
SENATE BILL 5121

State of Washington

66th Legislature

2019 Regular Session

By Senator Honeyford

Prefiled 01/10/19.

1 AN ACT Relating to embezzlement; amending RCW 9A.56.030,
2 9A.56.040, 9A.56.050, 9.94A.540, and 9A.82.010; reenacting and
3 amending RCW 9.94A.515; adding a new section to chapter 9A.56 RCW;
4 creating a new section; and prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that theft, when
7 committed by a person who has been entrusted with the property of
8 another, is especially heinous and can involve significant sums of
9 money. Embezzlement can be devastating to the victims and put
10 businesses in financial ruin. The legislature intends to increase
11 minimum penalties for those crimes in order to discourage these acts.

12 **Sec. 2.** RCW 9A.56.030 and 2017 c 266 s 10 are each amended to
13 read as follows:

14 (1) Except as provided in RCW 9A.56.400 and section 5 of this
15 act, a person is guilty of theft in the first degree if he or she
16 commits theft of:

17 (a) Property or services which exceed(s) five thousand dollars in
18 value other than a firearm as defined in RCW 9.41.010;

19 (b) Property of any value, other than a firearm as defined in RCW
20 9.41.010 or a motor vehicle, taken from the person of another;

1 (c) A search and rescue dog, as defined in RCW 9.91.175, while
2 the search and rescue dog is on duty; or

3 (d) Commercial metal property, nonferrous metal property, or
4 private metal property, as those terms are defined in RCW 19.290.010,
5 and the costs of the damage to the owner's property exceed five
6 thousand dollars in value.

7 (2) Theft in the first degree is a class B felony.

8 **Sec. 3.** RCW 9A.56.040 and 2017 c 266 s 11 are each amended to
9 read as follows:

10 (1) Except as provided in RCW 9A.56.400 and section 5 of this
11 act, a person is guilty of theft in the second degree if he or she
12 commits theft of:

13 (a) Property or services which exceed(s) seven hundred fifty
14 dollars in value but does not exceed five thousand dollars in value,
15 other than a firearm as defined in RCW 9.41.010 or a motor vehicle;

16 (b) A public record, writing, or instrument kept, filed, or
17 deposited according to law with or in the keeping of any public
18 office or public servant;

19 (c) Commercial metal property, nonferrous metal property, or
20 private metal property, as those terms are defined in RCW 19.290.010,
21 and the costs of the damage to the owner's property exceed seven
22 hundred fifty dollars but does not exceed five thousand dollars in
23 value; or

24 (d) An access device.

25 (2) Theft in the second degree is a class C felony.

26 **Sec. 4.** RCW 9A.56.050 and 2009 c 431 s 9 are each amended to
27 read as follows:

28 (1) Except as provided in section 5 of this act, a person is
29 guilty of theft in the third degree if he or she commits theft of
30 property or services which (a) does not exceed seven hundred fifty
31 dollars in value, or (b) includes ten or more merchandise pallets, or
32 ten or more beverage crates, or a combination of ten or more
33 merchandise pallets and beverage crates.

34 (2) Theft in the third degree is a gross misdemeanor.

35 NEW SECTION. **Sec. 5.** A new section is added to chapter 9A.56
36 RCW to read as follows:

1 (1) (a) A person is guilty of theft by color or aid of deception
2 in the first degree if he or she commits theft as provided in RCW
3 9A.56.020(1) (b) of property or services that exceed thirty thousand
4 dollars in value;

5 (b) Theft by color or aid of deception in the first degree is a
6 class B felony.

7 (2) (a) A person is guilty of theft by color or aid of deception
8 in the second degree if he or she commits theft of property or
9 services that exceed ten thousand dollars in value but does not
10 exceed thirty thousand dollars in value;

11 (b) Theft by color or aid of deception in the second degree is a
12 class C felony.

13 (3) (a) A person is guilty of theft by color or aid of deception
14 in the third degree if he or she commits theft of property or
15 services that do not exceed ten thousand dollars in value;

16 (b) Theft by color or aid of deception in the third degree is a
17 class C felony.

18 **Sec. 6.** RCW 9.94A.515 and 2018 c 236 s 721 and 2018 c 7 s 7 are
19 each reenacted and amended to read as follows:

20 TABLE 2

21 CRIMES INCLUDED WITHIN EACH
22 SERIOUSNESS LEVEL

- 23 XVI Aggravated Murder 1 (RCW 10.95.020)
- 24 XV Homicide by abuse (RCW 9A.32.055)
- 25 Malicious explosion 1 (RCW
26 70.74.280(1))
- 27 Murder 1 (RCW 9A.32.030)
- 28 XIV Murder 2 (RCW 9A.32.050)
- 29 Trafficking 1 (RCW 9A.40.100(1))
- 30 XIII Malicious explosion 2 (RCW
31 70.74.280(2))
- 32 Malicious placement of an explosive 1
33 (RCW 70.74.270(1))
- 34 XII Assault 1 (RCW 9A.36.011)
- 35 Assault of a Child 1 (RCW 9A.36.120)

