firearm (RCW
9 9A.56.310)
10 Rape 3 (RCW 9A.44.060)
11 Rendering Criminal Assistance 1 (RCW
12 9A.76.070)
13 Sell, install, or reinstall counterfeit,
14 nonfunctional, damaged, or
15 previously deployed airbag (RCW
16 46.37.650(2)(c))
17 Sending, Bringing into State Depictions
18 of Minor Engaged in Sexually
19 Explicit Conduct 2 (RCW
20 9.68A.060(2))
21 Sexual Misconduct with a Minor 1
22 (RCW 9A.44.093)
23 Sexually Violating Human Remains
24 (RCW 9A.44.105)
25 Stalking (RCW 9A.46.110)
26 Taking Motor Vehicle Without
27 Permission 1 (RCW 9A.56.070)
28 IV Arson 2 (RCW 9A.48.030)
29 Assault 2 (RCW 9A.36.021)
30 Assault 3 (of a Peace Officer with a
31 Projectile Stun Gun) (RCW
32 9A.36.031(1)(h))
33 Assault 4 (third domestic violence
34 offense) (RCW 9A.36.041(3))
35 Assault by Watercraft (RCW
36 79A.60.060)

1 Bribing a Witness/Bribe Received by
2 Witness (RCW 9A.72.090,
3 9A.72.100)
4 Cheating 1 (RCW 9.46.1961)
5 Commercial Bribery (RCW 9A.68.060)
6 Counterfeiting (RCW 9.16.035(4))
7 Driving While Under the Influence
8 (RCW 46.61.502(6))
9 Endangerment with a Controlled
10 Substance (RCW 9A.42.100)
11 Escape 1 (RCW 9A.76.110)
12 Hate Crime (RCW 9A.36.080)
13 Hit and Run—Injury (RCW
14 46.52.020(4)(b))
15 Hit and Run with Vessel—Injury
16 Accident (RCW 79A.60.200(3))
17 Identity Theft 1 (RCW 9.35.020(2))
18 Indecent Exposure to Person Under Age
19 ((~~Fourteen~~) 14 (subsequent sex
20 offense) (RCW 9A.88.010)
21 Influencing Outcome of Sporting Event
22 (RCW 9A.82.070)
23 Physical Control of a Vehicle While
24 Under the Influence (RCW
25 46.61.504(6))
26 Possession of Depictions of a Minor
27 Engaged in Sexually Explicit
28 Conduct 2 (RCW 9.68A.070(2))
29 Residential Burglary (RCW 9A.52.025)
30 Robbery 2 (RCW 9A.56.210)
31 Theft of Livestock 1 (RCW 9A.56.080)
32 Threats to Bomb (RCW 9.61.160)
33 Trafficking in Stolen Property 1 (RCW
34 9A.82.050)

1 Unlawful factoring of a credit card or
2 payment card transaction (RCW
3 9A.56.290(4)(b))
4 Unlawful transaction of health coverage
5 as a health care service contractor
6 (RCW 48.44.016(3))
7 Unlawful transaction of health coverage
8 as a health maintenance
9 organization (RCW 48.46.033(3))
10 Unlawful transaction of insurance
11 business (RCW 48.15.023(3))
12 Unlicensed practice as an insurance
13 professional (RCW 48.17.063(2))
14 Use of Proceeds of Criminal
15 Profiteering (RCW 9A.82.080 (1)
16 and (2))
17 Vehicle Prowling 2 (third or subsequent
18 offense) (RCW 9A.52.100(3))
19 Vehicular Assault, by being under the
20 influence of intoxicating liquor or
21 any drug, or by the operation or
22 driving of a vehicle in a reckless
23 manner (RCW 46.61.522)
24 Viewing of Depictions of a Minor
25 Engaged in Sexually Explicit
26 Conduct 1 (RCW 9.68A.075(1))
27 Willful Failure to Return from Furlough
28 (RCW 72.66.060)
29 III Animal Cruelty 1 (Sexual Conduct or
30 Contact) (RCW 16.52.205(3))
31 Assault 3 (Except Assault 3 of a Peace
32 Officer With a Projectile Stun Gun)
33 (RCW 9A.36.031 except subsection
34 (1)(h))
35 Assault of a Child 3 (RCW 9A.36.140)
36 Bail Jumping with class B or C Felony
37 (RCW 9A.76.170(3)(c))

