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**ENGROSSED SUBSTITUTE HOUSE BILL 1652**

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**State of Washington**

**53rd Legislature**

**1994 Regular Session**

**By** House Committee on Judiciary (originally sponsored by Representatives Romero, G. Cole, Valle, Orr, Cothorn, Brown, Veloria, Holm, Zellinsky, Scott, Brough, Jones, R. Meyers, Dorn, Quall, Van Luven, Roland, L. Johnson, Long, Johanson and Anderson)

Read first time 01/14/94. Referred to Committee on .

1 AN ACT Relating to animal cruelty; amending RCW 16.52.020,  
2 16.52.085, 16.52.095, 16.52.100, 16.52.117, 16.52.180, 16.52.190,  
3 16.52.200, 16.52.300, 9A.48.080, 13.40.020, and 81.56.120; reenacting  
4 and amending RCW 9.94A.030; adding new sections to chapter 16.52 RCW;  
5 repealing RCW 16.52.010, 16.52.030, 16.52.040, 16.52.050, 16.52.055,  
6 16.52.060, 16.52.065, 16.52.070, 16.52.113, 16.52.120, 16.52.130,  
7 16.52.140, and 16.52.160; and prescribing penalties.

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

9 NEW SECTION. **Sec. 1.** A new section is added to chapter 16.52 RCW  
10 to read as follows:

11 (1) Principles of liability as defined in chapter 9A.08 RCW apply  
12 to this chapter.

13 (2) Unless the context clearly requires otherwise, the definitions  
14 in this section apply throughout this chapter.

15 (a) "Animal" means any nonhuman mammal, bird, reptile, or  
16 amphibian.

17 (b) "Animal care and control agency" means any city or county  
18 animal control agency or authority authorized to enforce city or county  
19 municipal ordinances regulating the care, control, licensing, or

1 treatment of animals within the city or county, and any corporation  
2 organized under RCW 16.52.020 that contracts with a city or county to  
3 enforce the city or county ordinances governing animal care and  
4 control.

5 (c) "Animal control officer" means any individual employed,  
6 contracted, or appointed pursuant to section 4 of this act by an animal  
7 care and control agency or humane society to aid in the enforcement of  
8 ordinances or laws regulating the care and control of animals. For  
9 purposes of this chapter, the term "animal control officer" shall be  
10 interpreted to include "humane officer" as defined in (e) of this  
11 subsection and section 4 of this act.

12 (d) "Euthanasia" means the humane destruction of an animal  
13 accomplished by a method that involves instantaneous unconsciousness  
14 and immediate death, or by a method that causes painless loss of  
15 consciousness, and death during the loss of consciousness.

16 (e) "Humane officer" means any individual employed, contracted, or  
17 appointed by an animal care and control agency or humane society as  
18 authorized under section 4 of this act.

19 (f) "Law enforcement agency" means a general authority Washington  
20 law enforcement agency as defined in RCW 10.93.020.

21 (g) "Necessary food" means the provision at suitable intervals not  
22 to exceed twenty-four hours of wholesome foodstuff suitable for the  
23 animal's age and species and sufficient to provide a reasonable level  
24 of nutrition for the animal.

25 (h) "Owner" means a person who has a right, claim, title, legal  
26 share, or right of possession to an animal or a person having lawful  
27 control, custody, or possession of an animal.

28 (i) "Person" means individuals, corporations, partnerships,  
29 associations, or other legal entities, and agents of those entities.

30 (j) "Substantial bodily harm" means substantial bodily harm as  
31 defined in RCW 9A.04.110.

32 NEW SECTION. **Sec. 2.** A new section is added to chapter 16.52 RCW  
33 to read as follows:

34 (1) Law enforcement agencies and animal care and control agencies  
35 may enforce the provisions of this chapter. Animal care and control  
36 agencies may enforce the provisions of this chapter in a county or city  
37 only if the county or city legislative authority has entered into a  
38 contract with the agency to enforce the provisions of this chapter.

1 (2) Animal control officers enforcing this chapter shall comply  
2 with the same constitutional and statutory restrictions concerning the  
3 execution of police powers imposed on law enforcement officers who  
4 enforce this chapter and other criminal laws of the state of  
5 Washington.

6 (3) Animal control officers have the following enforcement powers  
7 when enforcing this chapter:

8 (a) The power to issue citations based on probable cause to  
9 offenders for misdemeanor and gross misdemeanor violations of this  
10 chapter or RCW 9.08.070 or 81.56.120;

11 (b) The power to cause a law enforcement officer to arrest and take  
12 into custody any person the animal control officer has probable cause  
13 to believe has committed or is committing a violation of this chapter  
14 or RCW 9.08.070 or 81.56.120. Animal control officers may make an oral  
15 complaint to a law enforcement officer to initiate arrest. The animal  
16 control officer causing the arrest shall file with the arresting agency  
17 a written complaint within twenty-four hours of the arrest, excluding  
18 Sundays and legal holidays, stating the alleged act or acts  
19 constituting a violation;

20 (c) The power to carry nonfirearm protective devices for personal  
21 protection;

22 (d) The power to prepare affidavits in support of search warrants  
23 and to execute search warrants when accompanied by law enforcement  
24 officers to investigate violations of this chapter or RCW 9.08.070 or  
25 81.56.120, and to seize evidence of those violations.

26 (4) Upon request of an animal control officer who has probable  
27 cause to believe that a person has violated this chapter or RCW  
28 9.08.070 or 81.56.120, a law enforcement agency officer may arrest the  
29 alleged offender.

30 **Sec. 3.** RCW 16.52.020 and 1973 1st ex.s. c 125 s 1 are each  
31 amended to read as follows:

32 Any citizens of the state of Washington (~~who have heretofore, or~~  
33 ~~who shall hereafter, incorporate as a body corporate,)) incorporated  
34 under the laws of this state as a humane society or as a society for  
35 the prevention of cruelty to animals may (~~avail themselves of the~~  
36 ~~privileges of RCW 16.52.010 through 16.52.050, 16.52.070 through~~  
37 ~~16.52.090 and 16.52.100 through 16.52.180: PROVIDED, That)) enforce  
38 the provisions of this chapter through its animal control officers~~~~

1 subject to the limitations in sections 2 and 4 of this act. The  
2 legislative authority in each county may grant exclusive authority to  
3 exercise the privileges and authority granted by this section to one or  
4 more qualified corporations for a period of up to three years based  
5 upon ability to fulfill the purposes of this chapter.