1 Malicious placement of an imitation
2 device 1 (RCW 70.74.272(1)(a))
3 Promoting Commercial Sexual Abuse of
4 a Minor (RCW 9.68A.101)
5 Rape 1 (RCW 9A.44.040)
6 Rape of a Child 1 (RCW 9A.44.073)
7 Trafficking 2 (RCW 9A.40.100(3))
8 XI Manslaughter 1 (RCW 9A.32.060)
9 Rape 2 (RCW 9A.44.050)
10 Rape of a Child 2 (RCW 9A.44.076)
11 Vehicular Homicide, by being under the
12 influence of intoxicating liquor or
13 any drug (RCW 46.61.520)
14 Vehicular Homicide, by the operation of
15 any vehicle in a reckless manner
16 (RCW 46.61.520)
17 X Child Molestation 1 (RCW 9A.44.083)
18 Criminal Mistreatment 1 (RCW
19 9A.42.020)
20 Indecent Liberties (with forcible
21 compulsion) (RCW
22 9A.44.100(1)(a))
23 Kidnapping 1 (RCW 9A.40.020)
24 Leading Organized Crime (RCW
25 9A.82.060(1)(a))
26 Malicious explosion 3 (RCW
27 70.74.280(3))
28 Sexually Violent Predator Escape (RCW
29 9A.76.115)
30 IX Abandonment of Dependent Person 1
31 (RCW 9A.42.060)
32 Assault of a Child 2 (RCW 9A.36.130)
33 Explosive devices prohibited (RCW
34 70.74.180)

1 Hit and Run—Death (RCW
2 46.52.020(4)(a))
3 Homicide by Watercraft, by being under
4 the influence of intoxicating liquor
5 or any drug (RCW 79A.60.050)
6 Inciting Criminal Profiteering (RCW
7 9A.82.060(1)(b))
8 Malicious placement of an explosive 2
9 (RCW 70.74.270(2))
10 Robbery 1 (RCW 9A.56.200)
11 Sexual Exploitation (RCW 9.68A.040)
12 VIII Arson 1 (RCW 9A.48.020)
13 Commercial Sexual Abuse of a Minor
14 (RCW 9.68A.100)
15 Homicide by Watercraft, by the
16 operation of any vessel in a reckless
17 manner (RCW 79A.60.050)
18 Manslaughter 2 (RCW 9A.32.070)
19 Promoting Prostitution 1 (RCW
20 9A.88.070)
21 Theft of Ammonia (RCW 69.55.010)
22 VII Air bag diagnostic systems (causing
23 bodily injury or death) (RCW
24 46.37.660(2)(b))
25 Air bag replacement requirements
26 (causing bodily injury or death)
27 (RCW 46.37.660(1)(b))
28 Burglary 1 (RCW 9A.52.020)
29 Child Molestation 2 (RCW 9A.44.086)
30 Civil Disorder Training (RCW
31 9A.48.120)
32 Dealing in depictions of minor engaged
33 in sexually explicit conduct 1
34 (RCW 9.68A.050(1))
35 Drive-by Shooting (RCW 9A.36.045)

1 Homicide by Watercraft, by disregard
2 for the safety of others (RCW
3 79A.60.050)

4 Indecent Liberties (without forcible
5 compulsion) (RCW 9A.44.100(1)
6 (b) and (c))

7 Introducing Contraband 1 (RCW
8 9A.76.140)

9 Malicious placement of an explosive 3
10 (RCW 70.74.270(3))

11 Manufacture or import counterfeit,
12 nonfunctional, damaged, or
13 previously deployed air bag
14 (causing bodily injury or death)
15 (RCW 46.37.650(1)(b))

16 Negligently Causing Death By Use of a
17 Signal Preemption Device (RCW
18 46.37.675)

19 Sell, install, or reinstall counterfeit,
20 nonfunctional, damaged, or
21 previously deployed airbag (RCW
22 46.37.650(2)(b))