1 Burglary 2 (RCW 9A.52.030)
2 Communication with a Minor for
3 Immoral Purposes (RCW
4 9.68A.090)
5 Criminal Gang Intimidation (RCW
6 9A.46.120)
7 Custodial Assault (RCW 9A.36.100)
8 ~~((Cyberstalking (subsequent conviction
9 or threat of death)))~~ Cyber
10 Harassment (RCW 9.61.260(~~(3)~~))
11 (2)(b) (as recodified by this act)
12 Escape 2 (RCW 9A.76.120)
13 Extortion 2 (RCW 9A.56.130)
14 False Reporting 2 (RCW
15 9A.84.040(2)(b))
16 Harassment (RCW 9A.46.020)
17 Intimidating a Public Servant (RCW
18 9A.76.180)
19 Introducing Contraband 2 (RCW
20 9A.76.150)
21 Malicious Injury to Railroad Property
22 (RCW 81.60.070)
23 Manufacture of Untraceable Firearm
24 with Intent to Sell (RCW 9.41.190)
25 Manufacture or Assembly of an
26 Undetectable Firearm or
27 Untraceable Firearm (RCW
28 9.41.325)
29 Mortgage Fraud (RCW 19.144.080)
30 Negligently Causing Substantial Bodily
31 Harm By Use of a Signal
32 Preemption Device (RCW
33 46.37.674)
34 Organized Retail Theft 1 (RCW
35 9A.56.350(2))
36 Perjury 2 (RCW 9A.72.030)

1 Possession of Incendiary Device (RCW
2 9.40.120)
3 Possession of Machine Gun, Bump-Fire
4 Stock, Undetectable Firearm, or
5 Short-Barreled Shotgun or Rifle
6 (RCW 9.41.190)
7 Promoting Prostitution 2 (RCW
8 9A.88.080)
9 Retail Theft with Special Circumstances
10 1 (RCW 9A.56.360(2))
11 Securities Act violation (RCW
12 21.20.400)
13 Tampering with a Witness (RCW
14 9A.72.120)
15 Telephone Harassment (subsequent
16 conviction or threat of death) (RCW
17 9.61.230(2))
18 Theft of Livestock 2 (RCW 9A.56.083)
19 Theft with the Intent to Resell 1 (RCW
20 9A.56.340(2))
21 Trafficking in Stolen Property 2 (RCW
22 9A.82.055)
23 Unlawful Hunting of Big Game 1 (RCW
24 77.15.410(3)(b))
25 Unlawful Imprisonment (RCW
26 9A.40.040)
27 Unlawful Misbranding of Fish or
28 Shellfish 1 (RCW 77.140.060(3))
29 Unlawful possession of firearm in the
30 second degree (RCW 9.41.040(2))
31 Unlawful Taking of Endangered Fish or
32 Wildlife 1 (RCW 77.15.120(3)(b))
33 Unlawful Trafficking in Fish, Shellfish,
34 or Wildlife 1 (RCW
35 77.15.260(3)(b))

1 Unlawful Use of a Nondesignated
2 Vessel (RCW 77.15.530(4))
3 Vehicular Assault, by the operation or
4 driving of a vehicle with disregard
5 for the safety of others (RCW
6 46.61.522)
7 Willful Failure to Return from Work
8 Release (RCW 72.65.070)
9 II Commercial Fishing Without a License
10 1 (RCW 77.15.500(3)(b))
11 Computer Trespass 1 (RCW 9A.90.040)
12 Counterfeiting (RCW 9.16.035(3))
13 Electronic Data Service Interference
14 (RCW 9A.90.060)
15 Electronic Data Tampering 1 (RCW
16 9A.90.080)
17 Electronic Data Theft (RCW 9A.90.100)
18 Engaging in Fish Dealing Activity
19 Unlicensed 1 (RCW 77.15.620(3))
20 Escape from Community Custody
21 (RCW 72.09.310)
22 Failure to Register as a Sex Offender
23 (second or subsequent offense)
24 (RCW 9A.44.130 prior to June 10,
25 2010, and RCW 9A.44.132)
26 Health Care False Claims (RCW
27 48.80.030)
28 Identity Theft 2 (RCW 9.35.020(3))
29 Improperly Obtaining Financial
30 Information (RCW 9.35.010)
31 Malicious Mischief 1 (RCW 9A.48.070)
32 Organized Retail Theft 2 (RCW
33 9A.56.350(3))
34 Possession of Stolen Property 1 (RCW
35 9A.56.150)