6 NEW SECTION. **Sec. 4.** A new section is added to chapter 16.52 RCW  
7 to read as follows:

8 Trustees of humane societies incorporated pursuant to RCW 16.52.020  
9 may appoint society members to act as animal control officers. The  
10 trustee appointments shall be in writing. The appointment shall be  
11 effective in a particular county only if an appointee obtains written  
12 authorization from the superior court of the county in which the  
13 appointee seeks to enforce this chapter. To obtain judicial  
14 authorization, an appointee seeking judicial authorization on or after  
15 the effective date of this section shall provide evidence satisfactory  
16 to the judge that the appointee has successfully completed training  
17 which has prepared the appointee to assume the powers granted to animal  
18 control officers pursuant to section 2 of this act. The trustees shall  
19 review appointments every three years and may revoke an appointment at  
20 any time by filing a certified revocation with the superior court that  
21 approved the appointment. Authorizations shall not exceed three years  
22 or trustee termination, whichever occurs first. To qualify for  
23 reappointment when a term expires on or after the effective date of  
24 this section, the officer shall obtain training or satisfy the court  
25 that the officer has sufficient experience to exercise the powers  
26 granted to animal control officers pursuant to section 2 of this act.

27 **Sec. 5.** RCW 16.52.085 and 1987 c 335 s 1 are each amended to read  
28 as follows:

29 (1) If ~~((the county sheriff or other))~~ a law enforcement officer  
30 ~~((shall find))~~ or animal control officer has probable cause to believe  
31 that ~~((said))~~ an owner of a domestic animal has ~~((been neglected by its~~  
32 ~~owner, he or she))~~ violated this chapter and no responsible person can  
33 be found to assume the animal's care, the officer may authorize, with  
34 a warrant, the removal of the animal to a ~~((proper pasture or other))~~  
35 suitable place for feeding and ~~((restoring to health.))~~ care, or may  
36 place the animal under the custody of an animal care and control  
37 agency. In determining what is a suitable place, the officer shall

1 consider the animal's needs, including its size and behavioral  
2 characteristics. An officer may remove an animal under this subsection  
3 without a warrant only if the animal is in an immediate life-  
4 threatening condition.

5 (2) If a law enforcement officer or an animal control officer has  
6 probable cause to believe a violation of this chapter has occurred, the  
7 officer may authorize an examination of ~~((an))~~ a domestic animal  
8 allegedly neglected (~~(domestic animal)~~) or abused in violation of this  
9 chapter by a veterinarian to determine whether the level of neglect or  
10 abuse in violation of this chapter is sufficient to require removal of  
11 the animal. This section does not condone illegal entry onto private  
12 property.

13 (3) Any owner whose domestic animal is removed ~~((to a suitable~~  
14 ~~place))~~ pursuant to this chapter shall be given written notice of the  
15 circumstances of the removal and notice of legal remedies available to  
16 the owner. The notice shall be given by posting at the place of  
17 seizure, by delivery to a person residing at the place of seizure, or  
18 by registered mail if the owner is known. In making the decision to  
19 remove an animal pursuant to this chapter, the ~~((law enforcement))~~  
20 officer shall make a good faith effort to contact the animal's owner  
21 before removal (~~(unless the animal is in a life-threatening condition~~  
22 or unless the officer reasonably believes that the owner would remove  
23 the animal from the jurisdiction)).

24 (4) The agency having custody of the animal may euthanize the  
25 animal or may find a responsible person to adopt the animal not less  
26 than fifteen business days after the animal is taken into custody. A  
27 custodial agency may euthanize severely injured, diseased, or suffering  
28 animals at any time. An owner may prevent the animal's destruction or  
29 adoption by: (a) Petitioning the district court of the county where  
30 the animal was seized for the animal's immediate return subject to  
31 court-imposed conditions, or (b) posting a bond or security in an  
32 amount sufficient to provide for the animal's care for a minimum of  
33 thirty days from the seizure date. If the custodial agency still has  
34 custody of the animal when the bond or security expires, the animal  
35 shall become the agency's property unless the court orders an  
36 alternative disposition. If a court order prevents the agency from  
37 assuming ownership and the agency continues to care for the animal, the  
38 court shall order the owner to renew a bond or security for the  
39 agency's continuing costs for the animal's care.

1       (5) If no criminal case is filed within seventy-two hours of the  
2       (~~removal of the animal~~) animal's removal, the owner may petition the  
3       district court of the county where the (~~removal of the~~) animal  
4       (~~occurred~~) was removed for the (~~return of the animal~~) animal's  
5       return. The petition shall be filed with the court, with copies served  
6       to the law enforcement or animal care and control agency responsible  
7       for removing the animal and to the prosecuting attorney. If the court  
8       grants the petition, the agency which seized the animal must deliver  
9       the animal to the owner at no cost to the owner. If a criminal action  
10      is filed after the petition is filed but before the animal is returned,  
11      the petition shall be joined with the criminal matter.

12      (~~(5)~~) (6) In a motion or petition for the (~~return of the removed~~  
13      ~~animal~~) animal's return before a trial, the burden is on the owner to  
14      prove by a preponderance of the evidence that the animal will not  
15      suffer future neglect or abuse and is not in need of being restored to  
16      health.

17      (~~(6)~~) (7) Any authorized person treating or attempting to restore  
18      an animal to health under this chapter shall not be civilly or  
19      criminally liable for such action.

20      **Sec. 6.** RCW 16.52.095 and Code 1881 s 840 are each amended to read  
21      as follows:

22      It shall not be lawful for any person to cut off more than one-half  
23      of the ear or ears of any domestic animal such as an ox, cow, bull,  
24      calf, sheep, goat or hog, or dog, and any person cutting off more than  
25      one-half of the ear or ears of any such animals, shall be deemed guilty  
26      of a misdemeanor, and upon conviction, shall be fined in any sum less  
27      than twenty dollars. This section does not apply if cutting off more  
28      than one-half of the ear of the animal is a customary husbandry  
29      practice that is conducted under supervision of a licensed  
30      veterinarian.