23 Sending, bringing into state depictions
24 of minor engaged in sexually
25 explicit conduct 1 (RCW
26 9.68A.060(1))

27 Theft by color or aid of deception in the
28 first degree (section 5 of this act)

29 Unlawful Possession of a Firearm in the
30 first degree (RCW 9.41.040(1))

31 Use of a Machine Gun or Bump-fire
32 Stock in Commission of a Felony
33 (RCW 9.41.225)

34 Vehicular Homicide, by disregard for
35 the safety of others (RCW
36 46.61.520)

1 VI Bail Jumping with Murder 1 (RCW
2 9A.76.170(3)(a))
3 Bribery (RCW 9A.68.010)
4 Incest 1 (RCW 9A.64.020(1))
5 Intimidating a Judge (RCW 9A.72.160)
6 Intimidating a Juror/Witness (RCW
7 9A.72.110, 9A.72.130)
8 Malicious placement of an imitation
9 device 2 (RCW 70.74.272(1)(b))
10 Possession of Depictions of a Minor
11 Engaged in Sexually Explicit
12 Conduct 1 (RCW 9.68A.070(1))
13 Rape of a Child 3 (RCW 9A.44.079)
14 Theft by color or aid of deception in the
15 second degree (section 5 of this act)
16 Theft of a Firearm (RCW 9A.56.300)
17 Theft from a Vulnerable Adult 1 (RCW
18 9A.56.400(1))
19 Unlawful Storage of Ammonia (RCW
20 69.55.020)
21 V Abandonment of Dependent Person 2
22 (RCW 9A.42.070)
23 Advancing money or property for
24 extortionate extension of credit
25 (RCW 9A.82.030)
26 Air bag diagnostic systems (RCW
27 46.37.660(2)(c))
28 Air bag replacement requirements
29 (RCW 46.37.660(1)(c))
30 Bail Jumping with class A Felony
31 (RCW 9A.76.170(3)(b))
32 Child Molestation 3 (RCW 9A.44.089)
33 Criminal Mistreatment 2 (RCW
34 9A.42.030)

1 Custodial Sexual Misconduct 1 (RCW
2 9A.44.160)
3 Dealing in Depictions of Minor
4 Engaged in Sexually Explicit
5 Conduct 2 (RCW 9.68A.050(2))
6 Domestic Violence Court Order
7 Violation (RCW 10.99.040,
8 10.99.050, 26.09.300, 26.10.220,
9 ((~~26.26.138~~)) 26.26B.050,
10 26.50.110, 26.52.070, or 74.34.145)
11 Extortion 1 (RCW 9A.56.120)
12 Extortionate Extension of Credit (RCW
13 9A.82.020)
14 Extortionate Means to Collect
15 Extensions of Credit (RCW
16 9A.82.040)
17 Incest 2 (RCW 9A.64.020(2))
18 Kidnapping 2 (RCW 9A.40.030)
19 Manufacture or import counterfeit,
20 nonfunctional, damaged, or
21 previously deployed air bag (RCW
22 46.37.650(1)(c))
23 Perjury 1 (RCW 9A.72.020)
24 Persistent prison misbehavior (RCW
25 9.94.070)
26 Possession of a Stolen Firearm (RCW
27 9A.56.310)
28 Rape 3 (RCW 9A.44.060)
29 Rendering Criminal Assistance 1 (RCW
30 9A.76.070)
31 Sell, install, or reinstall counterfeit,
32 nonfunctional, damaged, or
33 previously deployed airbag (RCW
34 46.37.650(2)(c))

1 Sending, Bringing into State Depictions
2 of Minor Engaged in Sexually
3 Explicit Conduct 2 (RCW
4 9.68A.060(2))
5 Sexual Misconduct with a Minor 1
6 (RCW 9A.44.093)
7 Sexually Violating Human Remains
8 (RCW 9A.44.105)
9 Stalking (RCW 9A.46.110)
10 Taking Motor Vehicle Without
11 Permission 1 (RCW 9A.56.070)
12 Theft by color or aid of deception in the
13 third degree (section 5 of this act)
14 IV Arson 2 (RCW 9A.48.030)
15 Assault 2 (RCW 9A.36.021)
16 Assault 3 (of a Peace Officer with a
17 Projectile Stun Gun) (RCW
18 9A.36.031(1)(h))
19 Assault 4 (third domestic violence
20 offense) (RCW 9A.36.041(3))
21 Assault by Watercraft (RCW
22 79A.60.060)
23 Bribing a Witness/Bribe Received by
24 Witness (RCW 9A.72.090,
25 9A.72.100)
26 Cheating 1 (RCW 9.46.1961)
27 Commercial Bribery (RCW 9A.68.060)
28 Counterfeiting (RCW 9.16.035(4))
29 Driving While Under the Influence
30 (RCW 46.61.502(6))
31 Endangerment with a Controlled
32 Substance (RCW 9A.42.100)
33 Escape 1 (RCW 9A.76.110)
34 Hit and Run—Injury (RCW
35 46.52.020(4)(b))

