
SUBSTITUTE SENATE BILL 5850

State of Washington

66th Legislature

2019 Regular Session

By Senate Law & Justice (originally sponsored by Senators Salomon, Pedersen, Wilson, C., Kuderer, Hunt, Keiser, Frockt, Das, Billig, and Nguyen)

1 AN ACT Relating to identifying and responding to bias-based
2 criminal offenses; amending RCW 9A.36.078, 9A.36.080, 9A.36.083,
3 2.56.030, 9.94A.030, 9A.46.060, 36.28A.030, 43.43.830, and 48.18.553;
4 reenacting and amending RCW 9.94A.515; and adding a new section to
5 chapter 43.10 RCW.

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

7 **Sec. 1.** RCW 9A.36.078 and 1993 c 127 s 1 are each amended to
8 read as follows:

9 The legislature finds that crimes and threats against persons
10 because of their race, color, religion, ancestry, national origin,
11 gender, sexual orientation, gender expression or identity, or mental,
12 physical, or sensory (~~handicaps~~) disabilities are serious and
13 increasing. The legislature also finds that crimes and threats are
14 often directed against interracial couples and their children or
15 couples of mixed religions, colors, ancestries, or national origins
16 because of bias and bigotry against the race, color, religion,
17 ancestry, or national origin of one person in the couple or family.
18 The legislature finds that the state interest in preventing crimes
19 and threats motivated by bigotry and bias goes beyond the state
20 interest in preventing other felonies or misdemeanors such as
21 criminal trespass, malicious mischief, assault, or other crimes that

1 are not motivated by hatred, bigotry, and bias, and that prosecution
2 of those other crimes inadequately protects citizens from crimes and
3 threats motivated by bigotry and bias. Therefore, the legislature
4 finds that protection of those citizens from threats of harm due to
5 bias and bigotry is a compelling state interest.

6 The legislature also finds that in many cases, certain discrete
7 words or symbols are used to threaten the victims. Those discrete
8 words or symbols have historically or traditionally been used to
9 connote hatred or threats towards members of the class of which the
10 victim or a member of the victim's family or household is a member.
11 In particular, the legislature finds that cross burnings historically
12 and traditionally have been used to threaten, terrorize, intimidate,
13 and harass African Americans and their families. Cross burnings often
14 preceded lynchings, murders, burning of homes, and other acts of
15 terror. Further, Nazi swastikas historically and traditionally have
16 been used to threaten, terrorize, intimidate, and harass Jewish
17 people and their families. Swastikas symbolize the massive
18 destruction of the Jewish population, commonly known as the
19 holocaust. Therefore, the legislature finds that any person who burns
20 or attempts to burn a cross or displays a swastika on the property of
21 the victim or burns a cross or displays a swastika as part of a
22 series of acts directed towards a particular person, the person's
23 family or household members, or a particular group, knows or
24 reasonably should know that the cross burning or swastika may create
25 a reasonable fear of harm in the mind of the person, the person's
26 family and household members, or the group.

27 The legislature also finds that attacks on religious places of
28 worship and threatening defacement of religious texts have increased,
29 as have assaults and attacks on those who visibly self-identify as
30 members of a religious minority, such as by wearing religious head
31 covering or other visible articles of faith. The legislature finds
32 that any person who defaces religious real property with derogatory
33 words, symbols, or items, who places a vandalized or defaced
34 religious item or scripture on the property of a victim, or who
35 attacks or attempts to remove the religious garb or faith-based
36 attire of a victim, knows or reasonably should know that such actions
37 create a reasonable fear of harm in the mind of the victim.

38 The legislature also finds that a hate crime committed against a
39 victim because of the victim's gender may be identified in the same
40 manner that a hate crime committed against a victim of another

1 protected group is identified. Affirmative indications of hatred
2 towards gender as a class is the predominant factor to consider.
3 Other factors to consider include the perpetrator's use of language,
4 slurs, or symbols expressing hatred towards the victim's gender as a
5 class; the severity of the attack including mutilation of the
6 victim's sexual organs; a history of similar attacks against victims
7 of the same gender by the perpetrator or a history of similar
8 incidents in the same area; a lack of provocation; an absence of any
9 other apparent motivation; and common sense.

10 The legislature recognizes that, since 2015, Washington state has
11 experienced a sharp increase in malicious harassment offenses, and,
12 in response, the legislature finds that it is vital to send the
13 message that Washington state is a hate free zone. Therefore, the
14 legislature intends to rename the offense to its more commonly
15 understood title of "hate crime offense" and create a
16 multidisciplinary working group to establish recommendations for best
17 practices for identifying and responding to hate crimes.

18 **Sec. 2.** RCW 9A.36.080 and 2010 c 119 s 1 are each amended to
19 read as follows:

20 (1) A person is guilty of (~~malicious harassment~~) a hate crime
21 offense if he or she maliciously and intentionally commits one of the
22 following acts because of his or her perception of the victim's race,
23 color, religion, ancestry, national origin, gender, sexual
24 orientation, gender expression or identity, or mental, physical, or
25 sensory (~~handicap~~) disability:

26 (a) Causes physical injury to the victim or another person;

27 (b) Causes physical damage to or destruction of the property of
28 the victim or another person; or

29 (c) Threatens a specific person or group of persons and places
30 that person, or members of the specific group of persons, in
31 reasonable fear of harm to person or property. The fear must be a
32 fear that a reasonable person would have under all the circumstances.
33 For purposes of this section, a "reasonable person" is a reasonable
34 person who is a member of the victim's race, color, religion,
35 ancestry, national origin, gender, or sexual orientation, or who has
36 the same gender expression or identity, or the same mental, physical,
37 or sensory (~~handicap~~) disability as the victim. Words alone do not
38 constitute (~~malicious harassment~~) a hate crime offense unless the
39 context or circumstances surrounding the words indicate the words are

1 a threat. Threatening words do not constitute (~~malicious~~
2 harassment)) a hate crime offense if it is apparent to the victim
3 that the person does not have the ability to carry out the threat.

