
HOUSE BILL 1837

State of Washington

66th Legislature

2019 Regular Session

By Representatives Irwin, Griffey, Stokesbary, Vick, and Orwall

1 AN ACT Relating to protecting the public by increasing penalties
2 for certain repeat offenders who engage in lurid criminal conduct;
3 amending RCW 9A.36.041 and 9A.88.010; reenacting and amending RCW
4 9.94A.515; and prescribing penalties.

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

6 **Sec. 1.** RCW 9A.36.041 and 2017 c 272 s 1 are each amended to
7 read as follows:

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

11 (2) Assault in the fourth degree is a gross misdemeanor, except
12 as provided in subsections (3) and (4) of this section.

13 (3) Assault in the fourth degree, where domestic violence was
14 pleaded and proven after July 23, 2017, is a class C felony if the
15 person has two or more prior adult convictions within ten years for
16 any of the following offenses where domestic violence as defined in
17 RCW 9.94A.030 was pleaded and proven after July 23, 2017:

18 (a) Repetitive domestic violence offense as defined in RCW
19 9.94A.030;

20 (b) Crime of harassment as defined by RCW 9A.46.060;

21 (c) Assault in the third degree;

- 1 (d) Assault in the second degree;
2 (e) Assault in the first degree; or
3 (f) An out-of-state comparable offense.

4 (4) Assault in the fourth degree, where sexual motivation was
5 pleaded and proven after the effective date of this section, is a
6 class C felony if the person has two or more prior adult convictions
7 within ten years for any of the following offenses where sexual
8 motivation was pleaded and proven:

9 (a) Assault in the fourth degree;

10 (b) Assault in the third degree;

11 (c) Assault in the second degree;

12 (d) Assault in the first degree;

13 (e) A municipal offense comparable to an offense under (a)
14 through (d) of this subsection; or

15 (f) An out-of-state offense comparable to an offense under (a)
16 through (d) of this subsection.

17 (5) For purposes of subsection (3) of this section, family or
18 household members means spouses, domestic partners, former spouses,
19 former domestic partners, persons who have a child in common
20 regardless of whether they have been married or have lived together
21 at any time, persons sixteen years of age or older who are presently
22 residing together or who have resided together in the past and who
23 have or have had a dating relationship, and persons sixteen years of
24 age or older with whom a person sixteen years of age or older has or
25 has had a dating relationship.

26 **Sec. 2.** RCW 9A.88.010 and 2003 c 53 s 92 are each amended to
27 read as follows:

28 (1) A person is guilty of indecent exposure if he or she
29 intentionally makes any open and obscene exposure of his or her
30 person or the person of another knowing that such conduct is likely
31 to cause reasonable affront or alarm. The act of breastfeeding or
32 expressing breast milk is not indecent exposure.

33 (2)(a) Except as provided in (b) and (c) of this subsection,
34 indecent exposure is a misdemeanor.

35 (b) Indecent exposure is a gross misdemeanor on the first offense
36 if the person exposes himself or herself to a person under the age of
37 fourteen years.

38 (c) Indecent exposure is a class C felony if the person exposes
39 himself or herself to a person under the age of fourteen years and

1 has previously been convicted under this section ((~~or~~)) of a sex
2 offense as defined in RCW 9.94A.030, or of a municipal offense or
3 out-of-state offense comparable to indecent exposure under this
4 section or a sex offense as defined in RCW 9.94A.030.

5 (d) Indecent exposure is a class C felony if the person exposes
6 himself or herself to a person under circumstances otherwise not
7 provided under (c) of this subsection and has previously been
8 convicted under this section of a sex offense as defined in RCW
9 9.94A.030, a municipal offense or out-of-state offense comparable to
10 indecent exposure under this section, or a sex offense as defined in
11 RCW 9.94A.030.