1 Possession of a Stolen Vehicle (RCW
2 9A.56.068)
3 Retail Theft with Special Circumstances
4 2 (RCW 9A.56.360(3))
5 Scrap Processing, Recycling, or
6 Supplying Without a License
7 (second or subsequent offense)
8 (RCW 19.290.100)
9 Theft 1 (RCW 9A.56.030)
10 Theft of a Motor Vehicle (RCW
11 9A.56.065)
12 Theft of Rental, Leased, Lease-
13 purchased, or Loaned Property
14 (valued at ~~((five thousand dollars))~~
15 \$5,000 or more) (RCW
16 9A.56.096(5)(a))
17 Theft with the Intent to Resell 2 (RCW
18 9A.56.340(3))
19 Trafficking in Insurance Claims (RCW
20 48.30A.015)
21 Unlawful factoring of a credit card or
22 payment card transaction (RCW
23 9A.56.290(4)(a))
24 Unlawful Participation of Non-Indians
25 in Indian Fishery (RCW
26 77.15.570(2))
27 Unlawful Practice of Law (RCW
28 2.48.180)
29 Unlawful Purchase or Use of a License
30 (RCW 77.15.650(3)(b))
31 Unlawful Trafficking in Fish, Shellfish,
32 or Wildlife 2 (RCW
33 77.15.260(3)(a))
34 Unlicensed Practice of a Profession or
35 Business (RCW 18.130.190(7))
36 Voyeurism 1 (RCW 9A.44.115)

1 I Attempting to Elude a Pursuing Police
2 Vehicle (RCW 46.61.024)
3 False Verification for Welfare (RCW
4 74.08.055)
5 Forgery (RCW 9A.60.020)
6 Fraudulent Creation or Revocation of a
7 Mental Health Advance Directive
8 (RCW 9A.60.060)
9 Malicious Mischief 2 (RCW 9A.48.080)
10 Mineral Trespass (RCW 78.44.330)
11 Possession of Stolen Property 2 (RCW
12 9A.56.160)
13 Reckless Burning 1 (RCW 9A.48.040)
14 Spotlighting Big Game 1 (RCW
15 77.15.450(3)(b))
16 Suspension of Department Privileges 1
17 (RCW 77.15.670(3)(b))
18 Taking Motor Vehicle Without
19 Permission 2 (RCW 9A.56.075)
20 Theft 2 (RCW 9A.56.040)
21 Theft from a Vulnerable Adult 2 (RCW
22 9A.56.400(2))
23 Theft of Rental, Leased, Lease-
24 purchased, or Loaned Property
25 (valued at (~~seven hundred fifty~~
26 ~~dollars~~) \$750 or more but less than
27 (~~five thousand dollars~~) \$5,000)
28 (RCW 9A.56.096(5)(b))
29 Transaction of insurance business
30 beyond the scope of licensure
31 (RCW 48.17.063)
32 Unlawful Fish and Shellfish Catch
33 Accounting (RCW 77.15.630(3)(b))
34 Unlawful Issuance of Checks or Drafts
35 (RCW 9A.56.060)