4 (2) In any prosecution for (~~malicious harassment~~) a hate crime
5 offense, unless evidence exists which explains to the trier of fact's
6 satisfaction that the person did not intend to threaten the victim or
7 victims, the trier of fact may infer that the person intended to
8 threaten a specific victim or group of victims because of the
9 person's perception of the victim's or victims' race, color,
10 religion, ancestry, national origin, gender, sexual orientation,
11 gender expression or identity, or mental, physical, or sensory
12 (~~handicap~~) disability if the person commits one of the following
13 acts:

14 (a) Burns a cross on property of a victim who is or whom the
15 actor perceives to be of African American heritage; (~~or~~)

16 (b) Defaces property of a victim who is or whom the actor
17 perceives to be of Jewish heritage by defacing the property with a
18 swastika;

19 (c) Defaces religious real property with words, symbols, or items
20 that are derogatory to persons of the faith associated with the
21 property;

22 (d) Places a vandalized or defaced religious item or scripture on
23 the property of a victim who is or whom the actor perceives to be of
24 the faith with which that item or scripture is associated; or

25 (e) Damages, destroys, or defaces religious garb or other faith-
26 based attire belonging to the victim or attempts to or successfully
27 removes religious garb or other faith-based attire from the victim's
28 person without the victim's authorization.

29 This subsection only applies to the creation of a reasonable
30 inference for evidentiary purposes. This subsection does not restrict
31 the state's ability to prosecute a person under subsection (1) of
32 this section when the facts of a particular case do not fall within

33 (a) (~~or (b)~~) through (e) of this subsection.

34 (3) It is not a defense that the accused was mistaken that the
35 victim was a member of a certain race, color, religion, ancestry,
36 national origin, gender, or sexual orientation, had a particular
37 gender expression or identity, or had a mental, physical, or sensory
38 (~~handicap~~) disability.

39 (4) Evidence of expressions or associations of the accused may
40 not be introduced as substantive evidence at trial unless the

1 evidence specifically relates to the crime charged. Nothing in this
2 chapter shall affect the rules of evidence governing impeachment of a
3 witness.

4 (5) Every person who commits another crime during the commission
5 of a crime under this section may be punished and prosecuted for the
6 other crime separately.

7 (6) For the purposes of this section:

8 (a) (~~("Sexual orientation" has the same meaning as in RCW~~
9 ~~49.60.040.)~~) "Gender expression or identity" means having or being
10 perceived as having a gender identity, self-image, appearance,
11 behavior, or expression, whether or not that gender identity, self-
12 image, appearance, behavior, or expression is different from that
13 traditionally associated with the sex assigned to that person at
14 birth.

15 (b) "Person" means an individual, association, or organization.

16 (c) "Threat" means to communicate, directly or indirectly, the
17 intent to:

18 (i) Cause bodily injury immediately or in the future to the
19 person threatened or to any other person; or

20 (ii) Cause physical damage immediately or in the future to the
21 property of a person threatened or that of any other person.

22 (7) (~~(Malicious harassment)~~) Commission of a hate crime offense
23 is a class C felony.

24 (8) The penalties provided in this section for (~~(malicious~~
25 ~~harassment)~~) hate crime offenses do not preclude the victims from
26 seeking any other remedies otherwise available under law.

27 (9) Nothing in this section confers or expands any civil rights
28 or protections to any group or class identified under this section,
29 beyond those rights or protections that exist under the federal or
30 state Constitution or the civil laws of the state of Washington.

31 **Sec. 3.** RCW 9A.36.083 and 1993 c 127 s 3 are each amended to
32 read as follows:

33 In addition to the criminal penalty provided in RCW 9A.36.080 for
34 committing a (~~(crime of malicious harassment)~~) hate crime offense,
35 the victim may bring a civil cause of action for (~~(malicious~~
36 ~~harassment)~~) the hate crime offense against the (~~(harasser)~~) person
37 who committed the offense. A person may be liable to the victim of
38 (~~(malicious harassment)~~) the hate crime offense for actual damages,

1 punitive damages of up to ten thousand dollars, and reasonable
2 attorneys' fees and costs incurred in bringing the action.

3 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.10
4 RCW to read as follows:

5 (1) The office of the attorney general must, by September 1,
6 2019, coordinate and convene a multidisciplinary hate crime advisory
7 working group for the purpose of developing strategies toward raising
8 awareness of and appropriate responses to hate crime offenses and
9 hate incidents. The working group must be a collaboration between
10 governmental entities, members of vulnerable communities, and persons
11 with lived experience relating to hate crimes, and must undertake its
12 work with a view toward restorative justice.

13 (2) The group's membership must include, at a minimum,
14 representatives of:

15 (a) Organizations representing each of the protected groups under
16 RCW 9A.36.080;

17 (b) Faith organizations;

18 (c) Victims' rights organizations;

19 (d) The office of the superintendent of public instruction;

20 (e) The office of the governor;

21 (f) The office of the attorney general;

22 (g) Law enforcement, including representatives of tribal police;

23 (h) Emergency dispatchers;

24 (i) The criminal justice training commission;

25 (j) Prosecutors;

26 (k) Criminal defense attorneys;

27 (l) Health care professionals, including social workers;

28 (m) The Washington education association; and

29 (n) The association of Washington school principals.

30 (3) The work group must develop recommended best practices for:

31 (a) Preventing hate crimes and hate incidents, especially those
32 occurring in public K-12 schools and in the workplace, through public
33 awareness and antibias campaigns;

34 (b) Increasing identification and reporting of hate crimes and
35 hate incidents, including recommendations for standardization of data
36 collection and reporting;

37 (c) Strengthening law enforcement, prosecutorial, and public K-12
38 school responses to hate crime offenses and hate incidents through
39 enhanced training and other measures; and

1 (d) Supporting victims of hate crime offenses and hate incidents,
2 and in particular, ways of strengthening law enforcement, health
3 care, and educational collaboration with, and victim connection to,
4 community advocacy and support organizations.

5 (4) The working group is encouraged to solicit participation and
6 feedback from nonmember groups and individuals with relevant
7 experience, as needed.

8 (5) The working group must hold at least four meetings. By July
9 1, 2020, the office of the attorney general must report the working
10 group's recommendations to the governor and the legislature, in
11 compliance with RCW 43.01.036.