12 **Sec. 3.** RCW 9.94A.515 and 2018 c 236 s 721 and 2018 c 7 s 7 are
13 each reenacted and amended to read as follows:

14 TABLE 2

15 CRIMES INCLUDED WITHIN EACH
16 SERIOUSNESS LEVEL

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

1 Trafficking 2 (RCW 9A.40.100(3))
2 XI Manslaughter 1 (RCW 9A.32.060)
3 Rape 2 (RCW 9A.44.050)
4 Rape of a Child 2 (RCW 9A.44.076)
5 Vehicular Homicide, by being under the
6 influence of intoxicating liquor or
7 any drug (RCW 46.61.520)
8 Vehicular Homicide, by the operation of
9 any vehicle in a reckless manner
10 (RCW 46.61.520)
11 X Child Molestation 1 (RCW 9A.44.083)
12 Criminal Mistreatment 1 (RCW
13 9A.42.020)
14 Indecent Liberties (with forcible
15 compulsion) (RCW
16 9A.44.100(1)(a))
17 Kidnapping 1 (RCW 9A.40.020)
18 Leading Organized Crime (RCW
19 9A.82.060(1)(a))
20 Malicious explosion 3 (RCW
21 70.74.280(3))
22 Sexually Violent Predator Escape (RCW
23 9A.76.115)
24 IX Abandonment of Dependent Person 1
25 (RCW 9A.42.060)
26 Assault of a Child 2 (RCW 9A.36.130)
27 Explosive devices prohibited (RCW
28 70.74.180)
29 Hit and Run—Death (RCW
30 46.52.020(4)(a))
31 Homicide by Watercraft, by being under
32 the influence of intoxicating liquor
33 or any drug (RCW 79A.60.050)
34 Inciting Criminal Profiteering (RCW
35 9A.82.060(1)(b))

1 Malicious placement of an explosive 2
2 (RCW 70.74.270(2))
3 Robbery 1 (RCW 9A.56.200)
4 Sexual Exploitation (RCW 9.68A.040)
5 VIII Arson 1 (RCW 9A.48.020)
6 Commercial Sexual Abuse of a Minor
7 (RCW 9.68A.100)
8 Homicide by Watercraft, by the
9 operation of any vessel in a reckless
10 manner (RCW 79A.60.050)
11 Manslaughter 2 (RCW 9A.32.070)
12 Promoting Prostitution 1 (RCW
13 9A.88.070)
14 Theft of Ammonia (RCW 69.55.010)
15 VII Air bag diagnostic systems (causing
16 bodily injury or death) (RCW
17 46.37.660(2)(b))
18 Air bag replacement requirements
19 (causing bodily injury or death)
20 (RCW 46.37.660(1)(b))
21 Burglary 1 (RCW 9A.52.020)
22 Child Molestation 2 (RCW 9A.44.086)
23 Civil Disorder Training (RCW
24 9A.48.120)
25 Dealing in depictions of minor engaged
26 in sexually explicit conduct 1
27 (RCW 9.68A.050(1))
28 Drive-by Shooting (RCW 9A.36.045)
29 Homicide by Watercraft, by disregard
30 for the safety of others (RCW
31 79A.60.050)
32 Indecent Liberties (without forcible
33 compulsion) (RCW 9A.44.100(1)
34 (b) and (c))

1 Introducing Contraband 1 (RCW
2 9A.76.140)
3 Malicious placement of an explosive 3
4 (RCW 70.74.270(3))
5 Manufacture or import counterfeit,
6 nonfunctional, damaged, or
7 previously deployed air bag
8 (causing bodily injury or death)
9 (RCW 46.37.650(1)(b))
10 Negligently Causing Death By Use of a
11 Signal Preemption Device (RCW
12 46.37.675)
13 Sell, install, or reinstall counterfeit,
14 nonfunctional, damaged, or
15 previously deployed airbag (RCW
16 46.37.650(2)(b))
17 Sending, bringing into state depictions
18 of minor engaged in sexually
19 explicit conduct 1 (RCW
20 9.68A.060(1))
21 Unlawful Possession of a Firearm in the
22 first degree (RCW 9.41.040(1))
23 Use of a Machine Gun or Bump-fire
24 Stock in Commission of a Felony
25 (RCW 9.41.225)
26 Vehicular Homicide, by disregard for
27 the safety of others (RCW
28 46.61.520)
29 VI Bail Jumping with Murder 1 (RCW
30 9A.76.170(3)(a))
31 Bribery (RCW 9A.68.010)
32 Incest 1 (RCW 9A.64.020(1))
33 Intimidating a Judge (RCW 9A.72.160)
34 Intimidating a Juror/Witness (RCW
35 9A.72.110, 9A.72.130)