31      NEW SECTION. **Sec. 7.** A new section is added to chapter 16.52 RCW  
32      to read as follows:

33      (1) A person is guilty of animal cruelty in the first degree if the  
34      person intentionally tortures, torments, or cruelly treats any animal  
35      and the animal suffers substantial bodily harm or substantial pain as  
36      a result of the torture, torment, or cruel treatment.

37      (2) Animal cruelty in the first degree is a class C felony.

1        NEW SECTION.    **Sec. 8.**    A new section is added to chapter 16.52 RCW  
2 to read as follows:

3        (1) A person is guilty of animal cruelty in the second degree if,  
4 under circumstances not amounting to first degree animal cruelty, the  
5 person knowingly, recklessly, or with criminal negligence inflicts  
6 unnecessary suffering or pain upon an animal.

7        (2) An owner of an animal is guilty of animal cruelty in the second  
8 degree if, under circumstances not amounting to first degree animal  
9 cruelty, the owner knowingly, recklessly, or with criminal negligence:

10        (a) Fails to provide the animal with necessary food, water,  
11 shelter, rest, sanitation, ventilation, space, or medical attention and  
12 the animal suffers unnecessary or unjustifiable physical pain as a  
13 result of the failure; or

14        (b) Abandons the animal.

15        (3) Animal cruelty in the second degree is a misdemeanor.

16        **Sec. 9.**    RCW 16.52.100 and 1982 c 114 s 6 are each amended to read  
17 as follows:

18        (~~Any person who shall impound or confine or cause to be impounded~~  
19 ~~or confined any domestic animal, shall supply the same during such~~  
20 ~~confinement with a sufficient quantity of good and wholesome food and~~  
21 ~~water, and in default thereof shall be guilty of a misdemeanor. In~~  
22 ~~ease)) If any domestic animal (~~shall be~~) is impounded or confined  
23 (~~as aforesaid and shall continue to be~~) without necessary food and  
24 water for more than twenty-four consecutive hours, (~~it shall be lawful~~  
25 ~~for~~) any person may, from time to time, as (~~it shall be deemed~~) is  
26 necessary (~~to~~), enter into and open any pound or place of confinement  
27 in which any domestic animal (~~shall be~~) is confined, and supply it  
28 with necessary food and water so long as it (~~shall be~~) is confined.  
29 (~~Such~~) The person shall not be liable to action for (~~such~~) the  
30 entry, and may collect from the animal's owner the reasonable cost of  
31 (~~such~~) the food and water (~~may be collected by him of the owner of~~  
32 ~~such animal, and the said~~). The animal shall be subject to attachment  
33 (~~therefor~~) for the costs and shall not be exempt from levy and sale  
34 upon execution issued upon a judgment (~~therefor~~). If an  
35 investigating officer finds it extremely difficult to supply (~~such~~)  
36 confined animals with food and water, the officer may remove the  
37 animals to protective custody for that purpose.~~

1       **Sec. 10.** RCW 16.52.117 and 1982 c 114 s 9 are each amended to read  
2 as follows:

3       (1) Any person who does any of the following is guilty of a gross  
4 misdemeanor punishable by imprisonment not to exceed one year, or by a  
5 fine not to exceed five thousand dollars, or by both fine and  
6 imprisonment:

7       (a) Owns, possesses, keeps, or trains any ~~((dog))~~ animal with the  
8 intent that the ~~((dog))~~ animal shall be engaged in an exhibition of  
9 fighting with another ~~((dog))~~ animal;

10       (b) For amusement or gain causes any ~~((dog))~~ animal to fight with  
11 another ~~((dog))~~ animal, or causes any ~~((dogs))~~ animals to injure each  
12 other; or

13       (c) Permits any act in violation of (a) or (b) of this subsection  
14 to be done on any premises under his or her charge or control, or  
15 promotes or aids or abets any such act.

16       (2) Any person who is knowingly present, as a spectator, at any  
17 place or building where preparations are being made for an exhibition  
18 of the fighting of ~~((dogs))~~ animals, with the intent to be present at  
19 such preparations, or is knowingly present at such exhibition or at any  
20 other fighting or injuring as described in subsection (1)(b) of this  
21 section, with the intent to be present at such exhibition, fighting, or  
22 injuring, is guilty of a misdemeanor.

23       (3) Nothing in this section may prohibit the following:

24       (a) The use of dogs in the management of livestock, as defined by  
25 chapter 16.57 RCW, by the owner of the livestock or the owner's  
26 employees or agents or other persons in lawful custody of the  
27 livestock;

28       (b) The use of dogs in hunting as permitted by law; or

29       (c) The training of ~~((dogs))~~ animals or the use of equipment in the  
30 training of ~~((dogs))~~ animals for any purpose not prohibited by law.

31       **Sec. 11.** RCW 16.52.180 and 1901 c 146 s 18 are each amended to  
32 read as follows:

33       No part of ~~((RCW 16.52.010 through 16.52.050, 16.52.070 through~~  
34 ~~16.52.090 and 16.52.100 through 16.52.180))~~ this chapter shall be  
35 deemed to interfere with any of the laws of this state known as the  
36 "game laws," nor ~~((shall RCW 16.52.010 through 16.52.050, 16.52.070~~  
37 ~~through 16.52.090 and 16.52.100 through 16.52.180))~~ be deemed to  
38 interfere with the right to destroy any venomous reptile or any known

1 as dangerous to life, limb or property, or to interfere with the right  
2 to kill animals to be used for food or with any properly conducted  
3 scientific experiments or investigations, which experiments or  
4 investigations shall be performed only under the authority of the  
5 faculty of some regularly incorporated college or university of the  
6 state of Washington or a research facility registered with the United  
7 States department of agriculture and regulated by 7 U.S.C. Sec. 2131 et  
8 seq.