1 Unlawful Possession of Fictitious
2 Identification (RCW 9A.56.320)
3 Unlawful Possession of Instruments of
4 Financial Fraud (RCW 9A.56.320)
5 Unlawful Possession of Payment
6 Instruments (RCW 9A.56.320)
7 Unlawful Possession of a Personal
8 Identification Device (RCW
9 9A.56.320)
10 Unlawful Production of Payment
11 Instruments (RCW 9A.56.320)
12 Unlawful Releasing, Planting,
13 Possessing, or Placing Deleterious
14 Exotic Wildlife (RCW
15 77.15.250(2)(b))
16 Unlawful Trafficking in Food Stamps
17 (RCW 9.91.142)
18 Unlawful Use of Food Stamps (RCW
19 9.91.144)
20 Unlawful Use of Net to Take Fish 1
21 (RCW 77.15.580(3)(b))
22 Unlawful Use of Prohibited Aquatic
23 Animal Species (RCW
24 77.15.253(3))
25 Vehicle Prowl 1 (RCW 9A.52.095)
26 Violating Commercial Fishing Area or
27 Time 1 (RCW 77.15.550(3)(b))

28 **Sec. 14.** RCW 9A.46.060 and 2019 c 271 s 8 are each amended to
29 read as follows:

30 As used in this chapter, "harassment" may include but is not
31 limited to any of the following crimes:

- 32 (1) Harassment (RCW 9A.46.020);
33 (2) Hate crime (RCW 9A.36.080);
34 (3) Telephone harassment (RCW 9.61.230);
35 (4) Assault in the first degree (RCW 9A.36.011);
36 (5) Assault of a child in the first degree (RCW 9A.36.120);

1 (6) Assault in the second degree (RCW 9A.36.021);
2 (7) Assault of a child in the second degree (RCW 9A.36.130);
3 (8) Assault in the fourth degree (RCW 9A.36.041);
4 (9) Reckless endangerment (RCW 9A.36.050);
5 (10) Extortion in the first degree (RCW 9A.56.120);
6 (11) Extortion in the second degree (RCW 9A.56.130);
7 (12) Coercion (RCW 9A.36.070);
8 (13) Burglary in the first degree (RCW 9A.52.020);
9 (14) Burglary in the second degree (RCW 9A.52.030);
10 (15) Criminal trespass in the first degree (RCW 9A.52.070);
11 (16) Criminal trespass in the second degree (RCW 9A.52.080);
12 (17) Malicious mischief in the first degree (RCW 9A.48.070);
13 (18) Malicious mischief in the second degree (RCW 9A.48.080);
14 (19) Malicious mischief in the third degree (RCW 9A.48.090);
15 (20) Kidnapping in the first degree (RCW 9A.40.020);
16 (21) Kidnapping in the second degree (RCW 9A.40.030);
17 (22) Unlawful imprisonment (RCW 9A.40.040);
18 (23) Rape in the first degree (RCW 9A.44.040);
19 (24) Rape in the second degree (RCW 9A.44.050);
20 (25) Rape in the third degree (RCW 9A.44.060);
21 (26) Indecent liberties (RCW 9A.44.100);
22 (27) Rape of a child in the first degree (RCW 9A.44.073);
23 (28) Rape of a child in the second degree (RCW 9A.44.076);
24 (29) Rape of a child in the third degree (RCW 9A.44.079);
25 (30) Child molestation in the first degree (RCW 9A.44.083);
26 (31) Child molestation in the second degree (RCW 9A.44.086);
27 (32) Child molestation in the third degree (RCW 9A.44.089);
28 (33) Stalking (RCW 9A.46.110);
29 (34) ((~~Cyberstalking~~)) Cyber harassment (RCW 9.61.260 (as
30 recodified by this act));
31 (35) Residential burglary (RCW 9A.52.025);
32 (36) Violation of a temporary, permanent, or final protective
33 order issued pursuant to chapter 7.90, 9A.46, 10.14, 10.99, 26.09, or
34 26.50 RCW;
35 (37) Unlawful discharge of a laser in the first degree (RCW
36 9A.49.020); and
37 (38) Unlawful discharge of a laser in the second degree (RCW
38 9A.49.030).

