

Proposed Substitute HB 1126 (H-1974.2/11)

By Representative Hurst

EFFECT: The proposed substitute makes the following changes:

Prevention and Intervention Grant Program

- Establishes a statewide grant program and requires that applications identify a significant gang problem in the jurisdiction, propose services to prevent gang expansion or support gang intervention, and propose servicing a targeted population. Establishes a review committee of the Department of Social and Health Services, the Washington State Partnership Council on Juvenile Justice, the Office of the Attorney General (AG), the Washington Association of Sheriffs and Police Chiefs, and local government and non-governmental organizations.
- Creates the Gang Violence Prevention and Intervention Grant Program Account. Directs to the account: (1) recoveries by the AG under the Consumer Protection Act in the form of settlements, civil penalties, and recoveries where the money must be deposited in the General Fund; and (2) a \$5 traffic infraction assessment. Permits the deposit of gifts.
- Imposes a \$5 assessment on traffic infractions for deposit in the Gang Violence Prevention and Intervention Grant Program Account.

Criminal Provisions

- Creates a single Criminal Gang Intimidation offense that does not require that either the defendant or victim be a student.
- Permits the court to impose up to 50 (rather than 100) hours of community service for Criminal Street Gang Tagging and Graffiti.
- Deletes sentencing enhancements.
- Replaces procedures in current law regarding firearm offenses by criminal street gang members with *Blakely*-compliant special allegation procedures.
- Adds Promoting Commercial Sexual Abuse of a Minor to the definition of "criminal street gang-related offense." Restores current law defining "pattern of criminal street gang activity."

Nuisance Actions

- Limits nuisance actions to rental or leased property. Limits injunctions to the offending unit in a multiunit building. Exempts property used for social services and charitable assistance. Immunizes government entities and nonprofits conducting prevention and education if done with ordinary care and skill.
- Removes requirement that hearing be held within three business days. Provides that action does not take precedence over child dependency hearings. Requires that the complaint and notice of time and place of hearing be served six business days prior to hearing.
- Requires service to be personal, or by leaving a copy with a person of suitable age and discretion residing at the property, or by posting and mailing. Requires that copy be sent to the owner. Permits the legal owner to remove personal property. Limits temporary order to 15 days, unless continued. Removes contempt of court provision for temporary orders.
- Defines "reasonable efforts" as attempting to terminate or place restrictions on a lease, adopting feasible measures to prevent the nuisance, cooperating with law enforcement, and any other relevant efforts. Allows inventory of premises upon entry of abatement order. Creates lien to extent of owner's interest that must be filed, recorded, and enforced as a judgment summary.
- Requires law enforcement to notify the landlord in writing when there is probable cause to believe that a rental unit occupant has committed a criminal street gang-related offense. The notice must contain the names of the tenant and anyone involved, the date of the incident and unit where it occurred, law enforcement's response, a statement regarding authority to commence and unlawful detainer action, and penalties for failure to abate a nuisance.

Protection Orders

- Requires that in a specific and delineated area: (1) members of a criminal street gang have been convicted of two or more offenses from the definition of "pattern of criminal street gang activity"; (2) at least one of

the offenses occurred after July 1, 2008; (3) the most recent offense occurred within three years of a prior offense; and (4) the offenses occurred on separate occasions or were committed by two or more persons.

Requires that the respondent be a member of that gang.

- Permits the court to appoint counsel to represent the respondent at county expense.
- Limits the prohibition against contacting minors going to and from school to a respondent who is 18 years of age or older.
- Removes contempt of court as a penalty for violation.
- Permits an alternative to total confinement when a juvenile is found guilty of willfully violation.
- Exempts gang protection orders from entry into the Judicial Information System.