9       **Sec. 12.** RCW 16.52.190 and 1941 c 105 s 1 are each amended to read  
10 as follows:

11       ~~((It shall be unlawful for any person to wilfully or maliciously~~  
12 ~~poison any domestic animal or domestic bird:— PROVIDED, That the~~  
13 ~~provisions))~~ (1) Except as provided in subsections (2) and (3) of this  
14 section, a person is guilty of the crime of poisoning animals if the  
15 person intentionally or knowingly poisons an animal under circumstances  
16 which do not constitute animal cruelty in the first degree.

17       (2) Subsection (1) of this section shall not apply to ((the  
18 killing)) euthanizing by poison ((such)) an animal ((or bird)) in a  
19 lawful and humane manner by the animal's owner ((thereof)), or by a  
20 duly authorized servant or agent of ((such)) the owner, or by a person  
21 acting pursuant to instructions from a duly constituted public  
22 authority.

23       (3) Subsection (1) of this section shall not apply to the  
24 reasonable use of rodent or pest poison, insecticides, fungicides, or  
25 slug bait for their intended purposes. As used in this section, the  
26 term "rodent" includes but is not limited to Columbia ground squirrels,  
27 other ground squirrels, rats, mice, gophers, rabbits, and any other  
28 rodent designated as injurious to the agricultural interests of the  
29 state as provided in chapter 17.16 RCW. The term "pest" as used in  
30 this section includes any pest as defined in RCW 17.21.020.

31       **Sec. 13.** RCW 16.52.200 and 1987 c 335 s 2 are each amended to read  
32 as follows:

33       (1) The sentence imposed for a misdemeanor or gross misdemeanor  
34 violation of this chapter may be deferred or suspended in accordance  
35 with RCW 3.66.067 and 3.66.068, however the probationary period shall  
36 be two years.

1 (2) In case of multiple misdemeanor or gross misdemeanor  
2 convictions, the sentences shall be consecutive, however the  
3 probationary period shall remain two years.

4 (3) In addition to the penalties imposed by the court, the court  
5 shall order the forfeiture of all animals held by law enforcement or  
6 animal care and control authorities under the provisions of this  
7 chapter if any one of the animals involved dies as a result of a  
8 violation of this chapter or if the defendant has a prior conviction  
9 under this chapter. In other cases the court may enter an order  
10 requiring the owner to forfeit the animal if the court deems the  
11 ~~((crue+))~~ animal's treatment to have been severe and likely to reoccur.  
12 If forfeiture is ordered, the owner shall be prohibited from owning or  
13 caring for any similar animals for a period of two years. The court  
14 may delay its decision on forfeiture under this subsection until the  
15 end of the probationary period.

16 (4) In addition to fines and court costs, the ~~((owner))~~ defendant,  
17 only if convicted or in agreement, shall be liable for reasonable costs  
18 incurred pursuant to this chapter by ~~((the))~~ law enforcement agencies,  
19 animal care and control agencies, or authorized private or public  
20 entities involved with the care of the animals. Reasonable costs  
21 include expenses of the investigation, and the animal's care,  
22 euthanization, or adoption.

23 (5) If convicted, the ~~((owner))~~ defendant shall also pay a civil  
24 penalty of one ~~((hundred))~~ thousand dollars to the county to prevent  
25 cruelty to animals. These funds shall be used to prosecute offenses  
26 under this chapter and to care for forfeited animals pending trial.

27 (6) As a condition of the sentence imposed under this chapter or  
28 RCW 9.08.070, the court may also order the defendant to participate in  
29 an available animal cruelty prevention or education program or obtain  
30 available psychological counseling to treat mental health problems  
31 contributing to the violation's commission. The defendant shall bear  
32 the costs of the program or treatment.

33 **Sec. 14.** RCW 16.52.300 and 1990 c 226 s 1 are each amended to read  
34 as follows:

35 (1) If any person ~~((who uses))~~ commits the crime of animal cruelty  
36 in the first or second degree by using or trapping to use domestic dogs  
37 or cats as bait, prey, or targets for the purpose of training dogs or  
38 other animals to track, fight, or hunt, ~~((in such a fashion as to~~

1 torture, torment, deprive of necessary sustenance, cruelly beat, or  
2 mutilate such animals, shall be guilty of a misdemeanor.

3 (2) Any person who violates the provisions of subsection (1) of  
4 this section, and whose actions result in the death of the animal,  
5 shall be guilty of a gross misdemeanor.

6 (3) Any person who captures by trap a domestic dog or cat to be  
7 used as bait, prey, or targets for the purpose of training dogs or  
8 other animals to track, fight, or hunt, in such a fashion as to  
9 torture, torment, deprive of necessary sustenance, cruelly beat, or  
10 mutilate such animals, shall be guilty of a misdemeanor.

11 (4) Any person who violates the provisions of subsection (3) of  
12 this section, and whose actions result in the death of the animal,  
13 shall be guilty of a gross misdemeanor.

14 (5) If a person violates this section,)) law enforcement  
15 ((authorities)) officers or animal control officers shall seize and  
16 hold the animals being trained. ((Such)) The seized animals shall be  
17 disposed of by the court pursuant to the provisions of RCW  
18 16.52.200(3).

19 ((+6)) (2) This section shall not in any way interfere with or  
20 impair the operation of any provision of Title 28B RCW, relating to  
21 higher education or biomedical research.

22 **Sec. 15.** RCW 9.94A.030 and 1994 c 1 s 3 (Initiative Measure No.  
23 593), 1993 c 338 s 2, 1993 c 251 s 4, and 1993 c 164 s 1 are each  
24 reenacted and amended to read as follows:

25 Unless the context clearly requires otherwise, the definitions in  
26 this section apply throughout this chapter.

27 (1) "Collect," or any derivative thereof, "collect and remit," or  
28 "collect and deliver," when used with reference to the department of  
29 corrections, means that the department is responsible for monitoring  
30 and enforcing the offender's sentence with regard to the legal  
31 financial obligation, receiving payment thereof from the offender, and,  
32 consistent with current law, delivering daily the entire payment to the  
33 superior court clerk without depositing it in a departmental account.

34 (2) "Commission" means the sentencing guidelines commission.

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

1 (4) "Community custody" means that portion of an inmate's sentence  
2 of confinement in lieu of earned early release time served in the  
3 community subject to controls placed on the inmate's movement and  
4 activities by the department of corrections.