1 **Sec. 15.** RCW 9A.46.060 and 2021 c 215 s 109 are each amended to
2 read as follows:

3 As used in this chapter, "harassment" may include but is not
4 limited to any of the following crimes:

- 5 (1) Harassment (RCW 9A.46.020);
- 6 (2) Hate crime (RCW 9A.36.080);
- 7 (3) Telephone harassment (RCW 9.61.230);
- 8 (4) Assault in the first degree (RCW 9A.36.011);
- 9 (5) Assault of a child in the first degree (RCW 9A.36.120);
- 10 (6) Assault in the second degree (RCW 9A.36.021);
- 11 (7) Assault of a child in the second degree (RCW 9A.36.130);
- 12 (8) Assault in the fourth degree (RCW 9A.36.041);
- 13 (9) Reckless endangerment (RCW 9A.36.050);
- 14 (10) Extortion in the first degree (RCW 9A.56.120);
- 15 (11) Extortion in the second degree (RCW 9A.56.130);
- 16 (12) Coercion (RCW 9A.36.070);
- 17 (13) Burglary in the first degree (RCW 9A.52.020);
- 18 (14) Burglary in the second degree (RCW 9A.52.030);
- 19 (15) Criminal trespass in the first degree (RCW 9A.52.070);
- 20 (16) Criminal trespass in the second degree (RCW 9A.52.080);
- 21 (17) Malicious mischief in the first degree (RCW 9A.48.070);
- 22 (18) Malicious mischief in the second degree (RCW 9A.48.080);
- 23 (19) Malicious mischief in the third degree (RCW 9A.48.090);
- 24 (20) Kidnapping in the first degree (RCW 9A.40.020);
- 25 (21) Kidnapping in the second degree (RCW 9A.40.030);
- 26 (22) Unlawful imprisonment (RCW 9A.40.040);
- 27 (23) Rape in the first degree (RCW 9A.44.040);
- 28 (24) Rape in the second degree (RCW 9A.44.050);
- 29 (25) Rape in the third degree (RCW 9A.44.060);
- 30 (26) Indecent liberties (RCW 9A.44.100);
- 31 (27) Rape of a child in the first degree (RCW 9A.44.073);
- 32 (28) Rape of a child in the second degree (RCW 9A.44.076);
- 33 (29) Rape of a child in the third degree (RCW 9A.44.079);
- 34 (30) Child molestation in the first degree (RCW 9A.44.083);
- 35 (31) Child molestation in the second degree (RCW 9A.44.086);
- 36 (32) Child molestation in the third degree (RCW 9A.44.089);
- 37 (33) Stalking (RCW 9A.46.110);
- 38 (34) (~~Cyberstalking~~) Cyber harassment (RCW 9.61.260 (as
39 recodified by this act));
- 40 (35) Residential burglary (RCW 9A.52.025);

1 (36) Violation of a temporary, permanent, or final protective
2 order issued pursuant to chapter 9A.44, 9A.46, 10.99, or 26.09 RCW or
3 any of the former chapters 7.90, 10.14, and 26.50 RCW, or violation
4 of a domestic violence protection order, sexual assault protection
5 order, or antiharassment protection order issued under chapter 7.105
6 RCW;

7 (37) Unlawful discharge of a laser in the first degree (RCW
8 9A.49.020); and

9 (38) Unlawful discharge of a laser in the second degree (RCW
10 9A.49.030).

11 **Sec. 16.** RCW 26.50.060 and 2020 c 311 s 9 are each amended to
12 read as follows:

13 (1) Upon notice and after hearing, the court may provide relief
14 as follows:

15 (a) Restrain the respondent from committing acts of domestic
16 violence;

17 (b) Exclude the respondent from the dwelling that the parties
18 share, from the residence, workplace, or school of the petitioner, or
19 from the day care or school of a child;

20 (c) Prohibit the respondent from knowingly coming within, or
21 knowingly remaining within, a specified distance from a specified
22 location;

23 (d) On the same basis as is provided in chapter 26.09 RCW, the
24 court shall make residential provision with regard to minor children
25 of the parties. However, parenting plans as specified in chapter
26 26.09 RCW shall not be required under this chapter;