1 Hit and Run with Vessel—Injury
2 Accident (RCW 79A.60.200(3))
3 Identity Theft 1 (RCW 9.35.020(2))
4 Indecent Exposure to Person Under Age
5 Fourteen (subsequent sex offense)
6 (RCW 9A.88.010)
7 Influencing Outcome of Sporting Event
8 (RCW 9A.82.070)
9 Malicious Harassment (RCW
10 9A.36.080)
11 Physical Control of a Vehicle While
12 Under the Influence (RCW
13 46.61.504(6))
14 Possession of Depictions of a Minor
15 Engaged in Sexually Explicit
16 Conduct 2 (RCW 9.68A.070(2))
17 Residential Burglary (RCW 9A.52.025)
18 Robbery 2 (RCW 9A.56.210)
19 Theft of Livestock 1 (RCW 9A.56.080)
20 Threats to Bomb (RCW 9.61.160)
21 Trafficking in Stolen Property 1 (RCW
22 9A.82.050)
23 Unlawful factoring of a credit card or
24 payment card transaction (RCW
25 9A.56.290(4)(b))
26 Unlawful transaction of health coverage
27 as a health care service contractor
28 (RCW 48.44.016(3))
29 Unlawful transaction of health coverage
30 as a health maintenance
31 organization (RCW 48.46.033(3))
32 Unlawful transaction of insurance
33 business (RCW 48.15.023(3))
34 Unlicensed practice as an insurance
35 professional (RCW 48.17.063(2))

1 Use of Proceeds of Criminal
2 Profiteering (RCW 9A.82.080 (1)
3 and (2))
4 Vehicle Prowling 2 (third or subsequent
5 offense) (RCW 9A.52.100(3))
6 Vehicular Assault, by being under the
7 influence of intoxicating liquor or
8 any drug, or by the operation or
9 driving of a vehicle in a reckless
10 manner (RCW 46.61.522)
11 Viewing of Depictions of a Minor
12 Engaged in Sexually Explicit
13 Conduct 1 (RCW 9.68A.075(1))
14 Willful Failure to Return from Furlough
15 (RCW 72.66.060)
16 III Animal Cruelty 1 (Sexual Conduct or
17 Contact) (RCW 16.52.205(3))
18 Assault 3 (Except Assault 3 of a Peace
19 Officer With a Projectile Stun Gun)
20 (RCW 9A.36.031 except subsection
21 (1)(h))
22 Assault of a Child 3 (RCW 9A.36.140)
23 Bail Jumping with class B or C Felony
24 (RCW 9A.76.170(3)(c))
25 Burglary 2 (RCW 9A.52.030)
26 Communication with a Minor for
27 Immoral Purposes (RCW
28 9.68A.090)
29 Criminal Gang Intimidation (RCW
30 9A.46.120)
31 Custodial Assault (RCW 9A.36.100)
32 Cyberstalking (subsequent conviction or
33 threat of death) (RCW 9.61.260(3))
34 Escape 2 (RCW 9A.76.120)
35 Extortion 2 (RCW 9A.56.130)
36 Harassment (RCW 9A.46.020)

1 Intimidating a Public Servant (RCW
2 9A.76.180)
3 Introducing Contraband 2 (RCW
4 9A.76.150)
5 Malicious Injury to Railroad Property
6 (RCW 81.60.070)
7 Mortgage Fraud (RCW 19.144.080)
8 Negligently Causing Substantial Bodily
9 Harm By Use of a Signal
10 Preemption Device (RCW
11 46.37.674)
12 Organized Retail Theft 1 (RCW
13 9A.56.350(2))
14 Perjury 2 (RCW 9A.72.030)
15 Possession of Incendiary Device (RCW
16 9.40.120)
17 Possession of Machine Gun, Bump-fire
18 Stock, or Short-Barreled Shotgun or
19 Rifle (RCW 9.41.190)
20 Promoting Prostitution 2 (RCW
21 9A.88.080)
22 Retail Theft with Special Circumstances
23 1 (RCW 9A.56.360(2))
24 Securities Act violation (RCW
25 21.20.400)
26 Tampering with a Witness (RCW
27 9A.72.120)
28 Telephone Harassment (subsequent
29 conviction or threat of death) (RCW
30 9.61.230(2))
31 Theft of Livestock 2 (RCW 9A.56.083)
32 Theft with the Intent to Resell 1 (RCW
33 9A.56.340(2))
34 Trafficking in Stolen Property 2 (RCW
35 9A.82.055)

1 Unlawful Hunting of Big Game 1 (RCW
2 77.15.410(3)(b))
3 Unlawful Imprisonment (RCW
4 9A.40.040)
5 Unlawful Misbranding of (~~Food~~) Fish
6 or Shellfish 1 (RCW 77.140.060(3))
7 Unlawful possession of firearm in the
8 second degree (RCW 9.41.040(2))
9 Unlawful Taking of Endangered Fish or
10 Wildlife 1 (RCW 77.15.120(3)(b))
11 Unlawful Trafficking in Fish, Shellfish,
12 or Wildlife 1 (RCW
13 77.15.260(3)(b))
14 Unlawful Use of a Nondesignated
15 Vessel (RCW 77.15.530(4))
16 Vehicular Assault, by the operation or
17 driving of a vehicle with disregard
18 for the safety of others (RCW
19 46.61.522)
20 Willful Failure to Return from Work
21 Release (RCW 72.65.070)
22 II Commercial Fishing Without a License
23 1 (RCW 77.15.500(3)(b))
24 Computer Trespass 1 (RCW 9A.90.040)
25 Counterfeiting (RCW 9.16.035(3))
26 Electronic Data Service Interference
27 (RCW 9A.90.060)
28 Electronic Data Tampering 1 (RCW
29 9A.90.080)
30 Electronic Data Theft (RCW 9A.90.100)
31 Engaging in Fish Dealing Activity
32 Unlicensed 1 (RCW 77.15.620(3))
33 Escape from Community Custody
34 (RCW 72.09.310)

