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SENATE BILL 5584

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State of Washington                      60th Legislature                      2007 Regular Session

By Senators Regala, McAuliffe and Keiser

Read first time 01/24/2007. Referred to Committee on Judiciary.

1            AN ACT Relating to protecting children under the age of seven by  
2 creating the crime of homicide by abuse in the second degree; amending  
3 RCW 9A.32.055, 9A.32.060, 13.40.0357, 13.34.180, 43.43.830, and  
4 9A.04.080; reenacting and amending RCW 9.94A.515, 9.94A.030, 9.94A.411,  
5 and 9.94A.712; adding a new section to chapter 9A.36 RCW; and  
6 prescribing penalties.

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

8            NEW SECTION.    **Sec. 1.** A new section is added to chapter 9A.36 RCW  
9 to read as follows:

10            (1) A person is guilty of homicide by abuse in the second degree  
11 when he or she, under circumstances not amounting to homicide by abuse  
12 in the first degree, recklessly causes the death of a child under seven  
13 years of age.

14            (2) Homicide by abuse in the second degree is a class A felony.

15            **Sec. 2.** RCW 9A.32.055 and 1987 c 187 s 1 are each amended to read  
16 as follows:

17            (1) A person is guilty of homicide by abuse in the first degree if,  
18 under circumstances manifesting an extreme indifference to human life,

1 the person causes the death of a child or person under sixteen years of  
2 age, a ((developmentally disabled)) person with a developmental  
3 disability, or a dependent adult, and the person has previously engaged  
4 in a pattern or practice of assault or torture of said child, person  
5 under sixteen years of age, ((developmentally disabled)) person with a  
6 developmental disability, or dependent person.

7 (2) As used in this section, "dependent adult" means a person who,  
8 because of physical or mental disability, or because of extreme  
9 advanced age, is dependent upon another person to provide the basic  
10 necessities of life.

11 (3) Homicide by abuse in the first degree is a class A felony.

12 **Sec. 3.** RCW 9A.32.060 and 1997 c 365 s 5 are each amended to read  
13 as follows:

14 (1) A person is guilty of manslaughter in the first degree when:

15 (a) He or she recklessly, under circumstances not amounting to a  
16 violation of section 1 of this act, causes the death of another person;  
17 or

18 (b) He or she intentionally and unlawfully kills an unborn quick  
19 child by inflicting any injury upon the mother of such child.

20 (2) Manslaughter in the first degree is a class A felony.

21 **Sec. 4.** RCW 9.94A.515 and 2006 c 277 s 6, 2006 c 228 s 9, 2006 c  
22 191 s 2, 2006 c 139 s 2, 2006 c 128 s 3, and 2006 c 73 s 12 are each  
23 reenacted and amended to read as follows:

24 TABLE 2  
25 CRIMES INCLUDED WITHIN  
26 EACH SERIOUSNESS LEVEL

27	XVI	Aggravated Murder 1 (RCW
28		10.95.020)
29	XV	Homicide by abuse <u>1</u> (RCW
30		9A.32.055)
31		Malicious explosion 1 (RCW
32		70.74.280(1))
33		Murder 1 (RCW 9A.32.030)
34	XIV	Murder 2 (RCW 9A.32.050)

1 Trafficking 1 (RCW 9A.40.100(1))  
2 XIII Malicious explosion 2 (RCW  
3 70.74.280(2))  
4 Malicious placement of an explosive 1  
5 (RCW 70.74.270(1))  
6 XII Assault 1 (RCW 9A.36.011)  
7 Assault of a Child 1 (RCW 9A.36.120)  
8 Homicide by abuse 2 (section 1 of this  
9 act)  
10 Malicious placement of an imitation  
11 device 1 (RCW 70.74.272(1)(a))  
12 Rape 1 (RCW 9A.44.040)  
13 Rape of a Child 1 (RCW 9A.44.073)  
14 Trafficking 2 (RCW 9A.40.100(2))  
15 XI Manslaughter 1 (RCW 9A.32.060)  
16 Rape 2 (RCW 9A.44.050)  
17 Rape of a Child 2 (RCW 9A.44.076)  
18 X Child Molestation 1 (RCW 9A.44.083)  
19 Indecent Liberties (with forcible  
20 compulsion) (RCW  
21 9A.44.100(1)(a))  
22 Kidnapping 1 (RCW 9A.40.020)  
23 Leading Organized Crime (RCW  
24 9A.82.060(1)(a))  
25 Malicious explosion 3 (RCW  
26 70.74.280(3))  
27 Sexually Violent Predator Escape  
28 (RCW 9A.76.115)  
29 IX Abandonment of Dependent Person 1  
30 (RCW 9A.42.060)  
31 Assault of a Child 2 (RCW 9A.36.130)  
32 Criminal Mistreatment 1 (RCW  
33 9A.42.020)  
34 Explosive devices prohibited (RCW  
35 70.74.180)  
36 Hit and Run--Death (RCW  
37 46.52.020(4)(a))

1 Homicide by Watercraft, by being  
2 under the influence of intoxicating  
3 liquor or any drug (RCW  
4 79A.60.050)  
5 Inciting Criminal Profiteering (RCW  
6 9A.82.060(1)(b))  
7 Malicious placement of an explosive 2  
8 (RCW 70.74.270(2))  
9 Robbery 1 (RCW 9A.56.200)  
10 Sexual Exploitation (RCW 9.68A.040)  
11 Vehicular Homicide, by being under  
12 the influence of intoxicating liquor  
13 or any drug (RCW 46.61.520)  
14 VIII Arson 1 (RCW 9A.48.020)  
15 Homicide by Watercraft, by the  
16 operation of any vessel in a  
17 reckless manner (RCW  
18 79A.60.050)  
19 Manslaughter 2 (RCW 9A.32.070)  
20 Promoting Prostitution 1 (RCW  
21 9A.88.070)  
22 Theft of Ammonia (RCW 69.55.010)  
23 Vehicular Homicide, by the operation  
24 of any vehicle in a reckless manner  
25 (RCW 46.61.520)  
26 VII Burglary 1 (RCW 9A.52.020)  
27 Child Molestation 2 (RCW 9A.44.086)  
28 Civil Disorder Training (RCW  
29 9A.48.120)  
30 Dealing in depictions of minor engaged  
31 in sexually explicit conduct (RCW  
32 9.68A.050)  
33 Drive-by Shooting (RCW 9A.36.045)  
34 Homicide by Watercraft, by disregard  
35 for the safety of others (RCW  
36 79A.60.050)

1 Indecent Liberties (without forcible  
2 compulsion) (RCW 9A.44.100(1)  
3 (b) and (c))  
4 Introducing Contraband 1 (RCW  
5 9A.76.140)  
6 Malicious placement of an explosive 3  
7 (RCW 70.74.270(3))  
8 Negligently Causing Death By Use of a  
9 Signal Preemption Device (RCW  
10 46.37.675)  
11 Sending, bringing into state depictions  
12 of minor engaged in sexually  
13 explicit conduct (RCW 9.68A.060)  
14 Unlawful Possession of a Firearm in  
15 the first degree (RCW 9.41.040(1))  
16 Use of a Machine Gun in Commission  
17 of a Felony (RCW 9.41.225)  
18 Vehicular Homicide, by disregard for  
19 the safety of others (RCW  
20 46.61.520)  
21 VI Bail Jumping with Murder 1 (RCW  
22 9A.76.170(3)(a))  
23 Bribery (RCW 9A.68.010)  
24 Incest 1 (RCW 9A.64.020(1))  
25 Intimidating a Judge (RCW 9A.72.160)  
26 Intimidating a Juror/Witness (RCW  
27 9A.72.110, 9A.72.130)  
28 Malicious placement of an imitation  
29 device 2 (RCW 70.74.272(1)(b))  
30 Possession of Depictions of a Minor  
31 Engaged in Sexually Explicit  
32 Conduct (RCW 9.68A.070)  
33 Rape of a Child 3 (RCW 9A.44.079)  
34 Theft of a Firearm (RCW 9A.56.300)  
35 Unlawful Storage of Ammonia (RCW  
36 69.55.020)