1 AN ACT Relating to criminal street gangs; amending RCW 46.63.110,
2 13.40.127, 9A.46.120, 9A.48.105, 9.94A.829, 9.94A.702, 59.18.075,
3 26.50.160, and 70.41.440; reenacting and amending RCW 9.94A.030; adding
4 new sections to chapter 43.20A RCW; adding a new chapter to Title 7
5 RCW; adding a new chapter to Title 10 RCW; creating a new section; and
6 prescribing penalties.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that gang violence is
9 an increasingly serious problem that threatens the long-term economic,
10 social, and public safety interests of the state, counties, and cities.
11 The scourge of gangs plaguing our streets is a clear and present danger
12 to our communities. Those who live where gang membership and activity
13 is on the rise find themselves living with the daily threat of
14 intimidation and harassment. Gangs terrorize neighborhoods and
15 adversely impact our quality of life by engaging in violence, drugs,
16 and associated criminal activities. Individual gang members, gang
17 cliques, or entire gang organizations traffic in drugs and gun running
18 and commit assault, rape, robbery, burglary, extortion, auto theft,
19 shootings, murder, and other felonies. Gang members are coming to

1 Washington from other states and foreign countries with many supported
2 by the sale of crack cocaine, heroin, and other illegal drugs. In many
3 neighborhoods, children are born into or must contend with second and
4 third-generation street gangs. The loss of life, property, happiness,
5 security, and a positive opportunity for growth caused by gang violence
6 has reached intolerable levels. Increased gang activity has seriously
7 strained the budgets of many local jurisdictions, as well as threatened
8 the ability of the educational system to educate our youth. The
9 destruction and fear generated by gangs in many communities have
10 greatly elevated the critical importance of enacting effective measures
11 to combat gang-related crime. Communities overwhelmed by violent gang
12 activity must have relief from the blight of gang crime before
13 revitalization, initiatives to strengthen families, school
14 improvements, and other desired interventions can succeed. Local
15 communities, law enforcement agencies, and prosecutors require
16 assistance to combat this clear and present danger to the law-abiding
17 residents of Washington. They must have the tools they need to
18 aggressively combat gang-related crime and build strong cases that
19 remove violent gang members from the streets. They need additional
20 prevention and intervention measures, civil remedies, and criminal
21 sanctions to ensure that our young are helped to avoid gang membership
22 and activities and that those who do commit gang-related crimes are
23 held fully accountable for the harm and suffering they inflict on
24 society. It is the intent of this act to provide the criminal justice
25 community and local communities with the effective tools they need to
26 better protect the citizens of Washington from gang-related crime.

27 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.20A RCW
28 to read as follows:

29 Grants authorized.

30 (1) In general. The office of juvenile justice, in consultation
31 with the Washington state partnership council on juvenile justice,
32 shall award grants to carry out local projects focused on criminal
33 street gang prevention and intervention programs. The following
34 members shall serve on the grant application review committee: (a) The
35 secretary or the secretary's designee; (b) the chair of the Washington
36 state partnership council on juvenile justice or the chair's designee;
37 (c) the executive director of the Washington association of sheriffs

1 and police chiefs or the executive director's designee; (d) the
2 attorney general or the attorney general's designee; and (e)
3 representatives of local government and nongovernmental organizations,
4 appointed by the secretary. Each entity or organization has a vote
5 when determining awards.

6 (2) Eligible entities. The following entities are eligible to
7 apply for grants under this section:

8 (a) Nonprofit, nongovernmental organizations, or coalitions that
9 have a documented history of creating and administering effective
10 projects or that work in partnership with an organization that has a
11 documented history of creating and administering effective projects;
12 and

13 (b) Governmental entities that demonstrate a partnership with an
14 organization described in (a) of this subsection.

15 (3) Applications. (a) An eligible entity desiring a grant under
16 this section shall submit an application to the office of juvenile
17 justice at such time, in such form, and in such manner as the secretary
18 may prescribe. Applications, at a minimum, must demonstrate that:

19 (i) A significant gang problem exists in the jurisdiction or
20 jurisdictions that would receive the grant;

21 (ii) The funds will be used to offer services to prevent the
22 expansion of criminal street gang membership or support criminal street
23 gang membership intervention;

24 (iii) The funds will be used to provide services to a targeted
25 population; and

26 (iv) The costs of administration will not exceed four percent of
27 appropriated funding.