12 **Sec. 5.** RCW 2.56.030 and 2009 c 479 s 2 are each amended to read
13 as follows:

14 The administrator for the courts shall, under the supervision and
15 direction of the chief justice:

16 (1) Examine the administrative methods and systems employed in
17 the offices of the judges, clerks, stenographers, and employees of
18 the courts and make recommendations, through the chief justice, for
19 the improvement of the same;

20 (2) Examine the state of the dockets of the courts and determine
21 the need for assistance by any court;

22 (3) Make recommendations to the chief justice relating to the
23 assignment of judges where courts are in need of assistance and carry
24 out the direction of the chief justice as to the assignments of
25 judges to counties and districts where the courts are in need of
26 assistance;

27 (4) Collect and compile statistical and other data and make
28 reports of the business transacted by the courts and transmit the
29 same to the chief justice to the end that proper action may be taken
30 in respect thereto;

31 (5) Prepare and submit budget estimates of state appropriations
32 necessary for the maintenance and operation of the judicial system
33 and make recommendations in respect thereto;

34 (6) Collect statistical and other data and make reports relating
35 to the expenditure of public moneys, state and local, for the
36 maintenance and operation of the judicial system and the offices
37 connected therewith;

38 (7) Obtain reports from clerks of courts in accordance with law
39 or rules adopted by the supreme court of this state on cases and

1 other judicial business in which action has been delayed beyond
2 periods of time specified by law or rules of court and make report
3 thereof to supreme court of this state;

4 (8) Act as secretary of the judicial conference referred to in
5 RCW 2.56.060;

6 (9) Submit annually, as of February 1st, to the chief justice, a
7 report of the activities of the administrator's office for the
8 preceding calendar year including activities related to courthouse
9 security;

10 (10) Administer programs and standards for the training and
11 education of judicial personnel;

12 (11) Examine the need for new superior court and district court
13 judge positions under an objective workload analysis. The results of
14 the objective workload analysis shall be reviewed by the board for
15 judicial administration which shall make recommendations to the
16 legislature. It is the intent of the legislature that an objective
17 workload analysis become the basis for creating additional district
18 and superior court positions, and recommendations should address that
19 objective;

20 (12) Provide staff to the judicial retirement account plan under
21 chapter 2.14 RCW;

22 (13) Attend to such other matters as may be assigned by the
23 supreme court of this state;

24 (14) Within available funds, develop a curriculum for a general
25 understanding of child development, placement, and treatment
26 resources, as well as specific legal skills and knowledge of relevant
27 statutes including chapters 13.32A, 13.34, and 13.40 RCW, cases,
28 court rules, interviewing skills, and special needs of the abused or
29 neglected child. This curriculum shall be completed and made
30 available to all juvenile court judges, court personnel, and service
31 providers and be updated yearly to reflect changes in statutes, court
32 rules, or case law;

33 (15) Develop, in consultation with the entities set forth in RCW
34 2.56.150(3), a comprehensive statewide curriculum for persons who act
35 as guardians ad litem under Title 13 or 26 RCW. The curriculum shall
36 be made available July 1, 2008, and include specialty sections on
37 child development, child sexual abuse, child physical abuse, child
38 neglect, domestic violence, clinical and forensic investigative and
39 interviewing techniques, family reconciliation and mediation
40 services, and relevant statutory and legal requirements. The

1 curriculum shall be made available to all superior court judges,
2 court personnel, and all persons who act as guardians ad litem;

3 (16) Develop a curriculum for a general understanding of (~~crimes~~
4 ~~of malicious harassment~~) hate crime offenses, as well as specific
5 legal skills and knowledge of RCW 9A.36.080, relevant cases, court
6 rules, and the special needs of (~~malicious harassment~~) hate crime
7 offense victims. This curriculum shall be made available to all
8 superior court and court of appeals judges and to all justices of the
9 supreme court;

10 (17) Develop, in consultation with the criminal justice training
11 commission and the commissions established under chapters 43.113,
12 43.115, and 43.117 RCW, a curriculum for a general understanding of
13 ethnic and cultural diversity and its implications for working with
14 youth of color and their families. The curriculum shall be available
15 to all superior court judges and court commissioners assigned to
16 juvenile court, and other court personnel. Ethnic and cultural
17 diversity training shall be provided annually so as to incorporate
18 cultural sensitivity and awareness into the daily operation of
19 juvenile courts statewide;

20 (18) Authorize the use of closed circuit television and other
21 electronic equipment in judicial proceedings. The administrator shall
22 promulgate necessary standards and procedures and shall provide
23 technical assistance to courts as required;

24 (19) Develop a Washington family law handbook in accordance with
25 RCW 2.56.180;

26 (20) Administer state funds for improving the operation of the
27 courts and provide support for court coordinating councils, under the
28 direction of the board for judicial administration;

29 (21) Administer the family and juvenile court improvement grant
30 program;

31 (22)(a) Administer and distribute amounts appropriated under RCW
32 43.08.250(2) for district court judges' and qualifying elected
33 municipal court judges' salary contributions. The administrator for
34 the courts shall develop a distribution formula for these amounts
35 that does not differentiate between district and elected municipal
36 court judges.

37 (b) A city qualifies for state contribution of elected municipal
38 court judges' salaries under (a) of this subsection if:

39 (i) The judge is serving in an elected position;

1 (ii) The city has established by ordinance that a full-time judge
2 is compensated at a rate equivalent to at least ninety-five percent,
3 but not more than one hundred percent, of a district court judge
4 salary or for a part-time judge on a pro rata basis the same
5 equivalent; and

6 (iii) The city has certified to the office of the administrator
7 for the courts that the conditions in (b)(i) and (ii) of this
8 subsection have been met;

9 (23) Subject to the availability of funds specifically
10 appropriated therefor, assist courts in the development and
11 implementation of language assistance plans required under RCW
12 2.43.090.

13 **Sec. 6.** RCW 9.94A.030 and 2018 c 166 s 3 are each amended to
14 read as follows:

15 Unless the context clearly requires otherwise, the definitions in
16 this section apply throughout this chapter.

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

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

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

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

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

1 (6) "Community protection zone" means the area within eight
2 hundred eighty feet of the facilities and grounds of a public or
3 private school.