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

12 (6) "Community service" means compulsory service, without  
13 compensation, performed for the benefit of the community by the  
14 offender.

15 (7) "Community supervision" means a period of time during which a  
16 convicted offender is subject to crime-related prohibitions and other  
17 sentence conditions imposed by a court pursuant to this chapter or RCW  
18 16.52.200(6) or 46.61.524. For first-time offenders, the supervision  
19 may include crime-related prohibitions and other conditions imposed  
20 pursuant to RCW 9.94A.120(5). For purposes of the interstate compact  
21 for out-of-state supervision of parolees and probationers, RCW  
22 9.95.270, community supervision is the functional equivalent of  
23 probation and should be considered the same as probation by other  
24 states.

25 (8) "Confinement" means total or partial confinement as defined in  
26 this section.

27 (9) "Conviction" means an adjudication of guilt pursuant to Titles  
28 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and  
29 acceptance of a plea of guilty.

30 (10) "Court-ordered legal financial obligation" means a sum of  
31 money that is ordered by a superior court of the state of Washington  
32 for legal financial obligations which may include restitution to the  
33 victim, statutorily imposed crime victims' compensation fees as  
34 assessed pursuant to RCW 7.68.035, court costs, county or interlocal  
35 drug funds, court-appointed attorneys' fees, and costs of defense,  
36 fines, and any other financial obligation that is assessed to the  
37 offender as a result of a felony conviction. Upon conviction for  
38 vehicular assault while under the influence of intoxicating liquor or  
39 any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the

1 influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a),  
2 legal financial obligations may also include payment to a public agency  
3 of the expense of an emergency response to the incident resulting in  
4 the conviction, subject to the provisions in RCW 38.52.430.

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

11 (12)(a) "Criminal history" means the list of a defendant's prior  
12 convictions, whether in this state, in federal court, or elsewhere.  
13 The history shall include, where known, for each conviction (i) whether  
14 the defendant has been placed on probation and the length and terms  
15 thereof; and (ii) whether the defendant has been incarcerated and the  
16 length of incarceration.

17 (b) "Criminal history" shall always include juvenile convictions  
18 for sex offenses and shall also include a defendant's other prior  
19 convictions in juvenile court if: (i) The conviction was for an  
20 offense which is a felony or a serious traffic offense and is criminal  
21 history as defined in RCW 13.40.020(~~((6)(a))~~) (9); (ii) the defendant  
22 was fifteen years of age or older at the time the offense was  
23 committed; and (iii) with respect to prior juvenile class B and C  
24 felonies or serious traffic offenses, the defendant was less than  
25 twenty-three years of age at the time the offense for which he or she  
26 is being sentenced was committed.

27 (13) "Department" means the department of corrections.

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

36 (15) "Disposable earnings" means that part of the earnings of an  
37 individual remaining after the deduction from those earnings of any  
38 amount required by law to be withheld. For the purposes of this  
39 definition, "earnings" means compensation paid or payable for personal

1 services, whether denominated as wages, salary, commission, bonuses, or  
2 otherwise, and, notwithstanding any other provision of law making the  
3 payments exempt from garnishment, attachment, or other process to  
4 satisfy a court-ordered legal financial obligation, specifically  
5 includes periodic payments pursuant to pension or retirement programs,  
6 or insurance policies of any type, but does not include payments made  
7 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,  
8 or Title 74 RCW.

9 (16) "Drug offense" means:

10 (a) Any felony violation of chapter 69.50 RCW except possession of  
11 a controlled substance (RCW 69.50.401(d)) or forged prescription for a  
12 controlled substance (RCW 69.50.403);

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

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

19 (17) "Escape" means:

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

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

28 (18) "Felony traffic offense" means:

29 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
30 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-  
31 and-run injury-accident (RCW 46.52.020(4)); or

32 (b) 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 felony  
34 traffic offense under (a) of this subsection.

35 (19) "Fines" means the requirement that the offender pay a specific  
36 sum of money over a specific period of time to the court.

37 (20)(a) "First-time offender" means any person who is convicted of  
38 a felony (i) not classified as a violent offense or a sex offense under  
39 this chapter, or (ii) that is not the manufacture, delivery, or

1 possession with intent to manufacture or deliver a controlled substance  
2 classified in schedule I or II that is a narcotic drug or the selling  
3 for profit of any controlled substance or counterfeit substance  
4 classified in schedule I, RCW 69.50.204, except leaves and flowering  
5 tops of marihuana, and except as provided in (b) of this subsection,  
6 who previously has never been convicted of a felony in this state,  
7 federal court, or another state, and who has never participated in a  
8 program of deferred prosecution for a felony offense.

9 (b) For purposes of (a) of this subsection, a juvenile adjudication  
10 for an offense committed before the age of fifteen years is not a  
11 previous felony conviction except for adjudications of sex offenses.

12 (21) "Most serious offense" means any of the following felonies or  
13 a felony attempt to commit any of the following felonies, as now  
14 existing or hereafter amended:

15 (a) Any felony defined under any law as a class A felony or  
16 criminal solicitation of or criminal conspiracy to commit a class A  
17 felony;

18 (b) Assault in the second degree;

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

20 (d) Child molestation in the second degree;

21 (e) Controlled substance homicide;

22 (f) Extortion in the first degree;

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

24 (h) Indecent liberties;

25 (i) Kidnapping in the second degree;

26 (j) Leading organized crime;

27 (k) Manslaughter in the first degree;

28 (l) Manslaughter in the second degree;

29 (m) Promoting prostitution in the first degree;

30 (n) Rape in the third degree;

31 (o) Robbery in the second degree;

32 (p) Sexual exploitation;

33 (q) Vehicular assault;

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

38 (s) Any other class B felony offense with a finding of sexual  
39 motivation, as "sexual motivation" is defined under this section;

1 (t) Any other felony with a deadly weapon verdict under RCW  
2 9.94A.125;

3 (u) Any felony offense in effect at any time prior to December 2,  
4 1993, that is comparable to a most serious offense under this  
5 subsection, or any federal or out-of-state conviction for an offense  
6 that under the laws of this state would be a felony classified as a  
7 most serious offense under this subsection.