28 (b) Priority must be given to grant applications that:

29 (i) Demonstrate that gang violence is an increasing problem in the
30 applicant's jurisdiction;

31 (ii) Demonstrate that addressing the impact of criminal street
32 gangs is a high priority in the local community; and

33 (iii) Propose to implement a prevention or intervention program
34 using either proven evidence-based or innovative and culturally
35 relevant practices or propose to conduct a community gang assessment
36 using proven evidence-based practices, such as the office of juvenile
37 justice and office of delinquency programs comprehensive gang model.

1 (4) Term. Grant funds awarded under this section are limited to a
2 period of twelve calendar months.

3 (5) No supplanting. Grant funds awarded under this section must be
4 used to supplement, not supplant, other moneys that are available for
5 prevention and intervention programs.

6 (6) Reports. Each eligible entity that receives a grant under this
7 section shall submit a report describing the activities carried out
8 with the grant funds to the secretary within one month of the one-year
9 anniversary of receiving the award. The secretary shall report to the
10 appropriate committees of the legislature regarding the status of the
11 grant program established by this section by January 9, 2012.

12 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.20A RCW
13 to read as follows:

14 (1) The gang violence prevention and intervention grant program
15 account is created in the state treasury. All receipts from the
16 following must be deposited into the account:

17 (a) Gifts, grants, bequests, devises, or other funds from public or
18 private sources to support the gang violence prevention and
19 intervention grant program established in section 2 of this act;

20 (b) Recoveries from suits brought by the attorney general under RCW
21 19.86.080 for violations of RCW 19.86.020 in the form of: (i)
22 Settlements; (ii) civil penalties under RCW 19.86.140; and (iii)
23 recoveries under RCW 19.86.140 that a court orders placed in the
24 general fund. Deposits under this subsection (1)(b) shall not exceed
25 one million dollars per fiscal year; and

26 (c) Revenues from the traffic infraction assessment under RCW
27 46.63.110(7)(d).

28 (2) Moneys in the account may be spent only after appropriation.
29 Only the secretary or the secretary's designee may authorize
30 expenditures from the account. Expenditures from the account may be
31 made only for establishing, administering, funding, and maintaining the
32 gang violence prevention and intervention grant program established in
33 section 2 of this act.

34 **Sec. 4.** RCW 46.63.110 and 2010 c 252 s 5 are each amended to read
35 as follows:

36 (1) A person found to have committed a traffic infraction shall be

1 assessed a monetary penalty. No penalty may exceed two hundred and
2 fifty dollars for each offense unless authorized by this chapter or
3 title.

4 (2) The monetary penalty for a violation of (a) RCW 46.55.105(2) is
5 two hundred fifty dollars for each offense; (b) RCW 46.61.210(1) is
6 five hundred dollars for each offense. No penalty assessed under this
7 subsection (2) may be reduced.

8 (3) The supreme court shall prescribe by rule a schedule of
9 monetary penalties for designated traffic infractions. This rule shall
10 also specify the conditions under which local courts may exercise
11 discretion in assessing fines and penalties for traffic infractions.
12 The legislature respectfully requests the supreme court to adjust this
13 schedule every two years for inflation.

14 (4) There shall be a penalty of twenty-five dollars for failure to
15 respond to a notice of traffic infraction except where the infraction
16 relates to parking as defined by local law, ordinance, regulation, or
17 resolution or failure to pay a monetary penalty imposed pursuant to
18 this chapter. A local legislative body may set a monetary penalty not
19 to exceed twenty-five dollars for failure to respond to a notice of
20 traffic infraction relating to parking as defined by local law,
21 ordinance, regulation, or resolution. The local court, whether a
22 municipal, police, or district court, shall impose the monetary penalty
23 set by the local legislative body.

24 (5) Monetary penalties provided for in chapter 46.70 RCW which are
25 civil in nature and penalties which may be assessed for violations of
26 chapter 46.44 RCW relating to size, weight, and load of motor vehicles
27 are not subject to the limitation on the amount of monetary penalties
28 which may be imposed pursuant to this chapter.