1 V Abandonment of Dependent Person 2  
2 (RCW 9A.42.070)  
3 Advancing money or property for  
4 extortionate extension of credit  
5 (RCW 9A.82.030)  
6 Bail Jumping with class A Felony  
7 (RCW 9A.76.170(3)(b))  
8 Child Molestation 3 (RCW 9A.44.089)  
9 Criminal Mistreatment 2 (RCW  
10 9A.42.030)  
11 Custodial Sexual Misconduct 1 (RCW  
12 9A.44.160)  
13 Domestic Violence Court Order  
14 Violation (RCW 10.99.040,  
15 10.99.050, 26.09.300, 26.10.220,  
16 26.26.138, 26.50.110, 26.52.070,  
17 or 74.34.145)  
18 Driving While Under the Influence  
19 (RCW 46.61.502(6))  
20 Extortion 1 (RCW 9A.56.120)  
21 Extortionate Extension of Credit (RCW  
22 9A.82.020)  
23 Extortionate Means to Collect  
24 Extensions of Credit (RCW  
25 9A.82.040)  
26 Incest 2 (RCW 9A.64.020(2))  
27 Kidnapping 2 (RCW 9A.40.030)  
28 Perjury 1 (RCW 9A.72.020)  
29 Persistent prison misbehavior (RCW  
30 9.94.070)  
31 Physical Control of a Vehicle While  
32 Under the Influence (RCW  
33 46.61.504(6))  
34 Possession of a Stolen Firearm (RCW  
35 9A.56.310)  
36 Rape 3 (RCW 9A.44.060)

1                                    Rendering Criminal Assistance 1  
2    (RCW 9A.76.070)  
3                                    Sexual Misconduct with a Minor 1  
4    (RCW 9A.44.093)  
5                                    Sexually Violating Human Remains  
6    (RCW 9A.44.105)  
7                                    Stalking (RCW 9A.46.110)  
8                                    Taking Motor Vehicle Without  
9    Permission 1 (RCW 9A.56.070)  
10                                    IV Arson 2 (RCW 9A.48.030)  
11    Assault 2 (RCW 9A.36.021)  
12    Assault 3 (of a Peace Officer with a  
13    Projectile Stun Gun) (RCW  
14    9A.36.031(1)(h))  
15    Assault by Watercraft (RCW  
16    79A.60.060)  
17    Bribing a Witness/Bribe Received by  
18    Witness (RCW 9A.72.090,  
19    9A.72.100)  
20    Cheating 1 (RCW 9.46.1961)  
21    Commercial Bribery (RCW 9A.68.060)  
22    Counterfeiting (RCW 9.16.035(4))  
23    Endangerment with a Controlled  
24    Substance (RCW 9A.42.100)  
25    Escape 1 (RCW 9A.76.110)  
26    Hit and Run--Injury (RCW  
27    46.52.020(4)(b))  
28    Hit and Run with Vessel--Injury  
29    Accident (RCW 79A.60.200(3))  
30    Identity Theft 1 (RCW 9.35.020(2))  
31    Indecent Exposure to Person Under  
32    Age Fourteen (subsequent sex  
33    offense) (RCW 9A.88.010)  
34    Influencing Outcome of Sporting Event  
35    (RCW 9A.82.070)  
36    Malicious Harassment (RCW  
37    9A.36.080)

1 Residential Burglary (RCW  
2 9A.52.025)  
3 Robbery 2 (RCW 9A.56.210)  
4 Theft of Livestock 1 (RCW 9A.56.080)  
5 Threats to Bomb (RCW 9.61.160)  
6 Trafficking in Stolen Property 1 (RCW  
7 9A.82.050)  
8 Unlawful factoring of a credit card or  
9 payment card transaction (RCW  
10 9A.56.290(4)(b))  
11 Unlawful transaction of health  
12 coverage as a health care service  
13 contractor (RCW 48.44.016(3))  
14 Unlawful transaction of health  
15 coverage as a health maintenance  
16 organization (RCW 48.46.033(3))  
17 Unlawful transaction of insurance  
18 business (RCW 48.15.023(3))  
19 Unlicensed practice as an insurance  
20 professional (RCW 48.17.063(3))  
21 Use of Proceeds of Criminal  
22 Profiteering (RCW 9A.82.080 (1)  
23 and (2))  
24 Vehicular Assault, by being under the  
25 influence of intoxicating liquor or  
26 any drug, or by the operation or  
27 driving of a vehicle in a reckless  
28 manner (RCW 46.61.522)  
29 Willful Failure to Return from  
30 Furlough (RCW 72.66.060)  
31 III Animal Cruelty 1 (Sexual Conduct or  
32 Contact) (RCW 16.52.205(3))  
33 Assault 3 (Except Assault 3 of a Peace  
34 Officer With a Projectile Stun  
35 Gun) (RCW 9A.36.031 except  
36 subsection (1)(h))  
37 Assault of a Child 3 (RCW 9A.36.140)



1 Bail Jumping with class B or C Felony  
2 (RCW 9A.76.170(3)(c))  
3 Burglary 2 (RCW 9A.52.030)  
4 Communication with a Minor for  
5 Immoral Purposes (RCW  
6 9.68A.090)  
7 Criminal Gang Intimidation (RCW  
8 9A.46.120)  
9 Custodial Assault (RCW 9A.36.100)  
10 Cyberstalking (subsequent conviction  
11 or threat of death) (RCW  
12 9.61.260(3))  
13 Escape 2 (RCW 9A.76.120)  
14 Extortion 2 (RCW 9A.56.130)  
15 Harassment (RCW 9A.46.020)  
16 Intimidating a Public Servant (RCW  
17 9A.76.180)  
18 Introducing Contraband 2 (RCW  
19 9A.76.150)  
20 Malicious Injury to Railroad Property  
21 (RCW 81.60.070)  
22 Negligently Causing Substantial Bodily  
23 Harm By Use of a Signal  
24 Preemption Device (RCW  
25 46.37.674)  
26 Organized Retail Theft 1 (RCW  
27 9A.56.350(2))  
28 Patronizing a Juvenile Prostitute (RCW  
29 9.68A.100)  
30 Perjury 2 (RCW 9A.72.030)  
31 Possession of Incendiary Device (RCW  
32 9.40.120)  
33 Possession of Machine Gun or Short-  
34 Barreled Shotgun or Rifle (RCW  
35 9.41.190)  
36 Promoting Prostitution 2 (RCW  
37 9A.88.080)

1 ((Retail)) Retail Theft with  
2 Extenuating Circumstances 1  
3 (RCW 9A.56.360(2))  
4 Securities Act violation (RCW  
5 21.20.400)  
6 Tampering with a Witness (RCW  
7 9A.72.120)  
8 Telephone Harassment (subsequent  
9 conviction or threat of death)  
10 (RCW 9.61.230(2))  
11 Theft of Livestock 2 (RCW 9A.56.083)  
12 Theft with the Intent to Resell 1 (RCW  
13 9A.56.340(2))  
14 Trafficking in Stolen Property 2 (RCW  
15 9A.82.055)  
16 Unlawful Imprisonment (RCW  
17 9A.40.040)  
18 Unlawful possession of firearm in the  
19 second degree (RCW 9.41.040(2))  
20 Vehicular Assault, by the operation or  
21 driving of a vehicle with disregard  
22 for the safety of others (RCW  
23 46.61.522)  
24 Willful Failure to Return from Work  
25 Release (RCW 72.65.070)  
26 II Computer Trespass 1 (RCW  
27 9A.52.110)  
28 Counterfeiting (RCW 9.16.035(3))  
29 Escape from Community Custody  
30 (RCW 72.09.310)  
31 Failure to Register as a Sex Offender  
32 (second or subsequent offense)  
33 (RCW 9A.44.130(10)(a))  
34 Health Care False Claims (RCW  
35 48.80.030)  
36 Identity Theft 2 (RCW 9.35.020(3))

1 Improperly Obtaining Financial  
2 Information (RCW 9.35.010)  
3 Malicious Mischief 1 (RCW  
4 9A.48.070)  
5 Organized Retail Theft 2 (RCW  
6 9A.56.350(3))  
7 Possession of Stolen Property 1 (RCW  
8 9A.56.150)  
9 ((~~Retail~~)) Retail Theft with  
10 Extenuating Circumstances 2  
11 (RCW 9A.56.360(3))  
12 Theft 1 (RCW 9A.56.030)  
13 Theft of Rental, Leased, or Lease-  
14 purchased Property (valued at one  
15 thousand five hundred dollars or  
16 more) (RCW 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 Practice of Law (RCW  
25 2.48.180)  
26 Unlicensed Practice of a Profession or  
27 Business (RCW 18.130.190(7))  
28 Voyeurism (RCW 9A.44.115)  
29 I Attempting to Elude a Pursuing Police  
30 Vehicle (RCW 46.61.024)  
31 False Verification for Welfare (RCW  
32 74.08.055)  
33 Forgery (RCW 9A.60.020)  
34 Fraudulent Creation or Revocation of a  
35 Mental Health Advance Directive  
36 (RCW 9A.60.060)