4 (7) "Community restitution" means compulsory service, without
5 compensation, performed for the benefit of the community by the
6 offender.

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

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

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

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

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

27 (b) A conviction may be removed from a defendant's criminal
28 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,
29 9.95.240, or a similar out-of-state statute, or if the conviction has
30 been vacated pursuant to a governor's pardon.

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

36 (12) "Criminal street gang" means any ongoing organization,
37 association, or group of three or more persons, whether formal or
38 informal, having a common name or common identifying sign or symbol,
39 having as one of its primary activities the commission of criminal
40 acts, and whose members or associates individually or collectively

1 engage in or have engaged in a pattern of criminal street gang
2 activity. This definition does not apply to employees engaged in
3 concerted activities for their mutual aid and protection, or to the
4 activities of labor and bona fide nonprofit organizations or their
5 members or agents.

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

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

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

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

19 (c) To exact revenge or retribution for the gang or any member of
20 the gang;

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

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

26 (f) To provide the gang with any advantage in, or any control or
27 dominance over any criminal market sector, including, but not limited
28 to, manufacturing, delivering, or selling any controlled substance
29 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
30 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88
31 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual
32 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter
33 9.68 RCW).

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

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

1 report daily to a specific location designated by the department or
2 the 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 custody, the number
7 of actual hours or days of community restitution work, or dollars or
8 terms of a legal financial obligation. The fact that an offender
9 through earned release can reduce the actual period of confinement
10 shall not affect the classification of the sentence as a determinate
11 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
16 personal services, whether denominated as wages, salary, commission,
17 bonuses, or otherwise, and, notwithstanding any other provision of
18 law making the payments exempt from garnishment, attachment, or other
19 process to satisfy a court-ordered legal financial obligation,
20 specifically includes periodic payments pursuant to pension or
21 retirement programs, or insurance policies of any type, but does not
22 include payments made under Title 50 RCW, except as provided in RCW
23 50.40.020 and 50.40.050, or Title 74 RCW.

24 (20) "Domestic violence" has the same meaning as defined in RCW
25 10.99.020 and 26.50.010.

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

30 (22) "Drug offense" means:

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

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

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

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

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

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

13 (b) Active or passive global positioning system technology, which
14 detects the location of the monitored individual and notifies the
15 monitoring agency of the monitored individual's location.

16 (25) "Escape" means:

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

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

26 (26) "Felony traffic offense" means:

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

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

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

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

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

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

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

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

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

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

34 (32) "Minor child" means a biological or adopted child of the
35 offender who is under age eighteen at the time of the offender's
36 current offense.

37 (33) "Most serious offense" means any of the following felonies
38 or a felony attempt to commit any of the following felonies:

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

4 (b) Assault in the second degree;

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

6 (d) Child molestation in the second degree;

7 (e) Controlled substance homicide;

8 (f) Extortion in the first degree;

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

10 (h) Indecent liberties;

11 (i) Kidnapping in the second degree;

12 (j) Leading organized crime;

13 (k) Manslaughter in the first degree;

14 (l) Manslaughter in the second degree;

15 (m) Promoting prostitution in the first degree;

16 (n) Rape in the third degree;

17 (o) Robbery in the second degree;

18 (p) Sexual exploitation;

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

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

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

29 (t) Any other felony with a deadly weapon verdict under RCW
30 9.94A.825;

31 (u) Any felony offense in effect at any time prior to December 2,
32 1993, that is comparable to a most serious offense under this
33 subsection, or any federal or out-of-state conviction for an offense
34 that under the laws of this state would be a felony classified as a
35 most serious offense under this subsection;

36 (v) (i) A prior conviction for indecent liberties under RCW
37 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex.
38 sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b),
39 and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW

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

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

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

17 (34) "Nonviolent offense" means an offense which is not a violent
18 offense.

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

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

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

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

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

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

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

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

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

20 (b) (i) Has been convicted of: (A) Rape in the first degree, rape
21 of a child in the first degree, child molestation in the first
22 degree, rape in the second degree, rape of a child in the second
23 degree, or indecent liberties by forcible compulsion; (B) any of the
24 following offenses with a finding of sexual motivation: Murder in the
25 first degree, murder in the second degree, homicide by abuse,
26 kidnapping in the first degree, kidnapping in the second degree,
27 assault in the first degree, assault in the second degree, assault of
28 a child in the first degree, assault of a child in the second degree,
29 or burglary in the first degree; or (C) an attempt to commit any
30 crime listed in this subsection (38) (b) (i); and

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

1 this subsection only when the offender was eighteen years of age or
2 older when the offender committed the offense.

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

27 (40) "Private school" means a school regulated under chapter
28 28A.195 or 28A.205 RCW.

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

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

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

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

35 (iii) Domestic violence violation of a protection order under
36 chapter 26.09, 26.10, 26.26, or 26.50 RCW that is not a felony
37 offense;

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

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

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

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

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

15 (45) "Serious traffic offense" means:

16 (a) Nonfelony driving while under the influence of intoxicating
17 liquor or any drug (RCW 46.61.502), nonfelony actual physical control
18 while under the influence of intoxicating liquor or any drug (RCW
19 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an
20 attended vehicle (RCW 46.52.020(5)); or

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

24 (46) "Serious violent offense" is a subcategory of violent
25 offense and means:

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

27 (ii) Homicide by abuse;

28 (iii) Murder in the second degree;

29 (iv) Manslaughter in the first degree;

30 (v) Assault in the first degree;

31 (vi) Kidnapping in the first degree;

32 (vii) Rape in the first degree;

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

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

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

39 (47) "Sex offense" means:

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

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

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

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

9 (v) A felony violation of RCW 9A.44.132(1) (failure to register
10 as a sex offender) if the person has been convicted of violating RCW
11 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130
12 prior to June 10, 2010, on at least one prior occasion;

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

16 (c) A felony with a finding of sexual motivation under RCW
17 9.94A.835 or 13.40.135; or

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

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

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

26 (50) "Statutory maximum sentence" means the maximum length of
27 time for which an offender may be confined as punishment for a crime
28 as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute
29 defining the crime, or other statute defining the maximum penalty for
30 a crime.