29 (6) Whenever a monetary penalty, fee, cost, assessment, or other
30 monetary obligation is imposed by a court under this chapter it is
31 immediately payable. If the court determines, in its discretion, that
32 a person is not able to pay a monetary obligation in full, and not more
33 than one year has passed since the later of July 1, 2005, or the date
34 the monetary obligation initially became due and payable, the court
35 shall enter into a payment plan with the person, unless the person has
36 previously been granted a payment plan with respect to the same
37 monetary obligation, or unless the person is in noncompliance of any
38 existing or prior payment plan, in which case the court may, at its

1 discretion, implement a payment plan. If the court has notified the
2 department that the person has failed to pay or comply and the person
3 has subsequently entered into a payment plan and made an initial
4 payment, the court shall notify the department that the infraction has
5 been adjudicated, and the department shall rescind any suspension of
6 the person's driver's license or driver's privilege based on failure to
7 respond to that infraction. "Payment plan," as used in this section,
8 means a plan that requires reasonable payments based on the financial
9 ability of the person to pay. The person may voluntarily pay an amount
10 at any time in addition to the payments required under the payment
11 plan.

12 (a) If a payment required to be made under the payment plan is
13 delinquent or the person fails to complete a community restitution
14 program on or before the time established under the payment plan,
15 unless the court determines good cause therefor and adjusts the payment
16 plan or the community restitution plan accordingly, the court shall
17 notify the department of the person's failure to meet the conditions of
18 the plan, and the department shall suspend the person's driver's
19 license or driving privilege until all monetary obligations, including
20 those imposed under subsections (3) and (4) of this section, have been
21 paid, and court authorized community restitution has been completed, or
22 until the department has been notified that the court has entered into
23 a new time payment or community restitution agreement with the person.

24 (b) If a person has not entered into a payment plan with the court
25 and has not paid the monetary obligation in full on or before the time
26 established for payment, the court shall notify the department of the
27 delinquency. The department shall suspend the person's driver's
28 license or driving privilege until all monetary obligations have been
29 paid, including those imposed under subsections (3) and (4) of this
30 section, or until the person has entered into a payment plan under this
31 section.

32 (c) If the payment plan is to be administered by the court, the
33 court may assess the person a reasonable administrative fee to be
34 wholly retained by the city or county with jurisdiction. The
35 administrative fee shall not exceed ten dollars per infraction or
36 twenty-five dollars per payment plan, whichever is less.

37 (d) Nothing in this section precludes a court from contracting with
38 outside entities to administer its payment plan system. When outside

1 entities are used for the administration of a payment plan, the court
2 may assess the person a reasonable fee for such administrative
3 services, which fee may be calculated on a periodic, percentage, or
4 other basis.

5 (e) If a court authorized community restitution program for
6 offenders is available in the jurisdiction, the court may allow
7 conversion of all or part of the monetary obligations due under this
8 section to court authorized community restitution in lieu of time
9 payments if the person is unable to make reasonable time payments.

10 (7) In addition to any other penalties imposed under this section
11 and not subject to the limitation of subsection (1) of this section, a
12 person found to have committed a traffic infraction shall be assessed:

13 (a) A fee of five dollars per infraction. Under no circumstances
14 shall this fee be reduced or waived. Revenue from this fee shall be
15 forwarded to the state treasurer for deposit in the emergency medical
16 services and trauma care system trust account under RCW 70.168.040;

17 (b) A fee of ten dollars per infraction. Under no circumstances
18 shall this fee be reduced or waived. Revenue from this fee shall be
19 forwarded to the state treasurer for deposit in the Washington auto
20 theft prevention authority account; (~~and~~)

21 (c) A fee of two dollars per infraction. Revenue from this fee
22 shall be forwarded to the state treasurer for deposit in the traumatic
23 brain injury account established in RCW 74.31.060; and

24 (d) A fee of five dollars per infraction. Revenue from this fee
25 shall be forwarded to the state treasurer for deposit in the gang
26 violence prevention and intervention grant program account established
27 in section 3 of this act.

28 (8)(a) In addition to any other penalties imposed under this
29 section and not subject to the limitation of subsection (1) of this
30 section, a person found to have committed a traffic infraction other
31 than of RCW 46.61.527 or 46.61.212 shall be assessed an additional
32 penalty of twenty dollars. The court may not reduce, waive, or suspend
33 the additional penalty unless the court finds the offender to be
34 indigent. If a court authorized community restitution program for
35 offenders is available in the jurisdiction, the court shall allow
36 offenders to offset all or a part of the penalty due under this
37 subsection (8) by participation in the court authorized community
38 restitution program.