1 Malicious Mischief 2 (RCW  
2 9A.48.080)  
3 Mineral Trespass (RCW 78.44.330)  
4 Possession of Stolen Property 2 (RCW  
5 9A.56.160)  
6 Reckless Burning 1 (RCW 9A.48.040)  
7 Taking Motor Vehicle Without  
8 Permission 2 (RCW 9A.56.075)  
9 Theft 2 (RCW 9A.56.040)  
10 Theft of Rental, Leased, or Lease-  
11 purchased Property (valued at two  
12 hundred fifty dollars or more but  
13 less than one thousand five  
14 hundred dollars) (RCW  
15 9A.56.096(5)(b))  
16 Transaction of insurance business  
17 beyond the scope of licensure  
18 (RCW 48.17.063(4))  
19 Unlawful Issuance of Checks or Drafts  
20 (RCW 9A.56.060)  
21 Unlawful Possession of Fictitious  
22 Identification (RCW 9A.56.320)  
23 Unlawful Possession of Instruments of  
24 Financial Fraud (RCW 9A.56.320)  
25 Unlawful Possession of Payment  
26 Instruments (RCW 9A.56.320)  
27 Unlawful Possession of a Personal  
28 Identification Device (RCW  
29 9A.56.320)  
30 Unlawful Production of Payment  
31 Instruments (RCW 9A.56.320)  
32 Unlawful Trafficking in Food Stamps  
33 (RCW 9.91.142)  
34 Unlawful Use of Food Stamps (RCW  
35 9.91.144)  
36 Vehicle Prowl 1 (RCW 9A.52.095)



1		<b>Burglary and Trespass</b>	
2	B+	Burglary 1 (9A.52.020)	C+
3	B	Residential Burglary (9A.52.025)	C
4	B	Burglary 2 (9A.52.030)	C
5	D	Burglary Tools (Possession of) (9A.52.060)	E
6	D	Criminal Trespass 1 (9A.52.070)	E
7	E	Criminal Trespass 2 (9A.52.080)	E
8	C	Mineral Trespass (78.44.330)	C
9	C	Vehicle Prowling 1 (9A.52.095)	D
10	D	Vehicle Prowling 2 (9A.52.100)	E
11		<b>Drugs</b>	
12	E	Possession/Consumption of Alcohol	
13		(66.44.270)	E
14	C	Illegally Obtaining Legend Drug	
15		(69.41.020)	D
16	C+	Sale, Delivery, Possession of Legend Drug	
17		with Intent to Sell (69.41.030(2)(a))	D+
18	E	Possession of Legend Drug	
19		(69.41.030(2)(b))	E
20	B+	Violation of Uniform Controlled Substances	
21		Act - Narcotic, Methamphetamine, or	
22		Flunitrazepam Sale (69.50.401(2) (a) or	
23		(b))	B+
24	C	Violation of Uniform Controlled Substances	
25		Act - Nonnarcotic Sale (69.50.401(2)(c))	C
26	E	Possession of Marihuana <40 grams	
27		(69.50.4014)	E
28	C	Fraudulently Obtaining Controlled	
29		Substance (69.50.403)	C
30	C+	Sale of Controlled Substance for Profit	
31		(69.50.410)	C+
32	E	Unlawful Inhalation (9.47A.020)	E
33	B	Violation of Uniform Controlled Substances	
34		Act - Narcotic, Methamphetamine, or	
35		Flunitrazepam Counterfeit Substances	
36		(69.50.4011(2) (a) or (b))	B

1	C	Violation of Uniform Controlled Substances	
2		Act - Nonnarcotic Counterfeit Substances	
3		(69.50.4011(2) (c), (d), or (e))	C
4	C	Violation of Uniform Controlled Substances	
5		Act - Possession of a Controlled Substance	
6		(69.50.4013)	C
7	C	Violation of Uniform Controlled Substances	
8		Act - Possession of a Controlled Substance	
9		(69.50.4012)	C
10		<b>Firearms and Weapons</b>	
11	B	Theft of Firearm (9A.56.300)	C
12	B	Possession of Stolen Firearm (9A.56.310)	C
13	E	Carrying Loaded Pistol Without Permit	
14		(9.41.050)	E
15	C	Possession of Firearms by Minor (<18)	
16		(9.41.040(2)(a)(iii))	C
17	D+	Possession of Dangerous Weapon	
18		(9.41.250)	E
19	D	Intimidating Another Person by use of	
20		Weapon (9.41.270)	E
21		<b>Homicide</b>	
22	A+	Murder 1 (9A.32.030)	A
23	A+	Murder 2 (9A.32.050)	B+
24	<u>B+</u>	<u>Homicide by Abuse 2 (section 1 of this act)</u>	<u>C+</u>
25	B+	Manslaughter 1 (9A.32.060)	C+
26	C+	Manslaughter 2 (9A.32.070)	D+
27	B+	Veicular Homicide (46.61.520)	C+
28		<b>Kidnapping</b>	
29	A	Kidnap 1 (9A.40.020)	B+
30	B+	Kidnap 2 (9A.40.030)	C+
31	C+	Unlawful Imprisonment (9A.40.040)	D+
32		<b>Obstructing Governmental Operation</b>	
33	D	Obstructing a Law Enforcement Officer	
34		(9A.76.020)	E
35	E	Resisting Arrest (9A.76.040)	E
36	B	Introducing Contraband 1 (9A.76.140)	C

1	C	Introducing Contraband 2 (9A.76.150)	D
2	E	Introducing Contraband 3 (9A.76.160)	E
3	B+	Intimidating a Public Servant (9A.76.180)	C+
4	B+	Intimidating a Witness (9A.72.110)	C+
5		<b>Public Disturbance</b>	
6	C+	Riot with Weapon (9A.84.010(2)(b))	D+
7	D+	Riot Without Weapon (9A.84.010(2)(a))	E
8	E	Failure to Disperse (9A.84.020)	E
9	E	Disorderly Conduct (9A.84.030)	E
10		<b>Sex Crimes</b>	
11	A	Rape 1 (9A.44.040)	B+
12	A-	Rape 2 (9A.44.050)	B+
13	C+	Rape 3 (9A.44.060)	D+
14	A-	Rape of a Child 1 (9A.44.073)	B+
15	B+	Rape of a Child 2 (9A.44.076)	C+
16	B	Incest 1 (9A.64.020(1))	C
17	C	Incest 2 (9A.64.020(2))	D
18	D+	Indecent Exposure (Victim <14)	
19		(9A.88.010)	E
20	E	Indecent Exposure (Victim 14 or over)	
21		(9A.88.010)	E
22	B+	Promoting Prostitution 1 (9A.88.070)	C+
23	C+	Promoting Prostitution 2 (9A.88.080)	D+
24	E	O & A (Prostitution) (9A.88.030)	E
25	B+	Indecent Liberties (9A.44.100)	C+
26	A-	Child Molestation 1 (9A.44.083)	B+
27	B	Child Molestation 2 (9A.44.086)	C+
28		<b>Theft, Robbery, Extortion, and Forgery</b>	
29	B	Theft 1 (9A.56.030)	C
30	C	Theft 2 (9A.56.040)	D
31	D	Theft 3 (9A.56.050)	E
32	B	Theft of Livestock 1 and 2 (9A.56.080 and	
33		9A.56.083)	C
34	C	Forgery (9A.60.020)	D
35	A	Robbery 1 (9A.56.200)	B+
36	B+	Robbery 2 (9A.56.210)	C+



1	B+	Extortion 1 (9A.56.120)	C+
2	C+	Extortion 2 (9A.56.130)	D+
3	C	Identity Theft 1 (9.35.020(2))	D
4	D	Identity Theft 2 (9.35.020(3))	E
5	D	Improperly Obtaining Financial Information	
6		(9.35.010)	E
7	B	Possession of Stolen Property 1	
8		(9A.56.150)	C
9	C	Possession of Stolen Property 2	
10		(9A.56.160)	D
11	D	Possession of Stolen Property 3	
12		(9A.56.170)	E
13	C	Taking Motor Vehicle Without Permission	
14		1 and 2 (9A.56.070 and 9A.56.075)	D
15		<b>Motor Vehicle Related Crimes</b>	
16	E	Driving Without a License (46.20.005)	E
17	B+	Hit and Run - Death (46.52.020(4)(a))	C+
18	C	Hit and Run - Injury (46.52.020(4)(b))	D
19	D	Hit and Run-Attended (46.52.020(5))	E
20	E	Hit and Run-Unattended (46.52.010)	E
21	C	Vehicular Assault (46.61.522)	D
22	C	Attempting to Elude Pursuing Police	
23		Vehicle (46.61.024)	D
24	E	Reckless Driving (46.61.500)	E
25	D	Driving While Under the Influence	
26		(46.61.502 and 46.61.504)	E
27	B+	Felony Driving While Under the Influence	
28		(46.61.502(6))	B
29	B+	Felony Physical Control of a Vehicle While	
30		Under the Influence (46.61.504(6))	B
31		<b>Other</b>	
32	B	Animal Cruelty 1 (16.52.205)	C
33	B	Bomb Threat (9.61.160)	C
34	C	Escape 1 <sup>1</sup> (9A.76.110)	C
35	C	Escape 2 <sup>1</sup> (9A.76.120)	C
36	D	Escape 3 (9A.76.130)	E