31 (51) "Stranger" means that the victim did not know the offender
32 twenty-four hours before the offense.

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

37 (53) "Transition training" means written and verbal instructions
38 and assistance provided by the department to the offender during the
39 two weeks prior to the offender's successful completion of the work
40 ethic camp program. The transition training shall include

1 instructions in the offender's requirements and obligations during
2 the offender's period of community custody.

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

6 (55) "Violent offense" means:

7 (a) Any of the following felonies:

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

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

12 (iii) Manslaughter in the first degree;

13 (iv) Manslaughter in the second degree;

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

15 (vi) Kidnapping in the second degree;

16 (vii) Arson in the second degree;

17 (viii) Assault in the second degree;

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

19 (x) Extortion in the first degree;

20 (xi) Robbery in the second degree;

21 (xii) Drive-by shooting;

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

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

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

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

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

39 (57) "Work ethic camp" means an alternative incarceration program
40 as provided in RCW 9.94A.690 designed to reduce recidivism and lower

1 the cost of corrections by requiring offenders to complete a
2 comprehensive array of real-world job and vocational experiences,
3 character-building work ethics training, life management skills
4 development, substance abuse rehabilitation, counseling, literacy
5 training, and basic adult education.

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

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

11 TABLE 2

12 CRIMES INCLUDED WITHIN EACH
13 SERIOUSNESS LEVEL

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

1 Rape 2 (RCW 9A.44.050)
2 Rape of a Child 2 (RCW 9A.44.076)
3 Vehicular Homicide, by being under the
4 influence of intoxicating liquor or
5 any drug (RCW 46.61.520)
6 Vehicular Homicide, by the operation of
7 any vehicle in a reckless manner
8 (RCW 46.61.520)
9 X Child Molestation 1 (RCW 9A.44.083)
10 Criminal Mistreatment 1 (RCW
11 9A.42.020)
12 Indecent Liberties (with forcible
13 compulsion) (RCW
14 9A.44.100(1)(a))
15 Kidnapping 1 (RCW 9A.40.020)
16 Leading Organized Crime (RCW
17 9A.82.060(1)(a))
18 Malicious explosion 3 (RCW
19 70.74.280(3))
20 Sexually Violent Predator Escape (RCW
21 9A.76.115)
22 IX Abandonment of Dependent Person 1
23 (RCW 9A.42.060)
24 Assault of a Child 2 (RCW 9A.36.130)
25 Explosive devices prohibited (RCW
26 70.74.180)
27 Hit and Run—Death (RCW
28 46.52.020(4)(a))
29 Homicide by Watercraft, by being under
30 the influence of intoxicating liquor
31 or any drug (RCW 79A.60.050)
32 Inciting Criminal Profiteering (RCW
33 9A.82.060(1)(b))
34 Malicious placement of an explosive 2
35 (RCW 70.74.270(2))

1 Robbery 1 (RCW 9A.56.200)
2 Sexual Exploitation (RCW 9.68A.040)
3 VIII Arson 1 (RCW 9A.48.020)
4 Commercial Sexual Abuse of a Minor
5 (RCW 9.68A.100)
6 Homicide by Watercraft, by the
7 operation of any vessel in a reckless
8 manner (RCW 79A.60.050)
9 Manslaughter 2 (RCW 9A.32.070)
10 Promoting Prostitution 1 (RCW
11 9A.88.070)
12 Theft of Ammonia (RCW 69.55.010)
13 VII Air bag diagnostic systems (causing
14 bodily injury or death) (RCW
15 46.37.660(2)(b))
16 Air bag replacement requirements
17 (causing bodily injury or death)
18 (RCW 46.37.660(1)(b))
19 Burglary 1 (RCW 9A.52.020)
20 Child Molestation 2 (RCW 9A.44.086)
21 Civil Disorder Training (RCW
22 9A.48.120)
23 Dealing in depictions of minor engaged
24 in sexually explicit conduct 1
25 (RCW 9.68A.050(1))
26 Drive-by Shooting (RCW 9A.36.045)
27 Homicide by Watercraft, by disregard
28 for the safety of others (RCW
29 79A.60.050)
30 Indecent Liberties (without forcible
31 compulsion) (RCW 9A.44.100(1)
32 (b) and (c))
33 Introducing Contraband 1 (RCW
34 9A.76.140)

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

1 Possession of Depictions of a Minor
2 Engaged in Sexually Explicit
3 Conduct 1 (RCW 9.68A.070(1))
4 Rape of a Child 3 (RCW 9A.44.079)
5 Theft of a Firearm (RCW 9A.56.300)
6 Theft from a Vulnerable Adult 1 (RCW
7 9A.56.400(1))
8 Unlawful Storage of Ammonia (RCW
9 69.55.020)
10 V Abandonment of Dependent Person 2
11 (RCW 9A.42.070)
12 Advancing money or property for
13 extortionate extension of credit
14 (RCW 9A.82.030)
15 Air bag diagnostic systems (RCW
16 46.37.660(2)(c))
17 Air bag replacement requirements
18 (RCW 46.37.660(1)(c))
19 Bail Jumping with class A Felony
20 (RCW 9A.76.170(3)(b))
21 Child Molestation 3 (RCW 9A.44.089)
22 Criminal Mistreatment 2 (RCW
23 9A.42.030)
24 Custodial Sexual Misconduct 1 (RCW
25 9A.44.160)
26 Dealing in Depictions of Minor
27 Engaged in Sexually Explicit
28 Conduct 2 (RCW 9.68A.050(2))
29 Domestic Violence Court Order
30 Violation (RCW 10.99.040,
31 10.99.050, 26.09.300, 26.10.220,
32 ((~~26.26.138~~) 26.26B.050,
33 26.50.110, 26.52.070, or 74.34.145)
34 Extortion 1 (RCW 9A.56.120)
35 Extortionate Extension of Credit (RCW
36 9A.82.020)