1 (b) Eight dollars and fifty cents of the additional penalty under
2 (a) of this subsection shall be remitted to the state treasurer. The
3 remaining revenue from the additional penalty must be remitted under
4 chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted
5 under this subsection to the state treasurer must be deposited in the
6 state general fund. The balance of the revenue received by the county
7 or city treasurer under this subsection must be deposited into the
8 county or city current expense fund. Moneys retained by the city or
9 county under this subsection shall constitute reimbursement for any
10 liabilities under RCW 43.135.060.

11 (9) If a legal proceeding, such as garnishment, has commenced to
12 collect any delinquent amount owed by the person for any penalty
13 imposed by the court under this section, the court may, at its
14 discretion, enter into a payment plan.

15 (10) The monetary penalty for violating RCW 46.37.395 is: (a) Two
16 hundred fifty dollars for the first violation; (b) five hundred dollars
17 for the second violation; and (c) seven hundred fifty dollars for each
18 violation thereafter.

19 **Sec. 5.** RCW 13.40.127 and 2009 c 236 s 1 are each amended to read
20 as follows:

21 (1) A juvenile is eligible for deferred disposition unless he or
22 she:

- 23 (a) Is charged with a sex or violent offense;
- 24 (b) Has a criminal history which includes any felony;
- 25 (c) Has a prior deferred disposition or deferred adjudication;
- 26 (~~(d)~~)

27 (d) Has two or more adjudications; or

28 (e) Is charged with a firearm offense under chapter 9.41 RCW and
29 the crime is alleged to be a criminal street gang-related offense as
30 defined in RCW 9.94A.030.

31 (2) The juvenile court may, upon motion at least fourteen days
32 before commencement of trial and, after consulting the juvenile's
33 custodial parent or parents or guardian and with the consent of the
34 juvenile, continue the case for disposition for a period not to exceed
35 one year from the date the juvenile is found guilty. The court shall
36 consider whether the offender and the community will benefit from a
37 deferred disposition before deferring the disposition.

1 (3) Any juvenile who agrees to a deferral of disposition shall:

2 (a) Stipulate to the admissibility of the facts contained in the
3 written police report;

4 (b) Acknowledge that the report will be entered and used to support
5 a finding of guilt and to impose a disposition if the juvenile fails to
6 comply with terms of supervision; and

7 (c) Waive the following rights to: (i) A speedy disposition; and
8 (ii) call and confront witnesses.

9 The adjudicatory hearing shall be limited to a reading of the
10 court's record.

11 (4) Following the stipulation, acknowledgment, waiver, and entry of
12 a finding or plea of guilt, the court shall defer entry of an order of
13 disposition of the juvenile.

14 (5) Any juvenile granted a deferral of disposition under this
15 section shall be placed under community supervision. The court may
16 impose any conditions of supervision that it deems appropriate
17 including posting a probation bond. Payment of restitution under RCW
18 13.40.190 shall be a condition of community supervision under this
19 section.

20 The court may require a juvenile offender convicted of animal
21 cruelty in the first degree to submit to a mental health evaluation to
22 determine if the offender would benefit from treatment and such
23 intervention would promote the safety of the community. After
24 consideration of the results of the evaluation, as a condition of
25 community supervision, the court may order the offender to attend
26 treatment to address issues pertinent to the offense.

27 (6) A parent who signed for a probation bond has the right to
28 notify the counselor if the juvenile fails to comply with the bond or
29 conditions of supervision. The counselor shall notify the court and
30 surety of any failure to comply. A surety shall notify the court of
31 the juvenile's failure to comply with the probation bond. The state
32 shall bear the burden to prove, by a preponderance of the evidence,
33 that the juvenile has failed to comply with the terms of community
34 supervision.

35 (7) A juvenile's lack of compliance shall be determined by the
36 judge upon written motion by the prosecutor or the juvenile's juvenile
37 court community supervision counselor. If a juvenile fails to comply

1 with terms of supervision, the court shall enter an order of
2 disposition.