1 Failure to Register as a Sex Offender
2 (second or subsequent offense)
3 (RCW 9A.44.130 prior to June 10,
4 2010, and RCW 9A.44.132)
5 Health Care False Claims (RCW
6 48.80.030)
7 Identity Theft 2 (RCW 9.35.020(3))
8 Improperly Obtaining Financial
9 Information (RCW 9.35.010)
10 Malicious Mischief 1 (RCW 9A.48.070)
11 Organized Retail Theft 2 (RCW
12 9A.56.350(3))
13 Possession of Stolen Property 1 (RCW
14 9A.56.150)
15 Possession of a Stolen Vehicle (RCW
16 9A.56.068)
17 Retail Theft with Special Circumstances
18 2 (RCW 9A.56.360(3))
19 Scrap Processing, Recycling, or
20 Supplying Without a License
21 (second or subsequent offense)
22 (RCW 19.290.100)
23 Theft 1 (RCW 9A.56.030)
24 Theft of a Motor Vehicle (RCW
25 9A.56.065)
26 Theft of Rental, Leased, Lease-
27 purchased, or Loaned Property
28 (valued at five thousand dollars or
29 more) (RCW 9A.56.096(5)(a))
30 Theft with the Intent to Resell 2 (RCW
31 9A.56.340(3))
32 Trafficking in Insurance Claims (RCW
33 48.30A.015)
34 Unlawful factoring of a credit card or
35 payment card transaction (RCW
36 9A.56.290(4)(a))

1 Unlawful Participation of Non-Indians
2 in Indian Fishery (RCW
3 77.15.570(2))
4 Unlawful Practice of Law (RCW
5 2.48.180)
6 Unlawful Purchase or Use of a License
7 (RCW 77.15.650(3)(b))
8 Unlawful Trafficking in Fish, Shellfish,
9 or Wildlife 2 (RCW
10 77.15.260(3)(a))
11 Unlicensed Practice of a Profession or
12 Business (RCW 18.130.190(7))
13 Voyeurism 1 (RCW 9A.44.115)
14 I Attempting to Elude a Pursuing Police
15 Vehicle (RCW 46.61.024)
16 False Verification for Welfare (RCW
17 74.08.055)
18 Forgery (RCW 9A.60.020)
19 Fraudulent Creation or Revocation of a
20 Mental Health Advance Directive
21 (RCW 9A.60.060)
22 Malicious Mischief 2 (RCW 9A.48.080)
23 Mineral Trespass (RCW 78.44.330)
24 Possession of Stolen Property 2 (RCW
25 9A.56.160)
26 Reckless Burning 1 (RCW 9A.48.040)
27 Spotlighting Big Game 1 (RCW
28 77.15.450(3)(b))
29 Suspension of Department Privileges 1
30 (RCW 77.15.670(3)(b))
31 Taking Motor Vehicle Without
32 Permission 2 (RCW 9A.56.075)
33 Theft 2 (RCW 9A.56.040)
34 Theft from a Vulnerable Adult 2 (RCW
35 9A.56.400(2))

1 Theft of Rental, Leased, Lease-
2 purchased, or Loaned Property
3 (valued at seven hundred fifty
4 dollars or more but less than five
5 thousand dollars) (RCW
6 9A.56.096(5)(b))
7 Transaction of insurance business
8 beyond the scope of licensure
9 (RCW 48.17.063)
10 Unlawful Fish and Shellfish Catch
11 Accounting (RCW 77.15.630(3)(b))
12 Unlawful Issuance of Checks or Drafts
13 (RCW 9A.56.060)
14 Unlawful Possession of Fictitious
15 Identification (RCW 9A.56.320)
16 Unlawful Possession of Instruments of
17 Financial Fraud (RCW 9A.56.320)
18 Unlawful Possession of Payment
19 Instruments (RCW 9A.56.320)
20 Unlawful Possession of a Personal
21 Identification Device (RCW
22 9A.56.320)
23 Unlawful Production of Payment
24 Instruments (RCW 9A.56.320)
25 Unlawful Releasing, Planting,
26 Possessing, or Placing Deleterious
27 Exotic Wildlife (RCW
28 77.15.250(2)(b))
29 Unlawful Trafficking in Food Stamps
30 (RCW 9.91.142)
31 Unlawful Use of Food Stamps (RCW
32 9.91.144)
33 Unlawful Use of Net to Take Fish 1
34 (RCW 77.15.580(3)(b))
35 Unlawful Use of Prohibited Aquatic
36 Animal Species (RCW
37 77.15.253(3))