8 (22) "Nonviolent offense" means an offense which is not a violent  
9 offense.

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

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

24 (25) "Persistent offender" is an offender who:

25 (a) Has been convicted in this state of any felony considered a  
26 most serious offense; and

27 (b) Has, before the commission of the offense under (a) of this  
28 subsection, been convicted as an offender on at least two separate  
29 occasions, whether in this state or elsewhere, of felonies that under  
30 the laws of this state would be considered most serious offenses and  
31 would be included in the offender score under RCW 9.94A.360; provided  
32 that of the two or more previous convictions, at least one conviction  
33 must have occurred before the commission of any of the other most  
34 serious offenses for which the offender was previously convicted.

35 (26) "Postrelease supervision" is that portion of an offender's  
36 community placement that is not community custody.

37 (27) "Restitution" means the requirement that the offender pay a  
38 specific sum of money over a specific period of time to the court as

1 payment of damages. The sum may include both public and private costs.  
2 The imposition of a restitution order does not preclude civil redress.

3 (28) "Serious traffic offense" means:

4 (a) Driving while under the influence of intoxicating liquor or any  
5 drug (RCW 46.61.502), actual physical control while under the influence  
6 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving  
7 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));  
8 or

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

12 (29) "Serious violent offense" is a subcategory of violent offense  
13 and means:

14 (a) Murder in the first degree, homicide by abuse, murder in the  
15 second degree, assault in the first degree, kidnapping in the first  
16 degree, or rape in the first degree, assault of a child in the first  
17 degree, or an attempt, criminal solicitation, or criminal conspiracy to  
18 commit one of these felonies; or

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

22 (30) "Sentence range" means the sentencing court's discretionary  
23 range in imposing a nonappealable sentence.

24 (31) "Sex offense" means:

25 (a) A felony that is a violation of chapter 9A.44 RCW or RCW  
26 9A.64.020 or 9.68A.090 or that is, under chapter 9A.28 RCW, a criminal  
27 attempt, criminal solicitation, or criminal conspiracy to commit such  
28 crimes;

29 (b) A felony with a finding of sexual motivation under RCW  
30 9.94A.127; or

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

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

37 (33) "Total confinement" means confinement inside the physical  
38 boundaries of a facility or institution operated or utilized under

1 contract by the state or any other unit of government for twenty-four  
2 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

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

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

12 (36) "Violent offense" means:

13 (a) Any of the following felonies, as now existing or hereafter  
14 amended: Any felony defined under any law as a class A felony or an  
15 attempt to commit a class A felony, criminal solicitation of or  
16 criminal conspiracy to commit a class A felony, manslaughter in the  
17 first degree, manslaughter in the second degree, indecent liberties if  
18 committed by forcible compulsion, kidnapping in the second degree,  
19 arson in the second degree, assault in the second degree, assault of a  
20 child in the second degree, extortion in the first degree, robbery in  
21 the second degree, vehicular assault, and vehicular homicide, when  
22 proximately caused by the driving of any vehicle by any person while  
23 under the influence of intoxicating liquor or any drug as defined by  
24 RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

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

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

31 (37) "Work crew" means a program of partial confinement consisting  
32 of civic improvement tasks for the benefit of the community of not less  
33 than thirty-five hours per week that complies with RCW 9.94A.135. The  
34 civic improvement tasks shall have minimal negative impact on existing  
35 private industries or the labor force in the county where the service  
36 or labor is performed. The civic improvement tasks shall not affect  
37 employment opportunities for people with developmental disabilities  
38 contracted through sheltered workshops as defined in RCW 82.04.385.  
39 Only those offenders sentenced to a facility operated or utilized under

1 contract by a county or the state are eligible to participate on a work  
2 crew. Offenders sentenced for a sex offense as defined in subsection  
3 (31) of this section are not eligible for the work crew program.

4 (38) "Work ethic camp" means an alternative incarceration program  
5 designed to reduce recidivism and lower the cost of corrections by  
6 requiring offenders to complete a comprehensive array of real-world job  
7 and vocational experiences, character-building work ethics training,  
8 life management skills development, substance abuse rehabilitation,  
9 counseling, literacy training, and basic adult education.

10 (39) "Work release" means a program of partial confinement  
11 available to offenders who are employed or engaged as a student in a  
12 regular course of study at school. Participation in work release shall  
13 be conditioned upon the offender attending work or school at regularly  
14 defined hours and abiding by the rules of the work release facility.

15 (40) "Home detention" means a program of partial confinement  
16 available to offenders wherein the offender is confined in a private  
17 residence subject to electronic surveillance. Home detention may not  
18 be imposed for offenders convicted of a violent offense, any sex  
19 offense, any drug offense, reckless burning in the first or second  
20 degree as defined in RCW 9A.48.040 or 9A.48.050, assault in the third  
21 degree as defined in RCW 9A.36.031, assault of a child in the third  
22 degree, unlawful imprisonment as defined in RCW 9A.40.040, or  
23 harassment as defined in RCW 9A.46.020. Home detention may be imposed  
24 for offenders convicted of possession of a controlled substance (RCW  
25 69.50.401(d)) or forged prescription for a controlled substance (RCW  
26 69.50.403) if the offender fulfills the participation conditions set  
27 forth in this subsection and is monitored for drug use by treatment  
28 alternatives to street crime (TASC) or a comparable court or agency-  
29 referred program.

30 (a) Home detention may be imposed for offenders convicted of  
31 burglary in the second degree as defined in RCW 9A.52.030 or  
32 residential burglary conditioned upon the offender: (i) Successfully  
33 completing twenty-one days in a work release program, (ii) having no  
34 convictions for burglary in the second degree or residential burglary  
35 during the preceding two years and not more than two prior convictions  
36 for burglary or residential burglary, (iii) having no convictions for  
37 a violent felony offense during the preceding two years and not more  
38 than two prior convictions for a violent felony offense, (iv) having no

1 prior charges of escape, and (v) fulfilling the other conditions of the  
2 home detention program.