1	E	Obscene, Harassing, Etc., Phone Calls	
2		(9.61.230)	E
3	A	Other Offense Equivalent to an Adult Class	
4		A Felony	B+
5	B	Other Offense Equivalent to an Adult Class	
6		B Felony	C
7	C	Other Offense Equivalent to an Adult Class	
8		C Felony	D
9	D	Other Offense Equivalent to an Adult Gross	
10		Misdemeanor	E
11	E	Other Offense Equivalent to an Adult	
12		Misdemeanor	E
13	V	Violation of Order of Restitution,	
14		Community Supervision, or Confinement	
15		(13.40.200) <sup>2</sup>	V

16 <sup>1</sup>Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses  
17 and the standard range is established as follows:

18 1st escape or attempted escape during 12-month period - 4 weeks  
19 confinement

20 2nd escape or attempted escape during 12-month period - 8 weeks  
21 confinement

22 3rd and subsequent escape or attempted escape during 12-month  
23 period - 12 weeks confinement

24 <sup>2</sup>If the court finds that a respondent has violated terms of an order,  
25 it may impose a penalty of up to 30 days of confinement.

26 **JUVENILE SENTENCING STANDARDS**

27 This schedule must be used for juvenile offenders. The court may  
28 select sentencing option A, B, C, D, or RCW 13.40.167.

29 **OPTION A**  
30 **JUVENILE OFFENDER SENTENCING GRID**  
31 **STANDARD RANGE**

32	A+	180 WEEKS TO AGE 21 YEARS
33		
34	A	103 WEEKS TO 129 WEEKS

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		15-36	52-65	80-100	103-129	
		WEEKS	WEEKS	WEEKS	WEEKS	
A-	EXCEPT 30-40 WEEKS FOR 15-17 YEAR OLDS					
Current Offense Category	B+	15-36 WEEKS	52-65 WEEKS	80-100 WEEKS	103-129 WEEKS	
B	LOCAL SANCTIONS (LS)		15-36 WEEKS		52-65 WEEKS	
C+	LS			15-36 WEEKS		
C	LS				15-36 WEEKS	
	Local Sanctions: 0 to 30 Days					
D+	LS		0 to 12 Months Community Supervision			
			0 to 150 Hours Community Restitution			
D	LS		\$0 to \$500 Fine			
E	LS					
		0	1	2	3	4 or more
		PRIOR ADJUDICATIONS				

31 NOTE: References in the grid to days or weeks mean periods of  
32 confinement.

33 (1) The vertical axis of the grid is the current offense category.  
34 The current offense category is determined by the offense of  
35 adjudication.

36 (2) The horizontal axis of the grid is the number of prior  
37 adjudications included in the juvenile's criminal history. Each prior  
38 felony adjudication shall count as one point. Each prior violation,  
39 misdemeanor, and gross misdemeanor adjudication shall count as 1/4  
40 point. Fractional points shall be rounded down.

41 (3) The standard range disposition for each offense is determined  
42 by the intersection of the column defined by the prior adjudications  
43 and the row defined by the current offense category.

1 (4) RCW 13.40.180 applies if the offender is being sentenced for  
2 more than one offense.

3 (5) A current offense that is a violation is equivalent to an  
4 offense category of E. However, a disposition for a violation shall  
5 not include confinement.

6 OR

7 **OPTION B**

8 **SUSPENDED DISPOSITION ALTERNATIVE**

9 (1) If the offender is subject to a standard range disposition  
10 involving confinement by the department, the court may impose the  
11 standard range and suspend the disposition on condition that the  
12 offender comply with one or more local sanctions and any educational or  
13 treatment requirement. The treatment programs provided to the offender  
14 must be research-based best practice programs as identified by the  
15 Washington state institute for public policy or the joint legislative  
16 audit and review committee.

17 (2) If the offender fails to comply with the suspended disposition,  
18 the court may impose sanctions pursuant to RCW 13.40.200 or may revoke  
19 the suspended disposition and order the disposition's execution.

20 (3) An offender is ineligible for the suspended disposition option  
21 under this section if the offender is:

22 (a) Adjudicated of an A+ offense;

23 (b) Fourteen years of age or older and is adjudicated of one or  
24 more of the following offenses:

25 (i) A class A offense, or an attempt, conspiracy, or solicitation  
26 to commit a class A offense;

27 (ii) Manslaughter in the first degree (RCW 9A.32.060); or

28 (iii) Assault in the second degree (RCW 9A.36.021), extortion in  
29 the first degree (RCW 9A.56.120), kidnapping in the second degree (RCW  
30 9A.40.030), robbery in the second degree (RCW 9A.56.210), residential  
31 burglary (RCW 9A.52.025), burglary in the second degree (RCW  
32 9A.52.030), drive-by shooting (RCW 9A.36.045), vehicular homicide (RCW  
33 46.61.520), hit and run death (RCW 46.52.020(4)(a)), intimidating a  
34 witness (RCW 9A.72.110), violation of the uniform controlled substances  
35 act (RCW 69.50.401 (2)(a) and (b)), or manslaughter 2 (RCW 9A.32.070),  
36 when the offense includes infliction of bodily harm upon another or

1 when during the commission or immediate withdrawal from the offense the  
2 respondent was armed with a deadly weapon;

3 (c) Ordered to serve a disposition for a firearm violation under  
4 RCW 13.40.193; or

5 (d) Adjudicated of a sex offense as defined in RCW 9.94A.030.

6 OR

7 **OPTION C**

8 **CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE**

9 If the juvenile offender is subject to a standard range disposition  
10 of local sanctions or 15 to 36 weeks of confinement and has not  
11 committed an A- or B+ offense, the court may impose a disposition under  
12 RCW 13.40.160(4) and 13.40.165.

13 OR

14 **OPTION D**

15 **MANIFEST INJUSTICE**

16 If the court determines that a disposition under option A, B, or C  
17 would effectuate a manifest injustice, the court shall impose a  
18 disposition outside the standard range under RCW 13.40.160(2).

19 **Sec. 6.** RCW 9.94A.030 and 2006 c 139 s 5, 2006 c 124 s 1, 2006 c  
20 122 s 7, and 2006 c 73 s 5 are each reenacted and amended to read as  
21 follows:

22 Unless the context clearly requires otherwise, the definitions in  
23 this section apply throughout this chapter.

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

26 (2) "Collect," or any derivative thereof, "collect and remit," or  
27 "collect and deliver," when used with reference to the department,  
28 means that the department, either directly or through a collection  
29 agreement authorized by RCW 9.94A.760, 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 (3) "Commission" means the sentencing guidelines commission.

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

5 (5) "Community custody" means that portion of an offender's  
6 sentence of confinement in lieu of earned release time or imposed  
7 pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670,  
8 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545, served in the  
9 community subject to controls placed on the offender's movement and  
10 activities by the department. For offenders placed on community  
11 custody for crimes committed on or after July 1, 2000, the department  
12 shall assess the offender's risk of reoffense and may establish and  
13 modify conditions of community custody, in addition to those imposed by  
14 the court, based upon the risk to community safety.

15 (6) "Community custody range" means the minimum and maximum period  
16 of community custody included as part of a sentence under RCW  
17 9.94A.715, as established by the commission or the legislature under  
18 RCW 9.94A.850, for crimes committed on or after July 1, 2000.

19 (7) "Community placement" means that period during which the  
20 offender is subject to the conditions of community custody and/or  
21 postrelease supervision, which begins either upon completion of the  
22 term of confinement (postrelease supervision) or at such time as the  
23 offender is transferred to community custody in lieu of earned release.  
24 Community placement may consist of entirely community custody, entirely  
25 postrelease supervision, or a combination of the two.

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

29 (9) "Community restitution" means compulsory service, without  
30 compensation, performed for the benefit of the community by the  
31 offender.