1 Vehicle Prowl 1 (RCW 9A.52.095)

2 Violating Commercial Fishing Area or

3 Time 1 (RCW 77.15.550(3)(b))

4 **Sec. 7.** RCW 9.94A.540 and 2014 c 130 s 2 are each amended to
5 read as follows:

6 (1) Except to the extent provided in subsection (3) of this
7 section, the following minimum terms of total confinement are
8 mandatory and shall not be varied or modified under RCW 9.94A.535:

9 (a) An offender convicted of the crime of murder in the first
10 degree shall be sentenced to a term of total confinement not less
11 than twenty years.

12 (b) An offender convicted of the crime of assault in the first
13 degree or assault of a child in the first degree where the offender
14 used force or means likely to result in death or intended to kill the
15 victim shall be sentenced to a term of total confinement not less
16 than five years.

17 (c) An offender convicted of the crime of rape in the first
18 degree shall be sentenced to a term of total confinement not less
19 than five years.

20 (d) An offender convicted of the crime of sexually violent
21 predator escape shall be sentenced to a minimum term of total
22 confinement not less than sixty months.

23 (e) An offender convicted of the crime of aggravated first degree
24 murder for a murder that was committed prior to the offender's
25 eighteenth birthday shall be sentenced to a term of total confinement
26 not less than twenty-five years.

27 (f) An offender convicted of the crime of theft by color or aid
28 of deception in the first degree must be sentenced to a minimum term
29 of total confinement not less than five years.

30 (2) During such minimum terms of total confinement, no offender
31 subject to the provisions of this section is eligible for community
32 custody, earned release time, furlough, home detention, partial
33 confinement, work crew, work release, or any other form of early
34 release authorized under RCW 9.94A.728, or any other form of
35 authorized leave of absence from the correctional facility while not
36 in the direct custody of a corrections officer. The provisions of
37 this subsection shall not apply: (a) In the case of an offender in
38 need of emergency medical treatment; (b) for the purpose of

1 commitment to an inpatient treatment facility in the case of an
2 offender convicted of the crime of rape in the first degree; or (c)
3 for an extraordinary medical placement when authorized under RCW
4 9.94A.728(~~(+3)~~) (1)(c).

5 (3) (a) Subsection (1)(a) through (d) of this section shall not be
6 applied in sentencing of juveniles tried as adults pursuant to RCW
7 13.04.030(1)(e)(i).

8 (b) This subsection (3) applies only to crimes committed on or
9 after July 24, 2005.

10 **Sec. 8.** RCW 9A.82.010 and 2013 c 302 s 10 are each amended to
11 read as follows:

12 Unless the context requires the contrary, the definitions in this
13 section apply throughout this chapter.

14 (1) (a) "Beneficial interest" means:

15 (i) The interest of a person as a beneficiary under a trust
16 established under Title 11 RCW in which the trustee for the trust
17 holds legal or record title to real property;

18 (ii) The interest of a person as a beneficiary under any other
19 trust arrangement under which a trustee holds legal or record title
20 to real property for the benefit of the beneficiary; or

21 (iii) The interest of a person under any other form of express
22 fiduciary arrangement under which one person holds legal or record
23 title to real property for the benefit of the other person.

24 (b) "Beneficial interest" does not include the interest of a
25 stockholder in a corporation or the interest of a partner in a
26 general partnership or limited partnership.

27 (c) A beneficial interest is considered to be located where the
28 real property owned by the trustee is located.

29 (2) "Control" means the possession of a sufficient interest to
30 permit substantial direction over the affairs of an enterprise.

31 (3) "Creditor" means a person making an extension of credit or a
32 person claiming by, under, or through a person making an extension of
33 credit.

34 (4) "Criminal profiteering" means any act, including any
35 anticipatory or completed offense, committed for financial gain, that
36 is chargeable or indictable under the laws of the state in which the
37 act occurred and, if the act occurred in a state other than this
38 state, would be chargeable or indictable under the laws of this state
39 had the act occurred in this state and punishable as a felony and by

1 imprisonment for more than one year, regardless of whether the act is
2 charged or indicted, as any of the following:

- 3 (a) Murder, as defined in RCW 9A.32.030 and 9A.32.050;
- 4 (b) Robbery, as defined in RCW 9A.56.200 and 9A.56.210;
- 5 (c) Kidnapping, as defined in RCW 9A.40.020 and 9A.40.030;
- 6 (d) Forgery, as defined in RCW 9A.60.020 and 9A.60.030;
- 7 (e) Theft, as defined in RCW 9A.56.030, 9A.56.040, 9A.56.060,
8 section 5 of this act, 9A.56.080, and 9A.56.083;
- 9 (f) Unlawful sale of subscription television services, as defined
10 in RCW 9A.56.230;
- 11 (g) Theft of telecommunication services or unlawful manufacture
12 of a telecommunication device, as defined in RCW 9A.56.262 and
13 9A.56.264;
- 14 (h) Child selling or child buying, as defined in RCW 9A.64.030;
- 15 (i) Bribery, as defined in RCW 9A.68.010, 9A.68.020, 9A.68.040,
16 and 9A.68.050;
- 17 (j) Gambling, as defined in RCW 9.46.220 and 9.46.215 and
18 9.46.217;
- 19 (k) Extortion, as defined in RCW 9A.56.120 and 9A.56.130;
- 20 (l) Unlawful production of payment instruments, unlawful
21 possession of payment instruments, unlawful possession of a personal
22 identification device, unlawful possession of fictitious
23 identification, or unlawful possession of instruments of financial
24 fraud, as defined in RCW 9A.56.320;
- 25 (m) Extortionate extension of credit, as defined in RCW
26 9A.82.020;
- 27 (n) Advancing money for use in an extortionate extension of
28 credit, as defined in RCW 9A.82.030;
- 29 (o) Collection of an extortionate extension of credit, as defined
30 in RCW 9A.82.040;
- 31 (p) Collection of an unlawful debt, as defined in RCW 9A.82.045;
- 32 (q) Delivery or manufacture of controlled substances or
33 possession with intent to deliver or manufacture controlled
34 substances under chapter 69.50 RCW;
- 35 (r) Trafficking in stolen property, as defined in RCW 9A.82.050;
- 36 (s) Leading organized crime, as defined in RCW 9A.82.060;
- 37 (t) Money laundering, as defined in RCW 9A.83.020;
- 38 (u) Obstructing criminal investigations or prosecutions in
39 violation of RCW 9A.72.090, 9A.72.100, 9A.72.110, 9A.72.120,
40 9A.72.130, 9A.76.070, or 9A.76.180;

1 (v) Fraud in the purchase or sale of securities, as defined in
2 RCW 21.20.010;

3 (w) Promoting pornography, as defined in RCW 9.68.140;

4 (x) Sexual exploitation of children, as defined in RCW 9.68A.040,
5 9.68A.050, and 9.68A.060;

6 (y) Promoting prostitution, as defined in RCW 9A.88.070 and
7 9A.88.080;

8 (z) Arson, as defined in RCW 9A.48.020 and 9A.48.030;

9 (aa) Assault, as defined in RCW 9A.36.011 and 9A.36.021;

10 (bb) Assault of a child, as defined in RCW 9A.36.120 and
11 9A.36.130;

12 (cc) A pattern of equity skimming, as defined in RCW 61.34.020;

13 (dd) Commercial telephone solicitation in violation of RCW
14 19.158.040(1);

15 (ee) Trafficking in insurance claims, as defined in RCW
16 48.30A.015;

17 (ff) Unlawful practice of law, as defined in RCW 2.48.180;

18 (gg) Commercial bribery, as defined in RCW 9A.68.060;

19 (hh) Health care false claims, as defined in RCW 48.80.030;

20 (ii) Unlicensed practice of a profession or business, as defined
21 in RCW 18.130.190(7);

22 (jj) Improperly obtaining financial information, as defined in
23 RCW 9.35.010;

24 (kk) Identity theft, as defined in RCW 9.35.020;

25 (ll) Unlawful shipment of cigarettes in violation of RCW
26 70.155.105(6) (a) or (b);

27 (mm) Unlawful shipment of cigarettes in violation of RCW
28 82.24.110(2);

29 (nn) Unauthorized sale or procurement of telephone records in
30 violation of RCW 9.26A.140;

31 (oo) Theft with the intent to resell, as defined in RCW
32 9A.56.340;

33 (pp) Organized retail theft, as defined in RCW 9A.56.350;

34 (qq) Mortgage fraud, as defined in RCW 19.144.080;

35 (rr) Commercial sexual abuse of a minor, as defined in RCW
36 9.68A.100;

37 (ss) Promoting commercial sexual abuse of a minor, as defined in
38 RCW 9.68A.101; or

39 (tt) Trafficking, as defined in RCW 9A.40.100, promoting travel
40 for commercial sexual abuse of a minor, as defined in RCW 9.68A.102,

1 and permitting commercial sexual abuse of a minor, as defined in RCW
2 9.68A.103.

3 (5) "Dealer in property" means a person who buys and sells
4 property as a business.

5 (6) "Debtor" means a person to whom an extension of credit is
6 made or a person who guarantees the repayment of an extension of
7 credit or in any manner undertakes to indemnify the creditor against
8 loss resulting from the failure of a person to whom an extension is
9 made to repay the same.