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

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

1 Possession of Depictions of a Minor
2 Engaged in Sexually Explicit
3 Conduct 2 (RCW 9.68A.070(2))
4 Residential Burglary (RCW 9A.52.025)
5 Robbery 2 (RCW 9A.56.210)
6 Theft of Livestock 1 (RCW 9A.56.080)
7 Threats to Bomb (RCW 9.61.160)
8 Trafficking in Stolen Property 1 (RCW
9 9A.82.050)
10 Unlawful factoring of a credit card or
11 payment card transaction (RCW
12 9A.56.290(4)(b))
13 Unlawful transaction of health coverage
14 as a health care service contractor
15 (RCW 48.44.016(3))
16 Unlawful transaction of health coverage
17 as a health maintenance
18 organization (RCW 48.46.033(3))
19 Unlawful transaction of insurance
20 business (RCW 48.15.023(3))
21 Unlicensed practice as an insurance
22 professional (RCW 48.17.063(2))
23 Use of Proceeds of Criminal
24 Profiteering (RCW 9A.82.080 (1)
25 and (2))
26 Vehicle Prowling 2 (third or subsequent
27 offense) (RCW 9A.52.100(3))
28 Vehicular Assault, by being under the
29 influence of intoxicating liquor or
30 any drug, or by the operation or
31 driving of a vehicle in a reckless
32 manner (RCW 46.61.522)
33 Viewing of Depictions of a Minor
34 Engaged in Sexually Explicit
35 Conduct 1 (RCW 9.68A.075(1))

1 Willful Failure to Return from Furlough
2 (RCW 72.66.060)

3 III Animal Cruelty 1 (Sexual Conduct or
4 Contact) (RCW 16.52.205(3))

5 Assault 3 (Except Assault 3 of a Peace
6 Officer With a Projectile Stun Gun)
7 (RCW 9A.36.031 except subsection
8 (1)(h))

9 Assault of a Child 3 (RCW 9A.36.140)

10 Bail Jumping with class B or C Felony
11 (RCW 9A.76.170(3)(c))

12 Burglary 2 (RCW 9A.52.030)

13 Communication with a Minor for
14 Immoral Purposes (RCW
15 9.68A.090)

16 Criminal Gang Intimidation (RCW
17 9A.46.120)

18 Custodial Assault (RCW 9A.36.100)

19 Cyberstalking (subsequent conviction or
20 threat of death) (RCW 9.61.260(3))

21 Escape 2 (RCW 9A.76.120)

22 Extortion 2 (RCW 9A.56.130)

23 Harassment (RCW 9A.46.020)

24 Intimidating a Public Servant (RCW
25 9A.76.180)

26 Introducing Contraband 2 (RCW
27 9A.76.150)

28 Malicious Injury to Railroad Property
29 (RCW 81.60.070)

30 Mortgage Fraud (RCW 19.144.080)

31 Negligently Causing Substantial Bodily
32 Harm By Use of a Signal
33 Preemption Device (RCW
34 46.37.674)

1 Organized Retail Theft 1 (RCW
2 9A.56.350(2))
3 Perjury 2 (RCW 9A.72.030)
4 Possession of Incendiary Device (RCW
5 9.40.120)
6 Possession of Machine Gun, Bump-fire
7 Stock, or Short-Barreled Shotgun or
8 Rifle (RCW 9.41.190)
9 Promoting Prostitution 2 (RCW
10 9A.88.080)
11 Retail Theft with Special Circumstances
12 1 (RCW 9A.56.360(2))
13 Securities Act violation (RCW
14 21.20.400)
15 Tampering with a Witness (RCW
16 9A.72.120)
17 Telephone Harassment (subsequent
18 conviction or threat of death) (RCW
19 9.61.230(2))
20 Theft of Livestock 2 (RCW 9A.56.083)
21 Theft with the Intent to Resell 1 (RCW
22 9A.56.340(2))
23 Trafficking in Stolen Property 2 (RCW
24 9A.82.055)
25 Unlawful Hunting of Big Game 1 (RCW
26 77.15.410(3)(b))
27 Unlawful Imprisonment (RCW
28 9A.40.040)
29 Unlawful Misbranding of ~~((Food))~~ Fish
30 or Shellfish 1 (RCW 77.140.060(3))
31 Unlawful possession of firearm in the
32 second degree (RCW 9.41.040(2))
33 Unlawful Taking of Endangered Fish or
34 Wildlife 1 (RCW 77.15.120(3)(b))

1 Unlawful Trafficking in Fish, Shellfish,
2 or Wildlife 1 (RCW
3 77.15.260(3)(b))
4 Unlawful Use of a Nondesignated
5 Vessel (RCW 77.15.530(4))
6 Vehicular Assault, by the operation or
7 driving of a vehicle with disregard
8 for the safety of others (RCW
9 46.61.522)
10 Willful Failure to Return from Work
11 Release (RCW 72.65.070)
12 II Commercial Fishing Without a License
13 1 (RCW 77.15.500(3)(b))
14 Computer Trespass 1 (RCW 9A.90.040)
15 Counterfeiting (RCW 9.16.035(3))
16 Electronic Data Service Interference
17 (RCW 9A.90.060)
18 Electronic Data Tampering 1 (RCW
19 9A.90.080)
20 Electronic Data Theft (RCW 9A.90.100)
21 Engaging in Fish Dealing Activity
22 Unlicensed 1 (RCW 77.15.620(3))
23 Escape from Community Custody
24 (RCW 72.09.310)
25 Failure to Register as a Sex Offender
26 (second or subsequent offense)
27 (RCW 9A.44.130 prior to June 10,
28 2010, and RCW 9A.44.132)
29 Health Care False Claims (RCW
30 48.80.030)
31 Identity Theft 2 (RCW 9.35.020(3))
32 Improperly Obtaining Financial
33 Information (RCW 9.35.010)
34 Malicious Mischief 1 (RCW 9A.48.070)
35 Organized Retail Theft 2 (RCW
36 9A.56.350(3))