3 (8) At any time following deferral of disposition the court may,
4 following a hearing, continue the case for an additional one-year
5 period for good cause.

6 (9) At the conclusion of the period set forth in the order of
7 deferral and upon a finding by the court of full compliance with
8 conditions of supervision and payment of full restitution, the
9 respondent's conviction shall be vacated and the court shall dismiss
10 the case with prejudice, except that a conviction under RCW 16.52.205
11 shall not be vacated.

12 (10)(a) Records of deferred disposition cases vacated under
13 subsection (9) of this section shall be sealed no later than thirty
14 days after the juvenile's eighteenth birthday provided that the
15 juvenile does not have any charges pending at that time. If a juvenile
16 has already reached his or her eighteenth birthday before July 26,
17 2009, and does not have any charges pending, he or she may request that
18 the court issue an order sealing the records of his or her deferred
19 disposition cases vacated under subsection (9) of this section, and
20 this request shall be granted. Nothing in this subsection shall
21 preclude a juvenile from petitioning the court to have the records of
22 his or her deferred dispositions sealed under RCW 13.50.050 (11) and
23 (12).

24 (b) Records sealed under this provision shall have the same legal
25 status as records sealed under RCW 13.50.050.

26 **Sec. 6.** RCW 9A.46.120 and 1997 c 266 s 3 are each amended to read
27 as follows:

28 (1) A person commits the offense of criminal gang intimidation if
29 the person threatens another person with bodily injury because the
30 other person refuses to join or has attempted to withdraw from a
31 criminal street gang, as defined in RCW (~~(28A.600.455, if the person~~
32 ~~who threatens the victim or the victim attends or is registered in a~~
33 ~~public or alternative school)) 9.94A.030.~~

34 (2) Criminal gang intimidation is a class C felony.

35 **Sec. 7.** RCW 9A.48.105 and 2008 c 276 s 306 are each amended to
36 read as follows:

1 (1) A person is guilty of criminal street gang tagging and graffiti
2 if he or she commits malicious mischief in the third degree under RCW
3 9A.48.090(1)(b) and he or she:

4 (a) Has multiple current convictions for malicious mischief in the
5 third degree offenses under RCW 9A.48.090(1)(b); or

6 (b) Has previously been convicted for a malicious mischief in the
7 third degree offense under RCW 9A.48.090(1)(b) or a comparable offense
8 under a municipal code provision of any city or town; and

9 (c) The current offense or one of the current offenses is a
10 "criminal street gang-related offense" as defined in RCW 9.94A.030.

11 (2) Criminal street gang tagging and graffiti is a gross
12 misdemeanor offense.

13 (3) In addition to any other penalty imposed for a violation of
14 this section, the court may impose as a condition of the sentence that
15 the person perform up to fifty hours of community service.

16 **Sec. 8.** RCW 9.94A.829 and 2009 c 28 s 16 are each amended to read
17 as follows:

18 ~~((In a criminal case in which the defendant has been convicted of~~
19 ~~unlawful possession of a firearm under RCW 9.41.040, and there has been~~
20 ~~a special allegation pleaded and proven by a preponderance of the~~
21 ~~evidence that the accused is a criminal street gang member or associate~~
22 ~~as defined in RCW 9.94A.030, the court shall make a finding of fact of~~
23 ~~the special allegation, or if a jury trial is had, the jury shall, if~~
24 ~~it finds the defendant guilty, also find a special verdict as to~~
25 ~~whether or not the accused was a criminal street gang member or~~
26 ~~associate during the commission of the crime.)) (1) Where the~~

27 prosecuting attorney charges a person with a felony offense, the
28 prosecuting attorney may file a special allegation charging that the
29 offense is a criminal street gang-related offense as defined in RCW
30 9.94A.030.

31 (2) The facts supporting the criminal street gang-related offense
32 allegation must be proved to a jury beyond a reasonable doubt. The
33 jury's verdict on the allegation must be unanimous, and by special
34 interrogatory. If a jury is waived, proof must be to the court beyond
35 a reasonable doubt, unless the defendant stipulates to the special
36 allegation.