27 (e) Order the respondent to participate in a domestic violence
28 perpetrator treatment program approved under RCW 26.50.150;

29 (f) Order other relief as it deems necessary for the protection
30 of the petitioner and other family or household members sought to be
31 protected, including orders or directives to a peace officer, as
32 allowed under this chapter;

33 (g) Require the respondent to pay the administrative court costs
34 and service fees, as established by the county or municipality
35 incurring the expense and to reimburse the petitioner for costs
36 incurred in bringing the action, including reasonable attorneys' fees
37 or limited license legal technician fees when such fees are incurred
38 by a person licensed and practicing in accordance with the state

1 supreme court's admission to practice rule 28, the limited practice
2 rule for limited license legal technicians;

3 (h) Restrain the respondent from having any contact with the
4 victim of domestic violence or the victim's children or members of
5 the victim's household;

6 (i) Restrain the respondent from harassing, following, keeping
7 under physical or electronic surveillance, (~~cyberstalking~~) cyber
8 harassment as defined in RCW 9.61.260 (as recodified by this act),
9 and using telephonic, audiovisual, or other electronic means to
10 monitor the actions, location, or communication of a victim of
11 domestic violence, the victim's children, or members of the victim's
12 household. For the purposes of this subsection, "communication"
13 includes both "wire communication" and "electronic communication" as
14 defined in RCW 9.73.260;

15 (j) Require the respondent to submit to electronic monitoring.
16 The order shall specify who shall provide the electronic monitoring
17 services and the terms under which the monitoring must be performed.
18 The order also may include a requirement that the respondent pay the
19 costs of the monitoring. The court shall consider the ability of the
20 respondent to pay for electronic monitoring;

21 (k) Consider the provisions of RCW 9.41.800;

22 (l) Order possession and use of essential personal effects. The
23 court shall list the essential personal effects with sufficient
24 specificity to make it clear which property is included. Personal
25 effects may include pets. The court may order that a petitioner be
26 granted the exclusive custody or control of any pet owned, possessed,
27 leased, kept, or held by the petitioner, respondent, or minor child
28 residing with either the petitioner or respondent and may prohibit
29 the respondent from interfering with the petitioner's efforts to
30 remove the pet. The court may also prohibit the respondent from
31 knowingly coming within, or knowingly remaining within, a specified
32 distance of specified locations where the pet is regularly found;

33 (m) Order use of a vehicle; and

34 (n) Enter an order restricting the respondent from engaging in
35 abusive litigation as set forth in chapter 26.51 RCW. A petitioner
36 may request this relief in the petition or by separate motion. A
37 petitioner may request this relief by separate motion at any time
38 within five years of the date the order for protection is entered
39 even if the order has since expired. A stand-alone motion for an
40 order restricting abusive litigation may be brought by a party who

1 meets the requirements of chapter 26.51 RCW regardless of whether the
2 party has previously sought an order for protection under this
3 chapter, provided the motion is made within five years of the date
4 the order that made a finding of domestic violence was entered. In
5 cases where a finding of domestic violence was entered pursuant to an
6 order under chapter 26.09, 26.26, or 26.26A RCW, a motion for an
7 order restricting abusive litigation may be brought under the family
8 law case or as a stand-alone action filed under this chapter, when it
9 is not reasonable or practical to file under the family law case.

10 (2) If a protection order restrains the respondent from
11 contacting the respondent's minor children the restraint shall be for
12 a fixed period not to exceed one year. This limitation is not
13 applicable to orders for protection issued under chapter 26.09,
14 26.10, 26.26A, or 26.26B RCW. With regard to other relief, if the
15 petitioner has petitioned for relief on his or her own behalf or on
16 behalf of the petitioner's family or household members or minor
17 children, and the court finds that the respondent is likely to resume
18 acts of domestic violence against the petitioner or the petitioner's
19 family or household members or minor children when the order expires,
20 the court may either grant relief for a fixed period or enter a
21 permanent order of protection.