1 Possession of Stolen Property 1 (RCW
2 9A.56.150)
3 Possession of a Stolen Vehicle (RCW
4 9A.56.068)
5 Retail Theft with Special Circumstances
6 2 (RCW 9A.56.360(3))
7 Scrap Processing, Recycling, or
8 Supplying Without a License
9 (second or subsequent offense)
10 (RCW 19.290.100)
11 Theft 1 (RCW 9A.56.030)
12 Theft of a Motor Vehicle (RCW
13 9A.56.065)
14 Theft of Rental, Leased, Lease-
15 purchased, or Loaned Property
16 (valued at five thousand dollars or
17 more) (RCW 9A.56.096(5)(a))
18 Theft with the Intent to Resell 2 (RCW
19 9A.56.340(3))
20 Trafficking in Insurance Claims (RCW
21 48.30A.015)
22 Unlawful factoring of a credit card or
23 payment card transaction (RCW
24 9A.56.290(4)(a))
25 Unlawful Participation of Non-Indians
26 in Indian Fishery (RCW
27 77.15.570(2))
28 Unlawful Practice of Law (RCW
29 2.48.180)
30 Unlawful Purchase or Use of a License
31 (RCW 77.15.650(3)(b))
32 Unlawful Trafficking in Fish, Shellfish,
33 or Wildlife 2 (RCW
34 77.15.260(3)(a))
35 Unlicensed Practice of a Profession or
36 Business (RCW 18.130.190(7))

1 Voyeurism 1 (RCW 9A.44.115)
2 I Attempting to Elude a Pursuing Police
3 Vehicle (RCW 46.61.024)
4 False Verification for Welfare (RCW
5 74.08.055)
6 Forgery (RCW 9A.60.020)
7 Fraudulent Creation or Revocation of a
8 Mental Health Advance Directive
9 (RCW 9A.60.060)
10 Malicious Mischief 2 (RCW 9A.48.080)
11 Mineral Trespass (RCW 78.44.330)
12 Possession of Stolen Property 2 (RCW
13 9A.56.160)
14 Reckless Burning 1 (RCW 9A.48.040)
15 Spotlighting Big Game 1 (RCW
16 77.15.450(3)(b))
17 Suspension of Department Privileges 1
18 (RCW 77.15.670(3)(b))
19 Taking Motor Vehicle Without
20 Permission 2 (RCW 9A.56.075)
21 Theft 2 (RCW 9A.56.040)
22 Theft from a Vulnerable Adult 2 (RCW
23 9A.56.400(2))
24 Theft of Rental, Leased, Lease-
25 purchased, or Loaned Property
26 (valued at seven hundred fifty
27 dollars or more but less than five
28 thousand dollars) (RCW
29 9A.56.096(5)(b))
30 Transaction of insurance business
31 beyond the scope of licensure
32 (RCW 48.17.063)
33 Unlawful Fish and Shellfish Catch
34 Accounting (RCW 77.15.630(3)(b))
35 Unlawful Issuance of Checks or Drafts
36 (RCW 9A.56.060)

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

28 **Sec. 8.** RCW 9A.46.060 and 2006 c 138 s 21 are each amended to
29 read as follows:

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

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

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

38 **Sec. 9.** RCW 36.28A.030 and 1993 c 127 s 4 are each amended to
39 read as follows:

1 (1) The Washington association of sheriffs and police chiefs
2 shall establish and maintain a central repository for the collection
3 and classification of information regarding violations of RCW
4 9A.36.080. Upon establishing such a repository, the association shall
5 develop a procedure to monitor, record, and classify information
6 relating to violations of RCW 9A.36.080 and any other crimes of
7 bigotry or bias apparently directed against other persons because the
8 people committing the crimes perceived that their victims were of a
9 particular race, color, religion, ancestry, national origin, gender,
10 sexual orientation, had a particular gender expression or identity,
11 or had a mental, physical, or sensory (~~handicap~~) disability.

12 (2) All local law enforcement agencies shall report monthly to
13 the association concerning all violations of RCW 9A.36.080 and any
14 other crimes of bigotry or bias in such form and in such manner as
15 prescribed by rules adopted by the association. Agency participation
16 in the association's reporting programs, with regard to the specific
17 data requirements associated with violations of RCW 9A.36.080 and any
18 other crimes of bigotry or bias, shall be deemed to meet agency
19 reporting requirements. The association must summarize the
20 information received and file an annual report with the governor and
21 the senate law and justice committee and the house of representatives
22 judiciary committee.

23 (3) The association shall disseminate the information according
24 to the provisions of chapters 10.97 and 10.98 RCW, and all other
25 confidentiality requirements imposed by federal or Washington law.

26 **Sec. 10.** RCW 43.43.830 and 2017 c 272 s 5 are each amended to
27 read as follows:

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

30 (1) "Agency" means any person, firm, partnership, association,
31 corporation, or facility which receives, provides services to, houses
32 or otherwise cares for vulnerable adults, juveniles, or children, or
33 which provides child day care, early learning, or early childhood
34 education services.

35 (2) "Applicant" means:

36 (a) Any prospective employee who will or may have unsupervised
37 access to children under sixteen years of age or developmentally
38 disabled persons or vulnerable adults during the course of his or her
39 employment or involvement with the business or organization;

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

10 (c) Any prospective adoptive parent, as defined in RCW 26.33.020;
11 or

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

14 (3) "Business or organization" means a person, business, or
15 organization licensed in this state, any agency of the state, or
16 other governmental entity, that educates, trains, treats, supervises,
17 houses, or provides recreation to developmentally disabled persons,
18 vulnerable adults, or children under sixteen years of age, or that
19 provides child day care, early learning, or early learning childhood
20 education services, including but not limited to public housing
21 authorities, school districts, and educational service districts.

22 (4) "Civil adjudication proceeding" is a judicial or
23 administrative adjudicative proceeding that results in a finding of,
24 or upholds an agency finding of, domestic violence, abuse, sexual
25 abuse, neglect, abandonment, violation of a professional licensing
26 standard regarding a child or vulnerable adult, or exploitation or
27 financial exploitation of a child or vulnerable adult under any
28 provision of law, including but not limited to chapter 13.34, 26.44,
29 or 74.34 RCW, or rules adopted under chapters 18.51 and 74.42 RCW.
30 "Civil adjudication proceeding" also includes judicial or
31 administrative findings that become final due to the failure of the
32 alleged perpetrator to timely exercise a legal right to
33 administratively challenge such findings.