1 (3) Evidence regarding the criminal street gang-related offense
2 special allegation must be presented to the jury during the trial of
3 the alleged crime if:

4 (a) The facts supporting the allegation are part of the res gestae
5 of the crime or are otherwise admissible; and

6 (b) The probative value of the evidence to the criminal street
7 gang-related offense special allegation is not substantially outweighed
8 by its prejudicial effect on the jury's ability to determine guilt or
9 innocence for the underlying crime.

10 (4) If the evidence regarding the criminal street gang-related
11 offense special allegation is not presented to the jury during the
12 trial of the alleged crime, the court shall conduct a separate
13 proceeding to determine the existence of this special allegation. The
14 proceeding must immediately follow the trial on the underlying
15 conviction, if possible. If any person who served on the jury is
16 unable to continue, the court shall substitute an alternate juror.

17 **Sec. 9.** RCW 9.94A.702 and 2010 c 267 s 12 are each amended to read
18 as follows:

19 (1) If an offender is sentenced to a term of confinement for one
20 year or less for one of the following offenses, the court may impose up
21 to one year of community custody:

22 (a) A sex offense;

23 (b) A violent offense;

24 (c) A crime against a person under RCW 9.94A.411;

25 (d) A felony violation of chapter 69.50 or 69.52 RCW, or an
26 attempt, conspiracy, or solicitation to commit such a crime; (~~or~~)

27 (e) A felony violation of RCW 9A.44.132(1) (failure to register);
28 or

29 (f) A felony that is a criminal street gang-related offense under
30 RCW 9.94A.030.

31 (2) If an offender is sentenced to a first-time offender waiver,
32 the court may impose community custody as provided in RCW 9.94A.650.

33 **Sec. 10.** RCW 9.94A.030 and 2010 c 274 s 401, 2010 c 267 s 9, 2010
34 c 227 s 11, and 2010 c 224 s 1 are each reenacted and amended to read
35 as follows:

1 Unless the context clearly requires otherwise, the definitions in
2 this section apply throughout this chapter.

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

5 (2) "Collect," or any derivative thereof, "collect and remit," or
6 "collect and deliver," when used with reference to the department,
7 means that the department, either directly or through a collection
8 agreement authorized by RCW 9.94A.760, is responsible for monitoring
9 and enforcing the offender's sentence with regard to the legal
10 financial obligation, receiving payment thereof from the offender, and,
11 consistent with current law, delivering daily the entire payment to the
12 superior court clerk without depositing it in a departmental account.

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

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

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

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

26 (7) "Community restitution" means compulsory service, without
27 compensation, performed for the benefit of the community by the
28 offender.

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

30 (9) "Conviction" means an adjudication of guilt pursuant to Title
31 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
32 acceptance of a plea of guilty.

33 (10) "Crime-related prohibition" means an order of a court
34 prohibiting conduct that directly relates to the circumstances of the
35 crime for which the offender has been convicted, and shall not be
36 construed to mean orders directing an offender affirmatively to
37 participate in rehabilitative programs or to otherwise perform

1 affirmative conduct. However, affirmative acts necessary to monitor
2 compliance with the order of a court may be required by the department.

3 (11) "Criminal history" means the list of a defendant's prior
4 convictions and juvenile adjudications, whether in this state, in
5 federal court, or elsewhere.

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

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

14 (c) The determination of a defendant's criminal history is distinct
15 from the determination of an offender score. A prior conviction that
16 was not included in an offender score calculated pursuant to a former
17 version of the sentencing reform act remains part of the defendant's
18 criminal history.

19 (12) "Criminal street gang" means any ongoing organization,
20 association, or group of three or more persons, whether formal or
21 informal, having a common name or common identifying sign or symbol,
22 having as one of its primary activities the commission of criminal
23 acts, and whose members or associates individually or collectively
24 engage in or have engaged in a pattern of criminal street gang
25 activity. This definition does not apply to employees engaged in
26 concerted activities for their mutual aid and protection, or to the
27 activities of labor and bona fide nonprofit organizations or their
28 members or agents.

29 (13) "Criminal street gang associate or member" means any person
30 who actively participates in any criminal street gang and who
31 intentionally promotes, furthers, or assists in any criminal act by the
32 criminal street gang.