32 (10) "Community supervision" means a period of time during which a  
33 convicted offender is subject to crime-related prohibitions and other  
34 sentence conditions imposed by a court pursuant to this chapter or RCW  
35 16.52.200(6) or 46.61.524. Where the court finds that any offender has  
36 a chemical dependency that has contributed to his or her offense, the  
37 conditions of supervision may, subject to available resources, include  
38 treatment. For purposes of the interstate compact for out-of-state

1 supervision of parolees and probationers, RCW 9.95.270, community  
2 supervision is the functional equivalent of probation and should be  
3 considered the same as probation by other states.

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

5 (12) "Conviction" means an adjudication of guilt pursuant to Titles  
6 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and  
7 acceptance of a plea of guilty.

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

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

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

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

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

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

35 (16) "Day reporting" means a program of enhanced supervision  
36 designed to monitor the offender's daily activities and compliance with  
37 sentence conditions, and in which the offender is required to report

1 daily to a specific location designated by the department or the  
2 sentencing court.

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

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

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

24 (20) "Drug offender sentencing alternative" is a sentencing option  
25 available to persons convicted of a felony offense other than a violent  
26 offense or a sex offense and who are eligible for the option under RCW  
27 9.94A.660.

28 (21) "Drug offense" means:

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

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

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



1 (22) "Earned release" means earned release from confinement as  
2 provided in RCW 9.94A.728.

3 (23) "Escape" means:

4 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the  
5 first degree (RCW 9A.76.110), escape in the second degree (RCW  
6 9A.76.120), willful failure to return from furlough (RCW 72.66.060),  
7 willful failure to return from work release (RCW 72.65.070), or willful  
8 failure to be available for supervision by the department while in  
9 community custody (RCW 72.09.310); or

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

13 (24) "Felony traffic offense" means:

14 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
15 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-  
16 run injury-accident (RCW 46.52.020(4)), felony driving while under the  
17 influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or  
18 felony physical control of a vehicle while under the influence of  
19 intoxicating liquor or any drug (RCW 46.61.504(6)); or

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

23 (25) "Fine" means a specific sum of money ordered by the sentencing  
24 court to be paid by the offender to the court over a specific period of  
25 time.

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

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

32 (28) "Legal financial obligation" means a sum of money that is  
33 ordered by a superior court of the state of Washington for legal  
34 financial obligations which may include restitution to the victim,  
35 statutorily imposed crime victims' compensation fees as assessed  
36 pursuant to RCW 7.68.035, court costs, county or interlocal drug funds,  
37 court-appointed attorneys' fees, and costs of defense, fines, and any  
38 other financial obligation that is assessed to the offender as a result

1 of a felony conviction. Upon conviction for vehicular assault while  
2 under the influence of intoxicating liquor or any drug, RCW  
3 46.61.522(1)(b), or vehicular homicide while under the influence of  
4 intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial  
5 obligations may also include payment to a public agency of the expense  
6 of an emergency response to the incident resulting in the conviction,  
7 subject to RCW 38.52.430.

8 (29) "Most serious offense" means any of the following felonies or  
9 a felony attempt to commit any of the following felonies:

10 (a) Any felony defined under any law as a class A felony or  
11 criminal solicitation of or criminal conspiracy to commit a class A  
12 felony;

13 (b) Assault in the second degree;

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

15 (d) Child molestation in the second degree;

16 (e) Controlled substance homicide;

17 (f) Extortion in the first degree;

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

19 (h) Indecent liberties;

20 (i) Kidnapping in the second degree;

21 (j) Leading organized crime;

22 (k) Manslaughter in the first degree;

23 (l) Manslaughter in the second degree;

24 (m) Promoting prostitution in the first degree;

25 (n) Rape in the third degree;

26 (o) Robbery in the second degree;

27 (p) Sexual exploitation;

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

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

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

1 (t) Any other felony with a deadly weapon verdict under RCW  
2 9.94A.602;

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

13 (ii) A prior conviction for indecent liberties under RCW  
14 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,  
15 if: (A) The crime was committed against a child under the age of  
16 fourteen; or (B) the relationship between the victim and perpetrator is  
17 included in the definition of indecent liberties under RCW  
18 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,  
19 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,  
20 through July 27, 1997.

21 (30) "Nonviolent offense" means an offense which is not a violent  
22 offense.

23 (31) "Offender" means a person who has committed a felony  
24 established by state law and is eighteen years of age or older or is  
25 less than eighteen years of age but whose case is under superior court  
26 jurisdiction under RCW 13.04.030 or has been transferred by the  
27 appropriate juvenile court to a criminal court pursuant to RCW  
28 13.40.110. Throughout this chapter, the terms "offender" and  
29 "defendant" are used interchangeably.

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

38 (33) "Persistent offender" is an offender who:

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

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

11 (b)(i) Has been convicted of: (A) Rape in the first degree, rape  
12 of a child in the first degree, child molestation in the first degree,  
13 rape in the second degree, rape of a child in the second degree, or  
14 indecent liberties by forcible compulsion; (B) any of the following  
15 offenses with a finding of sexual motivation: Murder in the first  
16 degree, murder in the second degree, homicide by abuse in the first  
17 degree, kidnapping in the first degree, kidnapping in the second  
18 degree, assault in the first degree, assault in the second degree,  
19 assault of a child in the first degree, assault of a child in the  
20 second degree, or burglary in the first degree; or (C) an attempt to  
21 commit any crime listed in this subsection (33)(b)(i); and

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

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

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

1 offense and the victimization of the victim was a significant reason  
2 the perpetrator established or promoted the relationship; or (c) the  
3 perpetrator was: (i) A teacher, counselor, volunteer, or other person  
4 in authority in any public or private school and the victim was a  
5 student of the school under his or her authority or supervision. For  
6 purposes of this subsection, "school" does not include home-based  
7 instruction as defined in RCW 28A.225.010; (ii) a coach, trainer,  
8 volunteer, or other person in authority in any recreational activity  
9 and the victim was a participant in the activity under his or her  
10 authority or supervision; or (iii) a pastor, elder, volunteer, or other  
11 person in authority in any church or religious organization, and the  
12 victim was a member or participant of the organization under his or her  
13 authority.

14 (36) "Private school" means a school regulated under chapter  
15 28A.195 or 28A.205 RCW.

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

17 (38) "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 (39) "Risk assessment" means the application of an objective  
22 instrument supported by research and adopted by the department for the  
23 purpose of assessing an offender's risk of reoffense, taking into  
24 consideration the nature of the harm done by the offender, place and  
25 circumstances of the offender related to risk, the offender's  
26 relationship to any victim, and any information provided to the  
27 department by victims. The results of a risk assessment shall not be  
28 based on unconfirmed or unconfirmable allegations.

29 (40) "Serious traffic offense" means:

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

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

1 (41) "Serious violent offense" is a subcategory of violent offense  
2 and means:  
3 (a)(i) Murder in the first degree;  
4 (ii) Homicide by abuse in the first degree;  
5 (iii) Homicide by abuse in the second degree;  
6 (iv) Murder in the second degree;  
7 ~~((iv))~~ (v) Manslaughter in the first degree;  
8 ~~((v))~~ (vi) Assault in the first degree;  
9 ~~((vi))~~ (vii) Kidnapping in the first degree;  
10 ~~((vii))~~ (viii) Rape in the first degree;  
11 ~~((viii))~~ (ix) Assault of a child in the first degree; or  
12 ~~((ix))~~ (x) An attempt, criminal solicitation, or criminal  
13 conspiracy to commit one of these felonies; or  
14 (b) Any federal or out-of-state conviction for an offense that  
15 under the laws of this state would be a felony classified as a serious  
16 violent offense under (a) of this subsection.  
17 (42) "Sex offense" means:  
18 (a)(i) A felony that is a violation of chapter 9A.44 RCW other than  
19 RCW 9A.44.130~~((11))~~ (12);  
20 (ii) A violation of RCW 9A.64.020;  
21 (iii) A felony that is a violation of chapter 9.68A RCW other than  
22 RCW 9.68A.080; or  
23 (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt,  
24 criminal solicitation, or criminal conspiracy to commit such crimes;  
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 sex  
27 offense in (a) of this subsection;  
28 (c) A felony with a finding of sexual motivation under RCW  
29 9.94A.835 or 13.40.135; or  
30 (d) Any federal or out-of-state conviction for an offense that  
31 under the laws of this state would be a felony classified as a sex  
32 offense under (a) of this subsection.  
33 (43) "Sexual motivation" means that one of the purposes for which  
34 the defendant committed the crime was for the purpose of his or her  
35 sexual gratification.  
36 (44) "Standard sentence range" means the sentencing court's  
37 discretionary range in imposing a nonappealable sentence.

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

5 (46) "Stranger" means that the victim did not know the offender  
6 twenty-four hours before the offense.