34 (5) "Client" or "resident" means a child, person with
35 developmental disabilities, or vulnerable adult applying for housing
36 assistance from a business or organization.

37 (6) "Conviction record" means "conviction record" information as
38 defined in RCW 10.97.030 and 10.97.050 relating to a crime committed
39 by either an adult or a juvenile. It does not include a conviction
40 for an offense that has been the subject of an expungement, pardon,

1 annulment, certificate of rehabilitation, or other equivalent
2 procedure based on a finding of the rehabilitation of the person
3 convicted, or a conviction that has been the subject of a pardon,
4 annulment, or other equivalent procedure based on a finding of
5 innocence. It does include convictions for offenses for which the
6 defendant received a deferred or suspended sentence, unless the
7 record has been expunged according to law.

8 (7) "Crime against children or other persons" means a conviction
9 of any of the following offenses: Aggravated murder; first or second
10 degree murder; first or second degree kidnapping; first, second, or
11 third degree assault; fourth degree assault (if a violation of RCW
12 9A.36.041(3)); first, second, or third degree assault of a child;
13 first, second, or third degree rape; first, second, or third degree
14 rape of a child; first or second degree robbery; first degree arson;
15 first degree burglary; first or second degree manslaughter; first or
16 second degree extortion; indecent liberties; incest; vehicular
17 homicide; first degree promoting prostitution; communication with a
18 minor; unlawful imprisonment; simple assault; sexual exploitation of
19 minors; first or second degree criminal mistreatment; endangerment
20 with a controlled substance; child abuse or neglect as defined in RCW
21 26.44.020; first or second degree custodial interference; first or
22 second degree custodial sexual misconduct; (~~malicious harassment~~)
23 hate crime; first, second, or third degree child molestation; first
24 or second degree sexual misconduct with a minor; commercial sexual
25 abuse of a minor; child abandonment; promoting pornography; selling
26 or distributing erotic material to a minor; custodial assault;
27 violation of child abuse restraining order; child buying or selling;
28 prostitution; felony indecent exposure; criminal abandonment; or any
29 of these crimes as they may be renamed in the future.

30 (8) "Crimes relating to drugs" means a conviction of a crime to
31 manufacture, delivery, or possession with intent to manufacture or
32 deliver a controlled substance.

33 (9) "Crimes relating to financial exploitation" means a
34 conviction for first, second, or third degree extortion; first,
35 second, or third degree theft; first or second degree robbery;
36 forgery; or any of these crimes as they may be renamed in the future.

37 (10) "Financial exploitation" means "financial exploitation" as
38 defined in RCW 74.34.020.

39 (11) "Health care facility" means a nursing home licensed under
40 chapter 18.51 RCW, (~~a-[an]~~) an assisted living facility licensed

1 under chapter 18.20 RCW, or an adult family home licensed under
2 chapter 70.128 RCW.

3 (12) "Peer counselor" means a nonprofessional person who has
4 equal standing with another person, providing advice on a topic about
5 which the nonprofessional person is more experienced or
6 knowledgeable, and who is a counselor for a peer counseling program
7 that contracts with or is otherwise approved by the department,
8 another state or local agency, or the court.

9 (13) "Unsupervised" means not in the presence of:

10 (a) Another employee or volunteer from the same business or
11 organization as the applicant; or

12 (b) Any relative or guardian of any of the children or
13 developmentally disabled persons or vulnerable adults to which the
14 applicant has access during the course of his or her employment or
15 involvement with the business or organization.

16 With regard to peer counselors, "unsupervised" does not include
17 incidental contact with children under age sixteen at the location at
18 which the peer counseling is taking place. "Incidental contact" means
19 minor or casual contact with a child in an area accessible to and
20 within visual or auditory range of others. It could include passing a
21 child while walking down a hallway but would not include being alone
22 with a child for any period of time in a closed room or office.

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

28 **Sec. 11.** RCW 48.18.553 and 2003 c 117 s 1 are each amended to
29 read as follows:

30 (1) For the purposes of this section:

31 (a) "Insured" means a current policyholder or a person or entity
32 that is covered under the insurance policy.

33 (b) (~~"Malicious harassment"~~) "Hate crime offense" has the same
34 meaning as RCW 9A.36.080. Under this section, the perpetrator does
35 not have to be identified for (~~(an act of malicious harassment)~~) a
36 hate crime offense to have occurred.

37 (c) "Underwriting action" means an insurer:

38 (i) Cancels or refuses to renew an insurance policy; or

39 (ii) Changes the terms or benefits in an insurance policy.

1 (2) This section applies to property insurance policies if the
2 insured is:

3 (a) An individual;

4 (b) A religious organization;

5 (c) An educational organization; or

6 (d) Any other nonprofit organization that is organized and
7 operated for religious, charitable, or educational purposes.

8 (3) An insurer may not take an underwriting action on a policy
9 described in subsection (2) of this section because an insured has
10 made one or more insurance claims for any loss that occurred during
11 the preceding sixty months that is the result of (~~malicious~~
12 ~~harassment~~) a hate crime offense. An insurer may take an
13 underwriting action due to other factors that are not prohibited by
14 this subsection.

15 (4) If an insured sustains a loss that is the result of
16 (~~malicious harassment~~) a hate crime offense, the insured must file
17 a report with the police or other law enforcement authority within
18 thirty days of discovery of the incident, and a law enforcement
19 authority must determine that a crime has occurred. The report must
20 contain sufficient information to provide an insurer with reasonable
21 notice that the loss was the result of (~~malicious harassment~~) a
22 hate crime offense. The insured has a duty to cooperate with any law
23 enforcement official or insurer investigation. (~~For incidents of~~
24 ~~malicious harassment occurring prior to July 27, 2003, the insured~~
25 ~~must file the report within six months of the discovery of the~~
26 ~~incident.~~)

27 (5) Annually, each insurer must report underwriting actions to
28 the commissioner if the insurer has taken an underwriting action
29 against any insured who has filed a claim during the preceding sixty
30 months that was the result of (~~malicious harassment~~) a hate crime
31 offense. The report must include the policy number, name of the
32 insured, location of the property, and the reason for the
33 underwriting action.

--- END ---