22 If the petitioner has petitioned for relief on behalf of the
23 respondent's minor children, the court shall advise the petitioner
24 that if the petitioner wants to continue protection for a period
25 beyond one year the petitioner may either petition for renewal
26 pursuant to the provisions of this chapter or may seek relief
27 pursuant to the provisions of chapter 26.09, 26.26A, or 26.26B RCW.

28 (3) If the court grants an order for a fixed time period, the
29 petitioner may apply for renewal of the order by filing a petition
30 for renewal at any time within the three months before the order
31 expires. The petition for renewal shall state the reasons why the
32 petitioner seeks to renew the protection order. Upon receipt of the
33 petition for renewal the court shall order a hearing which shall be
34 not later than (~~fourteen~~) 14 days from the date of the order.
35 Except as provided in RCW 26.50.085, personal service shall be made
36 on the respondent not less than five days before the hearing. If
37 timely service cannot be made the court shall set a new hearing date
38 and shall either require additional attempts at obtaining personal
39 service or permit service by publication as provided in RCW 26.50.085
40 or by mail as provided in RCW 26.50.123. If the court permits service

1 by publication or mail, the court shall set the new hearing date not
2 later than (~~twenty-four~~) 24 days from the date of the order. If the
3 order expires because timely service cannot be made the court shall
4 grant an ex parte order of protection as provided in RCW 26.50.070.
5 The court shall grant the petition for renewal unless the respondent
6 proves by a preponderance of the evidence that the respondent will
7 not resume acts of domestic violence against the petitioner or the
8 petitioner's children or family or household members when the order
9 expires. The court may renew the protection order for another fixed
10 time period or may enter a permanent order as provided in this
11 section. The court may award court costs, service fees, and
12 reasonable attorneys' fees as provided in subsection (1)(g) of this
13 section.

14 (4) In providing relief under this chapter, the court may realign
15 the designation of the parties as "petitioner" and "respondent" where
16 the court finds that the original petitioner is the abuser and the
17 original respondent is the victim of domestic violence and may issue
18 an ex parte temporary order for protection in accordance with RCW
19 26.50.070 on behalf of the victim until the victim is able to prepare
20 a petition for an order for protection in accordance with RCW
21 26.50.030.

22 (5) Except as provided in subsection (4) of this section, no
23 order for protection shall grant relief to any party except upon
24 notice to the respondent and hearing pursuant to a petition or
25 counter-petition filed and served by the party seeking relief in
26 accordance with RCW 26.50.050.

27 (6) The court order shall specify the date the order expires if
28 any. The court order shall also state whether the court issued the
29 protection order following personal service, service by publication,
30 or service by mail and whether the court has approved service by
31 publication or mail of an order issued under this section.

32 (7) If the court declines to issue an order for protection or
33 declines to renew an order for protection, the court shall state in
34 writing on the order the particular reasons for the court's denial.

35 **Sec. 17.** RCW 26.50.070 and 2019 c 245 s 14 are each amended to
36 read as follows:

37 (1) Where an application under this section alleges that
38 irreparable injury could result from domestic violence if an order is
39 not issued immediately without prior notice to the respondent, the

1 court may grant an ex parte temporary order for protection, pending a
2 full hearing, and grant relief as the court deems proper, including
3 an order:

4 (a) Restraining any party from committing acts of domestic
5 violence;

6 (b) Restraining any party from going onto the grounds of or
7 entering the dwelling that the parties share, from the residence,
8 workplace, or school of the other, or from the day care or school of
9 a child until further order of the court;

10 (c) Prohibiting any party from knowingly coming within, or
11 knowingly remaining within, a specified distance from a specified
12 location;

13 (d) Restraining any party from interfering with the other's
14 custody of the minor children or from removing the children from the
15 jurisdiction of the court;

16 (e) Restraining any party from having any contact with the victim
17 of domestic violence or the victim's children or members of the
18 victim's household; and

19 (f) Restraining the respondent from harassing, following, keeping
20 under physical or electronic surveillance, (~~cyberstalking~~) cyber
21 harassment as defined in RCW 9.61.260 (as recodified by this act),
22 and using telephonic, audiovisual, or other electronic means to
23 monitor the actions, location, or communication of a victim of
24 domestic violence, the victim's children, or members of the victim's
25 household. For the purposes of this subsection, "communication"
26 includes both "wire communication" and "electronic communication" as
27 defined in RCW 9.73.260.