1 Malicious placement of an imitation
2 device 2 (RCW 70.74.272(1)(b))
3 Possession of Depictions of a Minor
4 Engaged in Sexually Explicit
5 Conduct 1 (RCW 9.68A.070(1))
6 Rape of a Child 3 (RCW 9A.44.079)
7 Theft of a Firearm (RCW 9A.56.300)
8 Theft from a Vulnerable Adult 1 (RCW
9 9A.56.400(1))
10 Unlawful Storage of Ammonia (RCW
11 69.55.020)
12 V Abandonment of Dependent Person 2
13 (RCW 9A.42.070)
14 Advancing money or property for
15 extortionate extension of credit
16 (RCW 9A.82.030)
17 Air bag diagnostic systems (RCW
18 46.37.660(2)(c))
19 Air bag replacement requirements
20 (RCW 46.37.660(1)(c))
21 Bail Jumping with class A Felony
22 (RCW 9A.76.170(3)(b))
23 Child Molestation 3 (RCW 9A.44.089)
24 Criminal Mistreatment 2 (RCW
25 9A.42.030)
26 Custodial Sexual Misconduct 1 (RCW
27 9A.44.160)
28 Dealing in Depictions of Minor
29 Engaged in Sexually Explicit
30 Conduct 2 (RCW 9.68A.050(2))
31 Domestic Violence Court Order
32 Violation (RCW 10.99.040,
33 10.99.050, 26.09.300, 26.10.220,
34 ((~~26.26.138~~)) 26.26B.050,
35 26.50.110, 26.52.070, or 74.34.145)
36 Extortion 1 (RCW 9A.56.120)

1 Extortionate Extension of Credit (RCW
2 9A.82.020)
3 Extortionate Means to Collect
4 Extensions of Credit (RCW
5 9A.82.040)
6 Incest 2 (RCW 9A.64.020(2))
7 Kidnapping 2 (RCW 9A.40.030)
8 Manufacture or import counterfeit,
9 nonfunctional, damaged, or
10 previously deployed air bag (RCW
11 46.37.650(1)(c))
12 Perjury 1 (RCW 9A.72.020)
13 Persistent prison misbehavior (RCW
14 9.94.070)
15 Possession of a Stolen Firearm (RCW
16 9A.56.310)
17 Rape 3 (RCW 9A.44.060)
18 Rendering Criminal Assistance 1 (RCW
19 9A.76.070)
20 Sell, install, or reinstall counterfeit,
21 nonfunctional, damaged, or
22 previously deployed airbag (RCW
23 46.37.650(2)(c))
24 Sending, Bringing into State Depictions
25 of Minor Engaged in Sexually
26 Explicit Conduct 2 (RCW
27 9.68A.060(2))
28 Sexual Misconduct with a Minor 1
29 (RCW 9A.44.093)
30 Sexually Violating Human Remains
31 (RCW 9A.44.105)
32 Stalking (RCW 9A.46.110)
33 Taking Motor Vehicle Without
34 Permission 1 (RCW 9A.56.070)
35 IV Arson 2 (RCW 9A.48.030)
36 Assault 2 (RCW 9A.36.021)