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

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

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

20 (50) "Violent offense" means:

21 (a) Any of the following felonies:

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

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

26 (iii) Manslaughter in the first degree;

27 (iv) Manslaughter in the second degree;

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

29 (vi) Kidnapping in the second degree;

30 (vii) Arson in the second degree;

31 (viii) Assault in the second degree;

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

33 (x) Extortion in the first degree;

34 (xi) Robbery in the second degree;

35 (xii) Drive-by shooting;

36 (xiii) Vehicular assault, when caused by the operation or driving  
37 of a vehicle by a person while under the influence of intoxicating

1 liquor or any drug or by the operation or driving of a vehicle in a  
2 reckless manner; and

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

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

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

13 (51) "Work crew" means a program of partial confinement consisting  
14 of civic improvement tasks for the benefit of the community that  
15 complies with RCW 9.94A.725.

16 (52) "Work ethic camp" means an alternative incarceration program  
17 as provided in RCW 9.94A.690 designed to reduce recidivism and lower  
18 the cost of corrections by requiring offenders to complete a  
19 comprehensive array of real-world job and vocational experiences,  
20 character-building work ethics training, life management skills  
21 development, substance abuse rehabilitation, counseling, literacy  
22 training, and basic adult education.

23 (53) "Work release" means a program of partial confinement  
24 available to offenders who are employed or engaged as a student in a  
25 regular course of study at school.

26 **Sec. 7.** RCW 9.94A.411 and 2006 c 271 s 1 and 2006 c 73 s 13 are  
27 each reenacted and amended to read as follows:

28 (1) Decision not to prosecute.

29 STANDARD: A prosecuting attorney may decline to prosecute, even  
30 though technically sufficient evidence to prosecute exists, in  
31 situations where prosecution would serve no public purpose, would  
32 defeat the underlying purpose of the law in question or would result in  
33 decreased respect for the law.

34 GUIDELINE/COMMENTARY:

35 Examples

36 The following are examples of reasons not to prosecute which could  
37 satisfy the standard.



1 (a) Contrary to Legislative Intent - It may be proper to decline to  
2 charge where the application of criminal sanctions would be clearly  
3 contrary to the intent of the legislature in enacting the particular  
4 statute.

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

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

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

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

12 (iv) The statute has not been recently reconsidered by the  
13 legislature.

14 This reason is not to be construed as the basis for declining cases  
15 because the law in question is unpopular or because it is difficult to  
16 enforce.

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

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

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

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

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

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

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

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

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

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

1 (f) High Disproportionate Cost of Prosecution - It may be proper to  
2 decline to charge where the cost of locating or transporting, or the  
3 burden on, prosecution witnesses is highly disproportionate to the  
4 importance of prosecuting the offense in question. This reason should  
5 be limited to minor cases and should not be relied upon in serious  
6 cases.

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

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

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

20 (i) Assault cases where the victim has suffered little or no  
21 injury;

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

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

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

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

#### 29 Notification

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

32 (2) Decision to prosecute.

33 (a) STANDARD:

34 Crimes against persons will be filed if sufficient admissible  
35 evidence exists, which, when considered with the most plausible,  
36 reasonably foreseeable defense that could be raised under the evidence,  
37 would justify conviction by a reasonable and objective fact-finder.  
38 With regard to offenses prohibited by RCW 9A.44.040, 9A.44.050,

1 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, 9A.44.089, and  
2 9A.64.020 the prosecutor should avoid pre-filing agreements or  
3 diversions intended to place the accused in a program of treatment or  
4 counseling, so that treatment, if determined to be beneficial, can be  
5 provided pursuant to RCW 9.94A.670.

6 Crimes against property/other crimes will be filed if the  
7 admissible evidence is of such convincing force as to make it probable  
8 that a reasonable and objective fact-finder would convict after hearing  
9 all the admissible evidence and the most plausible defense that could  
10 be raised.

11 See table below for the crimes within these categories.

12 CATEGORIZATION OF CRIMES FOR PROSECUTING STANDARDS

13 CRIMES AGAINST PERSONS

- 14 Aggravated Murder
- 15 1st Degree Murder
- 16 2nd Degree Murder
- 17 1st Degree Manslaughter
- 18 2nd Degree Manslaughter
- 19 1st Degree Kidnapping
- 20 2nd Degree Kidnapping
- 21 1st Degree Assault
- 22 2nd Degree Assault
- 23 3rd Degree Assault
- 24 1st Degree Assault of a Child
- 25 2nd Degree Assault of a Child
- 26 3rd Degree Assault of a Child
- 27 1st Degree Rape
- 28 2nd Degree Rape
- 29 3rd Degree Rape
- 30 1st Degree Rape of a Child
- 31 2nd Degree Rape of a Child
- 32 3rd Degree Rape of a Child
- 33 1st Degree Robbery
- 34 2nd Degree Robbery
- 35 1st Degree Arson
- 36 1st Degree Burglary
- 37 1st Degree Identity Theft
- 38 2nd Degree Identity Theft

1 1st Degree Extortion  
2 2nd Degree Extortion  
3 Indecent Liberties  
4 Incest  
5 Vehicular Homicide  
6 Vehicular Assault  
7 1st Degree Child Molestation  
8 2nd Degree Child Molestation  
9 3rd Degree Child Molestation  
10 1st Degree Promoting Prostitution  
11 Intimidating a Juror  
12 Communication with a Minor  
13 Intimidating a Witness  
14 Intimidating a Public Servant  
15 Bomb Threat (if against person)  
16 Unlawful Imprisonment  
17 Promoting a Suicide Attempt  
18 Riot (if against person)  
19 Stalking  
20 Custodial Assault  
21 Domestic Violence Court Order Violation (RCW 10.99.040, 10.99.050,  
22 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145)  
23 Counterfeiting (if a violation of RCW 9.16.035(4))  
24 Felony Driving a Motor Vehicle While Under the Influence of  
25 Intoxicating Liquor or Any Drug (RCW 46.61.502(6))  
26 Felony Physical Control of a Motor Vehicle While Under the  
27 Influence of Intoxicating Liquor or Any Drug (RCW 46.61.504(6))  
28 2nd Degree Homicide by Abuse  
29 CRIMES AGAINST PROPERTY/OTHER CRIMES  
30 2nd Degree Arson  
31 1st Degree Escape  
32 2nd Degree Escape  
33 2nd Degree Burglary  
34 1st Degree Theft  
35 2nd Degree Theft  
36 1st Degree Perjury  
37 2nd Degree Perjury  
38 1st Degree Introducing Contraband

1 2nd Degree Introducing Contraband  
2 1st Degree Possession of Stolen Property  
3 2nd Degree Possession of Stolen Property  
4 Bribery  
5 Bribing a Witness  
6 Bribe received by a Witness  
7 Bomb Threat (if against property)  
8 1st Degree Malicious Mischief  
9 2nd Degree Malicious Mischief  
10 1st Degree Reckless Burning  
11 Taking a Motor Vehicle without Authorization  
12 Forgery  
13 2nd Degree Promoting Prostitution  
14 Tampering with a Witness  
15 Trading in Public Office  
16 Trading in Special Influence  
17 Receiving/Granting Unlawful Compensation  
18 Bigamy  
19 Eluding a Pursuing Police Vehicle  
20 Willful Failure to Return from Furlough  
21 Escape from Community Custody  
22 Riot (if against property)  
23 1st Degree Theft of Livestock  
24 2nd Degree Theft of Livestock

25 ALL OTHER UNCLASSIFIED FELONIES

26 Selection of Charges/Degree of Charge

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

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

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

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

35 (A) Charging a higher degree;

36 (B) Charging additional counts.

37 This standard is intended to direct prosecutors to charge those  
38 crimes which demonstrate the nature and seriousness of a defendant's

1 criminal conduct, but to decline to charge crimes which are not  
2 necessary to such an indication. Crimes which do not merge as a matter  
3 of law, but which arise from the same course of conduct, do not all  
4 have to be charged.

5 (b) GUIDELINES/COMMENTARY:

6 (i) Police Investigation

7 A prosecuting attorney is dependent upon law enforcement agencies  
8 to conduct the necessary factual investigation which must precede the  
9 decision to prosecute. The prosecuting attorney shall ensure that a  
10 thorough factual investigation has been conducted before a decision to  
11 prosecute is made. In ordinary circumstances the investigation should  
12 include the following:

- 13 (A) The interviewing of all material witnesses, together with the  
14 obtaining of written statements whenever possible;
- 15 (B) The completion of necessary laboratory tests; and
- 16 (C) The obtaining, in accordance with constitutional requirements,  
17 of the suspect's version of the events.

18 If the initial investigation is incomplete, a prosecuting attorney  
19 should insist upon further investigation before a decision to prosecute  
20 is made, and specify what the investigation needs to include.