28 (2) In issuing the order, the court shall consider the provisions
29 of RCW 9.41.800, and shall order the respondent to surrender, and
30 prohibit the respondent from possessing, all firearms, dangerous
31 weapons, and any concealed pistol license as required in RCW
32 9.41.800.

33 (3) Irreparable injury under this section includes but is not
34 limited to situations in which the respondent has recently threatened
35 petitioner with bodily injury or has engaged in acts of domestic
36 violence against the petitioner.

37 (4) The court shall hold an ex parte hearing in person or by
38 telephone on the day the petition is filed or on the following
39 judicial day.

1 (5) An ex parte temporary order for protection shall be effective
2 for a fixed period not to exceed (~~fourteen~~) 14 days or (~~twenty-~~
3 ~~four~~) 24 days if the court has permitted service by publication
4 under RCW 26.50.085 or by mail under RCW 26.50.123. The ex parte
5 temporary order may be reissued. A full hearing, as provided in this
6 chapter, shall be set for not later than (~~fourteen~~) 14 days from
7 the issuance of the ex parte temporary order or not later than
8 (~~twenty-four~~) 24 days if service by publication or by mail is
9 permitted. Except as provided in RCW 26.50.050, 26.50.085, and
10 26.50.123, the respondent shall be personally served with a copy of
11 the ex parte temporary order along with a copy of the petition and
12 notice of the date set for the hearing.

13 (6) Any order issued under this section shall contain the date
14 and time of issuance and the expiration date and shall be entered
15 into a statewide judicial information system by the clerk of the
16 court within one judicial day after issuance.

17 (7) If the court declines to issue an ex parte temporary order
18 for protection the court shall state the particular reasons for the
19 court's denial. The court's denial of a motion for an ex parte
20 temporary order for protection shall be filed with the court.

21 NEW SECTION. Sec. 18. Sections 7, 10, 12, 14, 16, and 17 of
22 this act expire July 1, 2022.

23 NEW SECTION. Sec. 19. Sections 8, 9, 11, 13, and 15 of this act
24 take effect July 1, 2022."

25 Correct the title.

EFFECT: Retains the provisions of the underlying bill with the following changes:

Makes the following changes to the provisions related to cyber harassment: (1) Specifies that the requirement that the communication cause emotional distress or reasonable fear for the safety of the person threatened applies only in cases involving a threat; (2) modifies language related to elevating cyber harassment to a felony when the victim is an election official or criminal justice participant to: (a) Clarify that the reclassification is not limited to cases involving the threat; (b) remove language requiring the perpetrator's present and future ability to carry out the threat; and (c) remove language requiring reasonable fear in the victim (but retains the underlying bill's general requirement that cyber harassment by threat elicit reasonable fear); and (3) modifies the list of persons who qualify as "criminal justice participants" for

purposes of cyber harassment and eligibility for the Address Confidentiality Program to include law enforcement and prosecutors.

Makes the following changes to the provisions related to cyberstalking: (1) Provides that the requirement that the perpetrator act with the intent to track the location of another person applies to circumstances in which the perpetrator installs or monitors an electronic tracking device (in addition to circumstances in which the perpetrator causes a tracking device to be installed in the underlying bill); (2) removes circumstances in which the person was armed with a deadly weapon at the time of the offense from the list of circumstances elevating cyberstalking to a felony, and adds circumstances in which the person has a previous cyberstalking conviction; and (3) modifies the terminology to use consistent terms for the actor and the victim.

Makes the following changes to the provisions related to eligibility for the Address Confidentiality Program (ACP): (1) Removes references to another measure currently pending before the Legislature; (2) amends the ACP eligibility provisions to add a reference to family members residing with an election official who has been cyber harassed (in alignment with other provisions in the bill); and (3) makes clarifying amendments related to the definition of "criminal justice participant."

Makes numerous additional technical changes and minor wording changes for clarity and consistency among provisions of the bill.

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