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

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

1 Assault 3 (Except Assault 3 of a Peace
2 Officer With a Projectile Stun Gun)
3 (RCW 9A.36.031 except subsection
4 (1)(h))
5 Assault 4 with Sexual Motivation (third
6 offense) (RCW 9A.36.041(4))
7 Assault of a Child 3 (RCW 9A.36.140)
8 Bail Jumping with class B or C Felony
9 (RCW 9A.76.170(3)(c))
10 Burglary 2 (RCW 9A.52.030)
11 Communication with a Minor for
12 Immoral Purposes (RCW
13 9.68A.090)
14 Criminal Gang Intimidation (RCW
15 9A.46.120)
16 Custodial Assault (RCW 9A.36.100)
17 Cyberstalking (subsequent conviction or
18 threat of death) (RCW 9.61.260(3))
19 Escape 2 (RCW 9A.76.120)
20 Extortion 2 (RCW 9A.56.130)
21 Harassment (RCW 9A.46.020)
22 Intimidating a Public Servant (RCW
23 9A.76.180)
24 Introducing Contraband 2 (RCW
25 9A.76.150)
26 Malicious Injury to Railroad Property
27 (RCW 81.60.070)
28 Mortgage Fraud (RCW 19.144.080)
29 Negligently Causing Substantial Bodily
30 Harm By Use of a Signal
31 Preemption Device (RCW
32 46.37.674)
33 Organized Retail Theft 1 (RCW
34 9A.56.350(2))
35 Perjury 2 (RCW 9A.72.030)

1 Possession of Incendiary Device (RCW
2 9.40.120)
3 Possession of Machine Gun, Bump-fire
4 Stock, or Short-Barreled Shotgun or
5 Rifle (RCW 9.41.190)
6 Promoting Prostitution 2 (RCW
7 9A.88.080)
8 Retail Theft with Special Circumstances
9 1 (RCW 9A.56.360(2))
10 Securities Act violation (RCW
11 21.20.400)
12 Tampering with a Witness (RCW
13 9A.72.120)
14 Telephone Harassment (subsequent
15 conviction or threat of death) (RCW
16 9.61.230(2))
17 Theft of Livestock 2 (RCW 9A.56.083)
18 Theft with the Intent to Resell 1 (RCW
19 9A.56.340(2))
20 Trafficking in Stolen Property 2 (RCW
21 9A.82.055)
22 Unlawful Hunting of Big Game 1 (RCW
23 77.15.410(3)(b))
24 Unlawful Imprisonment (RCW
25 9A.40.040)
26 Unlawful Misbranding of ((~~Føøð~~)) Fish
27 or Shellfish 1 (RCW 77.140.060(3))
28 Unlawful possession of firearm in the
29 second degree (RCW 9.41.040(2))
30 Unlawful Taking of Endangered Fish or
31 Wildlife 1 (RCW 77.15.120(3)(b))
32 Unlawful Trafficking in Fish, Shellfish,
33 or Wildlife 1 (RCW
34 77.15.260(3)(b))
35 Unlawful Use of a Nondesignated
36 Vessel (RCW 77.15.530(4))

1 Vehicular Assault, by the operation or
2 driving of a vehicle with disregard
3 for the safety of others (RCW
4 46.61.522)

5 Willful Failure to Return from Work
6 Release (RCW 72.65.070)

7 II Commercial Fishing Without a License
8 1 (RCW 77.15.500(3)(b))

9 Computer Trespass 1 (RCW 9A.90.040)

10 Counterfeiting (RCW 9.16.035(3))

11 Electronic Data Service Interference
12 (RCW 9A.90.060)

13 Electronic Data Tampering 1 (RCW
14 9A.90.080)

15 Electronic Data Theft (RCW 9A.90.100)

16 Engaging in Fish Dealing Activity
17 Unlicensed 1 (RCW 77.15.620(3))

18 Escape from Community Custody
19 (RCW 72.09.310)

20 Failure to Register as a Sex Offender
21 (second or subsequent offense)
22 (RCW 9A.44.130 prior to June 10,
23 2010, and RCW 9A.44.132)

24 Health Care False Claims (RCW
25 48.80.030)

26 Identity Theft 2 (RCW 9.35.020(3))

27 Improperly Obtaining Financial
28 Information (RCW 9.35.010)

29 Indecent Exposure to Person Age
30 Fourteen or Older (subsequent
31 offense) (RCW 9A.88.010(2)(d))

32 Malicious Mischief 1 (RCW 9A.48.070)

33 Organized Retail Theft 2 (RCW
34 9A.56.350(3))

35 Possession of Stolen Property 1 (RCW
36 9A.56.150)

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

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

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

--- **END** ---