21 (ii) Exceptions

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

- 24 (A) Probable cause exists to believe the suspect is guilty; and
- 25 (B) The suspect presents a danger to the community or is likely to  
26 flee if not apprehended; or
- 27 (C) The arrest of the suspect is necessary to complete the  
28 investigation of the crime.

29 In the event that the exception to the standard is applied, the  
30 prosecuting attorney shall obtain a commitment from the law enforcement  
31 agency involved to complete the investigation in a timely manner. If  
32 the subsequent investigation does not produce sufficient evidence to  
33 meet the normal charging standard, the complaint should be dismissed.

34 (iii) Investigation Techniques

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

- 37 (A) Polygraph testing;
- 38 (B) Hypnosis;

1 (C) Electronic surveillance;

2 (D) Use of informants.

3 (iv) Pre-Filing Discussions with Defendant

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

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

8 Discussions with the victim(s) or victims' representatives  
9 regarding the selection or disposition of charges may occur before the  
10 filing of charges. The discussions may be considered by the prosecutor  
11 in charging and disposition decisions, and should be considered before  
12 reaching any agreement with the defendant regarding these decisions.

13 **Sec. 8.** RCW 13.34.180 and 2001 c 332 s 4 are each amended to read  
14 as follows:

15 (1) A petition seeking termination of a parent and child  
16 relationship may be filed in juvenile court by any party to the  
17 dependency proceedings concerning that child. Such petition shall  
18 conform to the requirements of RCW 13.34.040, shall be served upon the  
19 parties as provided in RCW 13.34.070(8), and shall allege all of the  
20 following unless subsection (2) or (3) of this section applies:

21 (a) That the child has been found to be a dependent child;

22 (b) That the court has entered a dispositional order pursuant to  
23 RCW 13.34.130;

24 (c) That the child has been removed or will, at the time of the  
25 hearing, have been removed from the custody of the parent for a period  
26 of at least six months pursuant to a finding of dependency;

27 (d) That the services ordered under RCW 13.34.136 have been  
28 expressly and understandably offered or provided and all necessary  
29 services, reasonably available, capable of correcting the parental  
30 deficiencies within the foreseeable future have been expressly and  
31 understandably offered or provided;

32 (e) That there is little likelihood that conditions will be  
33 remedied so that the child can be returned to the parent in the near  
34 future. A parent's failure to substantially improve parental  
35 deficiencies within twelve months following entry of the dispositional  
36 order shall give rise to a rebuttable presumption that there is little  
37 likelihood that conditions will be remedied so that the child can be

1 returned to the parent in the near future. The presumption shall not  
2 arise unless the petitioner makes a showing that all necessary services  
3 reasonably capable of correcting the parental deficiencies within the  
4 foreseeable future have been clearly offered or provided. In  
5 determining whether the conditions will be remedied the court may  
6 consider, but is not limited to, the following factors:

7 (i) Use of intoxicating or controlled substances so as to render  
8 the parent incapable of providing proper care for the child for  
9 extended periods of time or for periods of time that present a risk of  
10 imminent harm to the child, and documented unwillingness of the parent  
11 to receive and complete treatment or documented multiple failed  
12 treatment attempts; or

13 (ii) Psychological incapacity or mental deficiency of the parent  
14 that is so severe and chronic as to render the parent incapable of  
15 providing proper care for the child for extended periods of time or for  
16 periods of time that present a risk of imminent harm to the child, and  
17 documented unwillingness of the parent to receive and complete  
18 treatment or documentation that there is no treatment that can render  
19 the parent capable of providing proper care for the child in the near  
20 future; and

21 (f) That continuation of the parent and child relationship clearly  
22 diminishes the child's prospects for early integration into a stable  
23 and permanent home.

24 (2) In lieu of the allegations in subsection (1) of this section,  
25 the petition may allege that the child was found under such  
26 circumstances that the whereabouts of the child's parent are unknown  
27 and no person has acknowledged paternity or maternity and requested  
28 custody of the child within two months after the child was found.

29 (3) In lieu of the allegations in subsection (1)(b) through (f) of  
30 this section, the petition may allege that the parent has been  
31 convicted of:

32 (a) Murder in the first degree, murder in the second degree, (~~(e)~~)  
33 homicide by abuse in the first degree, or homicide by abuse in the  
34 second degree as defined in chapter 9A.32 RCW against another child of  
35 the parent;

36 (b) Manslaughter in the first degree or manslaughter in the second  
37 degree, as defined in chapter 9A.32 RCW against another child of the  
38 parent;



1 (c) Attempting, conspiring, or soliciting another to commit one or  
2 more of the crimes listed in (a) or (b) of this subsection; or

3 (d) Assault in the first or second degree, as defined in chapter  
4 9A.36 RCW, against the surviving child or another child of the parent.

5 (4) Notice of rights shall be served upon the parent, guardian, or  
6 legal custodian with the petition and shall be in substantially the  
7 following form:

8 "NOTICE

9 A petition for termination of parental rights has been filed  
10 against you. You have important legal rights and you must take  
11 steps to protect your interests. This petition could result in  
12 permanent loss of your parental rights.

13 1. You have the right to a fact-finding hearing before  
14 a judge.

15 2. You have the right to have a lawyer represent you at  
16 the hearing. A lawyer can look at the files in your case, talk  
17 to the department of social and health services and other  
18 agencies, tell you about the law, help you understand your  
19 rights, and help you at hearings. If you cannot afford a  
20 lawyer, the court will appoint one to represent you. To get a  
21 court-appointed lawyer you must contact: (explain local  
22 procedure).

23 3. At the hearing, you have the right to speak on your  
24 own behalf, to introduce evidence, to examine witnesses, and to  
25 receive a decision based solely on the evidence presented to  
26 the judge.

27 You should be present at this hearing.

28 You may call (insert agency) for more information  
29 about your child. The agency's name and telephone number are  
30 (insert name and telephone number)."

31 **Sec. 9.** RCW 43.43.830 and 2005 c 421 s 1 are each amended to read  
32 as follows:

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

35 (1) "Applicant" means:

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

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

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

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

19 (2) "Business or organization" means a business or organization  
20 licensed in this state, any agency of the state, or other governmental  
21 entity, that educates, trains, treats, supervises, houses, or provides  
22 recreation to (~~developmentally disabled~~) persons with a developmental  
23 disability, vulnerable adults, or children under sixteen years of age,  
24 including but not limited to public housing authorities, school  
25 districts, and educational service districts.

26 (3) "Civil adjudication proceeding" is a judicial or administrative  
27 adjudicative proceeding that results in a finding of, or upholds an  
28 agency finding of, domestic violence, abuse, sexual abuse, neglect, or  
29 exploitation or financial exploitation of a child or vulnerable adult  
30 under chapter 13.34, 26.44, or 74.34 RCW, or rules adopted under  
31 chapters 18.51 and 74.42 RCW. "Civil adjudication proceeding" also  
32 includes judicial or administrative orders that become final due to the  
33 failure of the alleged perpetrator to timely exercise a right afforded  
34 to him or her to administratively challenge findings made by the  
35 department of social and health services or the department of health  
36 under chapter 13.34, 26.44, or 74.34 RCW, or rules adopted under  
37 chapters 18.51 and 74.42 RCW.

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

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

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

37 (7) "Crimes relating to financial exploitation" means a conviction

1 for first, second, or third degree extortion; first, second, or third  
2 degree theft; first or second degree robbery; forgery; or any of these  
3 crimes as they may be renamed in the future.

4 (8) "Unsupervised" means not in the presence of:

5 (a) Another employee or volunteer from the same business or  
6 organization as the applicant; or

7 (b) Any relative or guardian of any of the children or  
8 (~~developmentally disabled~~) persons with a developmental disability or  
9 vulnerable adults to which the applicant has access during the course  
10 of his or her employment or involvement with the business or  
11 organization.

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

17 (10) "Financial exploitation" means "financial exploitation" as  
18 defined in RCW 74.34.020.

19 (11) "Agency" means any person, firm, partnership, association,  
20 corporation, or facility which receives, provides services to, houses  
21 or otherwise cares for vulnerable adults.