3 (b) Participation in a home detention program shall be conditioned  
4 upon: (i) The offender obtaining or maintaining current employment or  
5 attending a regular course of school study at regularly defined hours,  
6 or the offender performing parental duties to offspring or minors  
7 normally in the custody of the offender, (ii) abiding by the rules of  
8 the home detention program, and (iii) compliance with court-ordered  
9 legal financial obligations. The home detention program may also be  
10 made available to offenders whose charges and convictions do not  
11 otherwise disqualify them if medical or health-related conditions,  
12 concerns or treatment would be better addressed under the home  
13 detention program, or where the health and welfare of the offender,  
14 other inmates, or staff would be jeopardized by the offender's  
15 incarceration. Participation in the home detention program for medical  
16 or health-related reasons is conditioned on the offender abiding by the  
17 rules of the home detention program and complying with court-ordered  
18 restitution.

19 **Sec. 16.** RCW 9A.48.080 and 1979 c 145 s 2 are each amended to read  
20 as follows:

21 (1) A person is guilty of malicious mischief in the second degree  
22 if he or she knowingly and maliciously:

23 (a) Causes physical damage to the property of another in an amount  
24 exceeding two hundred fifty dollars; or

25 (b) Creates a substantial risk of interruption or impairment of  
26 service rendered to the public, by physically damaging or tampering  
27 with an emergency vehicle or property of the state, a political  
28 subdivision thereof, or a public utility or mode of public  
29 transportation, power, or communication(~~(i) or~~

30 ~~(c) Notwithstanding RCW 16.52.070, causes physical damage,~~  
31 ~~destruction, or injury by amputation, mutilation, castration, or other~~  
32 ~~malicious act to a horse, mule, cow, heifer, bull, steer, swine, goat,~~  
33 ~~or sheep which is the property of another)).~~

34 (2) Malicious mischief in the second degree is a class C felony.

35 **Sec. 17.** RCW 13.40.020 and 1993 c 373 s 1 are each amended to read  
36 as follows:

37 For the purposes of this chapter:

1 (1) "Serious offender" means a person fifteen years of age or older  
2 who has committed an offense which if committed by an adult would be:  
3 (a) A class A felony, or an attempt to commit a class A felony;  
4 (b) Manslaughter in the first degree; or  
5 (c) Assault in the second degree, extortion in the first degree,  
6 child molestation in the second degree, kidnapping in the second  
7 degree, robbery in the second degree, residential burglary, or burglary  
8 in the second degree, where such offenses include the infliction of  
9 bodily harm upon another or where during the commission of or immediate  
10 withdrawal from such an offense the perpetrator is armed with a deadly  
11 weapon or firearm as defined in RCW 9A.04.110;

12 (2) "Community service" means compulsory service, without  
13 compensation, performed for the benefit of the community by the  
14 offender as punishment for committing an offense. Community service  
15 may be performed through public or private organizations or through  
16 work crews;

17 (3) "Community supervision" means an order of disposition by the  
18 court of an adjudicated youth not committed to the department. A  
19 community supervision order for a single offense may be for a period of  
20 up to two years for a sex offense as defined by RCW 9.94A.030 and up to  
21 one year for other offenses. Community supervision is an  
22 individualized program comprised of one or more of the following:

23 (a) Community-based sanctions;  
24 (b) Community-based rehabilitation;  
25 (c) Monitoring and reporting requirements;

26 (4) Community-based sanctions may include one or more of the  
27 following:  
28 (a) A fine, not to exceed one hundred dollars;  
29 (b) Community service not to exceed one hundred fifty hours of  
30 service;

31 (5) "Community-based rehabilitation" means one or more of the  
32 following: Attendance of information classes; counseling, outpatient  
33 substance abuse treatment programs, outpatient mental health programs,  
34 anger management classes, education or outpatient treatment programs to  
35 prevent animal cruelty, or other services; or attendance at school or  
36 other educational programs appropriate for the juvenile as determined  
37 by the school district. Placement in community-based rehabilitation  
38 programs is subject to available funds;

1 (6) "Monitoring and reporting requirements" means one or more of  
2 the following: Curfews; requirements to remain at home, school, work,  
3 or court-ordered treatment programs during specified hours;  
4 restrictions from leaving or entering specified geographical areas;  
5 requirements to report to the probation officer as directed and to  
6 remain under the probation officer's supervision; and other conditions  
7 or limitations as the court may require which may not include  
8 confinement;

9 (7) "Confinement" means physical custody by the department of  
10 social and health services in a facility operated by or pursuant to a  
11 contract with the state, or physical custody in a detention facility  
12 operated by or pursuant to a contract with any county. The county may  
13 operate or contract with vendors to operate county detention  
14 facilities. The department may operate or contract to operate  
15 detention facilities for juveniles committed to the department.  
16 Pretrial confinement or confinement of less than thirty-one days  
17 imposed as part of a disposition or modification order may be served  
18 consecutively or intermittently, in the discretion of the court and may  
19 be served in a detention group home, detention foster home, or with  
20 electronic monitoring. Detention group homes and detention foster  
21 homes used for confinement shall not also be used for the placement of  
22 dependent children. Confinement in detention group homes and detention  
23 foster homes and electronic monitoring are subject to available funds;

24 (8) "Court", when used without further qualification, means the  
25 juvenile court judge(s) or commissioner(s);

26 (9) "Criminal history" includes all criminal complaints against the  
27 respondent for which, prior to the commission of a current offense:

28 (a) The allegations were found correct by a court. If a respondent  
29 is convicted of two or more charges arising out of the same course of  
30 conduct, only the highest charge from among these shall count as an  
31 offense for the purposes of this chapter; or

32 (b) The criminal complaint was diverted by a prosecutor pursuant to  
33 the provisions of this chapter on agreement of the respondent and after  
34 an advisement to the respondent that the criminal complaint would be  
35 considered as part of the respondent's criminal history;

36 (10) "Department" means the department of social and health  
37 services;

1 (11) "Detention facility" means a county facility for the physical  
2 confinement of a juvenile alleged to have committed an offense or an  
3 adjudicated offender subject to a disposition or modification order;

4 (12) "Diversion unit" means any probation counselor who enters into  
5 a diversion agreement with an alleged youthful offender, or any other  
6 person or entity except a law enforcement official or entity, with whom  
7 the juvenile court administrator has contracted to arrange and  
8 supervise such agreements pursuant to RCW 13.40.080, or any person or  
9 entity specially funded by the legislature to arrange and supervise  
10 diversion agreements in accordance with the requirements of this  
11 chapter;