10 (7) "Documentary material" means any book, paper, document,
11 writing, drawing, graph, chart, photograph, phonograph record,
12 magnetic tape, computer printout, other data compilation from which
13 information can be obtained or from which information can be
14 translated into usable form, or other tangible item.

15 (8) "Enterprise" includes any individual, sole proprietorship,
16 partnership, corporation, business trust, or other profit or
17 nonprofit legal entity, and includes any union, association, or group
18 of individuals associated in fact although not a legal entity, and
19 both illicit and licit enterprises and governmental and
20 nongovernmental entities.

21 (9) "Extortionate extension of credit" means an extension of
22 credit with respect to which it is the understanding of the creditor
23 and the debtor at the time the extension is made that delay in making
24 repayment or failure to make repayment could result in the use of
25 violence or other criminal means to cause harm to the person,
26 reputation, or property of any person.

27 (10) "Extortionate means" means the use, or an express or
28 implicit threat of use, of violence or other criminal means to cause
29 harm to the person, reputation, or property of any person.

30 (11) "Financial institution" means any bank, trust company,
31 savings and loan association, savings bank, mutual savings bank,
32 credit union, or loan company under the jurisdiction of the state or
33 an agency of the United States.

34 (12) "Pattern of criminal profiteering activity" means engaging
35 in at least three acts of criminal profiteering, one of which
36 occurred after July 1, 1985, and the last of which occurred within
37 five years, excluding any period of imprisonment, after the
38 commission of the earliest act of criminal profiteering. In order to
39 constitute a pattern, the three acts must have the same or similar
40 intent, results, accomplices, principals, victims, or methods of

1 commission, or be otherwise interrelated by distinguishing
2 characteristics including a nexus to the same enterprise, and must
3 not be isolated events. However, in any civil proceedings brought
4 pursuant to RCW 9A.82.100 by any person other than the attorney
5 general or county prosecuting attorney in which one or more acts of
6 fraud in the purchase or sale of securities are asserted as acts of
7 criminal profiteering activity, it is a condition to civil liability
8 under RCW 9A.82.100 that the defendant has been convicted in a
9 criminal proceeding of fraud in the purchase or sale of securities
10 under RCW 21.20.400 or under the laws of another state or of the
11 United States requiring the same elements of proof, but such
12 conviction need not relate to any act or acts asserted as acts of
13 criminal profiteering activity in such civil action under RCW
14 9A.82.100.

15 (13) "Real property" means any real property or interest in real
16 property, including but not limited to a land sale contract, lease,
17 or mortgage of real property.

18 (14) "Records" means any book, paper, writing, record, computer
19 program, or other material.

20 (15) "Repayment of an extension of credit" means the repayment,
21 satisfaction, or discharge in whole or in part of a debt or claim,
22 acknowledged or disputed, valid or invalid, resulting from or in
23 connection with that extension of credit.

24 (16) "Stolen property" means property that has been obtained by
25 theft, robbery, or extortion.

26 (17) "To collect an extension of credit" means to induce in any
27 way a person to make repayment thereof.

28 (18) "To extend credit" means to make or renew a loan or to enter
29 into an agreement, tacit or express, whereby the repayment or
30 satisfaction of a debt or claim, whether acknowledged or disputed,
31 valid or invalid, and however arising, may or shall be deferred.

32 (19) "Traffic" means to sell, transfer, distribute, dispense, or
33 otherwise dispose of stolen property to another person, or to buy,
34 receive, possess, or obtain control of stolen property, with intent
35 to sell, transfer, distribute, dispense, or otherwise dispose of the
36 property to another person.

37 (20)(a) "Trustee" means:

38 (i) A person acting as a trustee under a trust established under
39 Title 11 RCW in which the trustee holds legal or record title to real
40 property;

1 (ii) A person who holds legal or record title to real property in
2 which another person has a beneficial interest; or
3 (iii) A successor trustee to a person who is a trustee under
4 (a)(i) or (ii) of this subsection.
5 (b) "Trustee" does not mean a person appointed or acting as:
6 (i) A personal representative under Title 11 RCW;
7 (ii) A trustee of any testamentary trust;
8 (iii) A trustee of any indenture of trust under which a bond is
9 issued; or
10 (iv) A trustee under a deed of trust.
11 (21) "Unlawful debt" means any money or other thing of value
12 constituting principal or interest of a debt that is legally
13 unenforceable in the state in full or in part because the debt was
14 incurred or contracted:
15 (a) In violation of any one of the following:
16 (i) Chapter 67.16 RCW relating to horse racing;
17 (ii) Chapter 9.46 RCW relating to gambling;
18 (b) In a gambling activity in violation of federal law; or
19 (c) In connection with the business of lending money or a thing
20 of value at a rate that is at least twice the permitted rate under
21 the applicable state or federal law relating to usury.

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