22 **Sec. 10.** RCW 9.94A.712 and 2006 c 124 s 3 and 2006 c 122 s 5 are  
23 each reenacted and amended to read as follows:

24 (1) An offender who is not a persistent offender shall be sentenced  
25 under this section if the offender:

26 (a) Is convicted of:

27 (i) Rape in the first degree, rape in the second degree, rape of a  
28 child in the first degree, child molestation in the first degree, rape  
29 of a child in the second degree, or indecent liberties by forcible  
30 compulsion;

31 (ii) Any of the following offenses with a finding of sexual  
32 motivation: Murder in the first degree, murder in the second degree,  
33 homicide by abuse in the first degree, kidnapping in the first degree,  
34 kidnapping in the second degree, assault in the first degree, assault  
35 in the second degree, assault of a child in the first degree, assault  
36 of a child in the second degree, or burglary in the first degree; or

1 (iii) An attempt to commit any crime listed in this subsection  
2 (1)(a);  
3 committed on or after September 1, 2001; or

4 (b) Has a prior conviction for an offense listed in RCW  
5 9.94A.030(33)(b), and is convicted of any sex offense which was  
6 committed after September 1, 2001.

7 For purposes of this subsection (1)(b), failure to register is not  
8 a sex offense.

9 (2) An offender convicted of rape of a child in the first or second  
10 degree or child molestation in the first degree who was seventeen years  
11 of age or younger at the time of the offense shall not be sentenced  
12 under this section.

13 (3)(a) Upon a finding that the offender is subject to sentencing  
14 under this section, the court shall impose a sentence to a maximum term  
15 and a minimum term.

16 (b) The maximum term shall consist of the statutory maximum  
17 sentence for the offense.

18 (c)(i) Except as provided in (c)(ii) of this subsection, the  
19 minimum term shall be either within the standard sentence range for the  
20 offense, or outside the standard sentence range pursuant to RCW  
21 9.94A.535, if the offender is otherwise eligible for such a sentence.

22 (ii) If the offense that caused the offender to be sentenced under  
23 this section was rape of a child in the first degree, rape of a child  
24 in the second degree, or child molestation in the first degree, and  
25 there has been a finding that the offense was predatory under RCW  
26 9.94A.836, the minimum term shall be either the maximum of the standard  
27 sentence range for the offense or twenty-five years, whichever is  
28 greater. If the offense that caused the offender to be sentenced under  
29 this section was rape in the first degree, rape in the second degree,  
30 indecent liberties by forcible compulsion, or kidnapping in the first  
31 degree with sexual motivation, and there has been a finding that the  
32 victim was under the age of fifteen at the time of the offense under  
33 RCW 9.94A.837, the minimum term shall be either the maximum of the  
34 standard sentence range for the offense or twenty-five years, whichever  
35 is greater. If the offense that caused the offender to be sentenced  
36 under this section is rape in the first degree, rape in the second  
37 degree with forcible compulsion, indecent liberties with forcible  
38 compulsion, or kidnapping in the first degree with sexual motivation,

1 and there has been a finding under RCW 9.94A.838 that the victim was,  
2 at the time of the offense, developmentally disabled, mentally  
3 disordered, or a frail elder or vulnerable adult, the minimum sentence  
4 shall be either the maximum of the standard sentence range for the  
5 offense or twenty-five years, whichever is greater.

6 (d) The minimum terms in (c)(ii) of this subsection do not apply to  
7 a juvenile tried as an adult pursuant to RCW 13.04.030(1)(e) (i) or  
8 (v). The minimum term for such a juvenile shall be imposed under  
9 (c)(i) of this subsection.

10 (4) A person sentenced under subsection (3) of this section shall  
11 serve the sentence in a facility or institution operated, or utilized  
12 under contract, by the state.

13 (5) When a court sentences a person to the custody of the  
14 department under this section, the court shall, in addition to the  
15 other terms of the sentence, sentence the offender to community custody  
16 under the supervision of the department and the authority of the board  
17 for any period of time the person is released from total confinement  
18 before the expiration of the maximum sentence.

19 (6)(a)(i) Unless a condition is waived by the court, the conditions  
20 of community custody shall include those provided for in RCW  
21 9.94A.700(4). The conditions may also include those provided for in  
22 RCW 9.94A.700(5). The court may also order the offender to participate  
23 in rehabilitative programs or otherwise perform affirmative conduct  
24 reasonably related to the circumstances of the offense, the offender's  
25 risk of reoffending, or the safety of the community, and the department  
26 and the board shall enforce such conditions pursuant to RCW 9.94A.713,  
27 9.95.425, and 9.95.430.

28 (ii) If the offense that caused the offender to be sentenced under  
29 this section was an offense listed in subsection (1)(a) of this section  
30 and the victim of the offense was under eighteen years of age at the  
31 time of the offense, the court shall, as a condition of community  
32 custody, prohibit the offender from residing in a community protection  
33 zone.

34 (b) As part of any sentence under this section, the court shall  
35 also require the offender to comply with any conditions imposed by the  
36 board under RCW 9.94A.713 and 9.95.420 through 9.95.435.

1       **Sec. 11.** RCW 9A.04.080 and 2006 c 132 s 1 are each amended to read  
2 as follows:

3       (1) Prosecutions for criminal offenses shall not be commenced after  
4 the periods prescribed in this section.

5       (a) The following offenses may be prosecuted at any time after  
6 their commission:

7       (i) Murder;

8       (ii) Homicide by abuse in the first degree;

9       (iii) Arson if a death results;

10       (iv) Vehicular homicide;

11       (v) Vehicular assault if a death results;

12       (vi) Hit-and-run injury-accident if a death results (RCW  
13 46.52.020(4)).

14       (b) The following offenses shall not be prosecuted more than ten  
15 years after their commission:

16       (i) Any felony committed by a public officer if the commission is  
17 in connection with the duties of his or her office or constitutes a  
18 breach of his or her public duty or a violation of the oath of office;

19       (ii) Arson if no death results; or

20       (iii) Violations of RCW 9A.44.040 or 9A.44.050 if the rape is  
21 reported to a law enforcement agency within one year of its commission;  
22 except that if the victim is under fourteen years of age when the rape  
23 is committed and the rape is reported to a law enforcement agency  
24 within one year of its commission, the violation may be prosecuted up  
25 to three years after the victim's eighteenth birthday or up to ten  
26 years after the rape's commission, whichever is later. If a violation  
27 of RCW 9A.44.040 or 9A.44.050 is not reported within one year, the rape  
28 may not be prosecuted: (A) More than three years after its commission  
29 if the violation was committed against a victim fourteen years of age  
30 or older; or (B) more than three years after the victim's eighteenth  
31 birthday or more than seven years after the rape's commission,  
32 whichever is later, if the violation was committed against a victim  
33 under fourteen years of age.

34       (c) Violations of the following statutes shall not be prosecuted  
35 more than three years after the victim's eighteenth birthday or more  
36 than seven years after their commission, whichever is later: RCW  
37 9A.44.073, 9A.44.076, 9A.44.083, 9A.44.086, 9A.44.070, 9A.44.080,  
38 9A.44.100(1)(b), or 9A.64.020.

1 (d) The following offenses shall not be prosecuted more than six  
2 years after their commission: Violations of RCW 9A.82.060 or  
3 9A.82.080.

4 (e) The following offenses shall not be prosecuted more than five  
5 years after their commission: Any class C felony under chapter 74.09,  
6 82.36, or 82.38 RCW.

7 (f) Bigamy shall not be prosecuted more than three years after the  
8 time specified in RCW 9A.64.010.

9 (g) A violation of RCW 9A.56.030 must not be prosecuted more than  
10 three years after the discovery of the offense when the victim is a tax  
11 exempt corporation under 26 U.S.C. Sec. 501(c)(3).

12 (h) No other felony may be prosecuted more than three years after  
13 its commission; except that in a prosecution under RCW 9A.44.115, if  
14 the person who was viewed, photographed, or filmed did not realize at  
15 the time that he or she was being viewed, photographed, or filmed, the  
16 prosecution must be commenced within two years of the time the person  
17 who was viewed or in the photograph or film first learns that he or she  
18 was viewed, photographed, or filmed.

19 (i) No gross misdemeanor may be prosecuted more than two years  
20 after its commission.

21 (j) No misdemeanor may be prosecuted more than one year after its  
22 commission.

23 (2) The periods of limitation prescribed in subsection (1) of this  
24 section do not run during any time when the person charged is not  
25 usually and publicly resident within this state.

26 (3) In any prosecution for a sex offense as defined in RCW  
27 9.94A.030, the periods of limitation prescribed in subsection (1) of  
28 this section run from the date of commission or one year from the date  
29 on which the identity of the suspect is conclusively established by  
30 deoxyribonucleic acid testing, whichever is later.

31 (4) If, before the end of a period of limitation prescribed in  
32 subsection (1) of this section, an indictment has been found or a  
33 complaint or an information has been filed, and the indictment,  
34 complaint, or information is set aside, then the period of limitation  
35 is extended by a period equal to the length of time from the finding or  
36 filing to the setting aside.

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