12 (13) "Institution" means a juvenile facility established pursuant  
13 to chapters 72.05 and 72.16 through 72.20 RCW;

14 (14) "Juvenile," "youth," and "child" mean any individual who is  
15 under the chronological age of eighteen years and who has not been  
16 previously transferred to adult court;

17 (15) "Juvenile offender" means any juvenile who has been found by  
18 the juvenile court to have committed an offense, including a person  
19 eighteen years of age or older over whom jurisdiction has been extended  
20 under RCW 13.40.300;

21 (16) "Manifest injustice" means a disposition that would either  
22 impose an excessive penalty on the juvenile or would impose a serious,  
23 and clear danger to society in light of the purposes of this chapter;

24 (17) "Middle offender" means a person who has committed an offense  
25 and who is neither a minor or first offender nor a serious offender;

26 (18) "Minor or first offender" means a person sixteen years of age  
27 or younger whose current offense(s) and criminal history fall entirely  
28 within one of the following categories:

29 (a) Four misdemeanors;

30 (b) Two misdemeanors and one gross misdemeanor;

31 (c) One misdemeanor and two gross misdemeanors;

32 (d) Three gross misdemeanors;

33 (e) One class C felony except manslaughter in the second degree and  
34 one misdemeanor or gross misdemeanor;

35 (f) One class B felony except: Any felony which constitutes an  
36 attempt to commit a class A felony; manslaughter in the first degree;  
37 assault in the second degree; extortion in the first degree; indecent  
38 liberties; kidnapping in the second degree; robbery in the second

1 degree; burglary in the second degree; residential burglary; vehicular  
2 homicide; or arson in the second degree.

3 For purposes of this definition, current violations shall be  
4 counted as misdemeanors;

5 (19) "Offense" means an act designated a violation or a crime if  
6 committed by an adult under the law of this state, under any ordinance  
7 of any city or county of this state, under any federal law, or under  
8 the law of another state if the act occurred in that state;

9 (20) "Respondent" means a juvenile who is alleged or proven to have  
10 committed an offense;

11 (21) "Restitution" means financial reimbursement by the offender to  
12 the victim, and shall be limited to easily ascertainable damages for  
13 injury to or loss of property, actual expenses incurred for medical  
14 treatment for physical injury to persons, lost wages resulting from  
15 physical injury, and costs of the victim's counseling reasonably  
16 related to the offense if the offense is a sex offense. Restitution  
17 shall not include reimbursement for damages for mental anguish, pain  
18 and suffering, or other intangible losses. Nothing in this chapter  
19 shall limit or replace civil remedies or defenses available to the  
20 victim or offender;

21 (22) "Secretary" means the secretary of the department of social  
22 and health services;

23 (23) "Services" mean services which provide alternatives to  
24 incarceration for those juveniles who have pleaded or been adjudicated  
25 guilty of an offense or have signed a diversion agreement pursuant to  
26 this chapter;

27 (24) "Sex offense" means an offense defined as a sex offense in RCW  
28 9.94A.030;

29 (25) "Sexual motivation" means that one of the purposes for which  
30 the respondent committed the offense was for the purpose of his or her  
31 sexual gratification;

32 (26) "Foster care" means temporary physical care in a foster family  
33 home or group care facility as defined in RCW 74.15.020 and licensed by  
34 the department, or other legally authorized care;

35 (27) "Violation" means an act or omission, which if committed by an  
36 adult, must be proven beyond a reasonable doubt, and is punishable by  
37 sanctions which do not include incarceration.

1       **Sec. 18.** RCW 81.56.120 and 1961 c 14 s 81.56.120 are each amended  
2 to read as follows:

3       Railroad companies in carrying or transporting animals shall not  
4 permit them to be confined in cars for a longer period than forty-eight  
5 consecutive hours without unloading them for rest, water and feeding  
6 for a period of at least two consecutive hours, unless prevented from  
7 so unloading them by unavoidable accident. In estimating such  
8 confinement, the time during which the animals have been confined  
9 without such rest on connecting roads from which they are received  
10 shall be included. Animals so unloaded shall, during such rest, be  
11 properly fed, watered by the owner or person having the custody of  
12 them, or in case of his default in so doing, then by the railroad  
13 company transporting them, at the expense of said owner or person in  
14 custody thereof, and said company shall in such case have a lien upon  
15 such animals for food, care and custody furnished, and shall not be  
16 liable for such detention of such animals. If animals are transported  
17 where they can and do have proper food, water, space and opportunity  
18 for rest, the foregoing provision in regard to their being unloaded  
19 shall not apply. Violators of this section shall be punished by fine  
20 not exceeding one (~~hundred~~) thousand dollars per animal.

21       NEW SECTION.   **Sec. 19.** The following acts or parts of acts are  
22 each repealed:

- 23       (1) RCW 16.52.010 and 1901 c 146 s 17;  
24       (2) RCW 16.52.030 and 1982 c 114 s 2 & 1901 c 146 s 2;  
25       (3) RCW 16.52.040 and 1901 c 146 s 14;  
26       (4) RCW 16.52.050 and 1901 c 146 s 10;  
27       (5) RCW 16.52.055 and 1901 c 146 s 3;  
28       (6) RCW 16.52.060 and 1987 c 202 s 182 & 1893 c 27 s 9;  
29       (7) RCW 16.52.065 and 1982 c 114 s 3 & 1893 c 27 s 8;  
30       (8) RCW 16.52.070 and 1982 c 114 s 4, 1979 c 145 s 4, & 1901 c 146  
31 s 4;  
32       (9) RCW 16.52.113 and 1982 c 114 s 8;  
33       (10) RCW 16.52.120 and 1982 c 114 s 11 & 1901 c 146 s 7;  
34       (11) RCW 16.52.130 and 1982 c 114 s 12 & 1901 c 146 s 8;  
35       (12) RCW 16.52.140 and 1901 c 146 s 11; and  
36       (13) RCW 16.52.160 and 1901 c 146 s 9.

--- END ---