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

- 1 (a) To gain admission, prestige, or promotion within the gang;
2 (b) To increase or maintain the gang's size, membership, prestige,
3 dominance, or control in any geographical area;
4 (c) To exact revenge or retribution for the gang or any member of
5 the gang;
6 (d) To obstruct justice, or intimidate or eliminate any witness
7 against the gang or any member of the gang;
8 (e) To directly or indirectly cause any benefit, aggrandizement,
9 gain, profit, or other advantage for the gang, its reputation,
10 influence, or membership; or
11 (f) To provide the gang with any advantage in, or any control or
12 dominance over any criminal market sector, including, but not limited
13 to, manufacturing, delivering, or selling any controlled substance
14 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
15 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88
16 RCW); human trafficking (RCW 9A.40.100); ~~((\otimes))~~ promoting pornography
17 (chapter 9.68 RCW); commercial sexual abuse of a minor (RCW 9.68A.100);
18 or promoting commercial sexual abuse of a minor (RCW 9.68A.101).

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

23 (16) "Day reporting" means a program of enhanced supervision
24 designed to monitor the offender's daily activities and compliance with
25 sentence conditions, and in which the offender is required to report
26 daily to a specific location designated by the department or the
27 sentencing court.

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

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

37 (19) "Disposable earnings" means that part of the earnings of an
38 offender remaining after the deduction from those earnings of any

1 amount required by law to be withheld. For the purposes of this
2 definition, "earnings" means compensation paid or payable for personal
3 services, whether denominated as wages, salary, commission, bonuses, or
4 otherwise, and, notwithstanding any other provision of law making the
5 payments exempt from garnishment, attachment, or other process to
6 satisfy a court-ordered legal financial obligation, specifically
7 includes periodic payments pursuant to pension or retirement programs,
8 or insurance policies of any type, but does not include payments made
9 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
10 or Title 74 RCW.

11 (20) "Domestic violence" has the same meaning as defined in RCW
12 10.99.020 and 26.50.010.

13 (21) "Drug offender sentencing alternative" is a sentencing option
14 available to persons convicted of a felony offense other than a violent
15 offense or a sex offense and who are eligible for the option under RCW
16 9.94A.660.

17 (22) "Drug offense" means:

18 (a) Any felony violation of chapter 69.50 RCW except possession of
19 a controlled substance (RCW 69.50.4013) or forged prescription for a
20 controlled substance (RCW 69.50.403);

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

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

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

29 (24) "Escape" means:

30 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the
31 first degree (RCW 9A.76.110), escape in the second degree (RCW
32 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
33 willful failure to return from work release (RCW 72.65.070), or willful
34 failure to be available for supervision by the department while in
35 community custody (RCW 72.09.310); 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 an escape
38 under (a) of this subsection.

1 (25) "Felony traffic offense" means:

2 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
3 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-
4 run injury-accident (RCW 46.52.020(4)), felony driving while under the
5 influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or
6 felony physical control of a vehicle while under the influence of
7 intoxicating liquor or any drug (RCW 46.61.504(6)); or

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

11 (26) "Fine" means a specific sum of money ordered by the sentencing
12 court to be paid by the offender to the court over a specific period of
13 time.

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

17 (28) "Home detention" means a program of partial confinement
18 available to offenders wherein the offender is confined in a private
19 residence subject to electronic surveillance.

20 (29) "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 funds,
25 court-appointed attorneys' fees, and costs of defense, fines, and any
26 other financial obligation that is assessed to the offender as a result
27 of a felony conviction. Upon conviction for vehicular assault while
28 under the influence of intoxicating liquor or any drug, RCW
29 46.61.522(1)(b), or vehicular homicide while under the influence of
30 intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial
31 obligations may also include payment to a public agency of the expense
32 of an emergency response to the incident resulting in the conviction,
33 subject to RCW 38.52.430.

34 (30) "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 (31) "Most serious offense" means any of the following felonies or
38 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 liquor
21 or any drug or by the operation or driving of a vehicle in a reckless
22 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 of
26 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.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.

1 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
2 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
3 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

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

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

18 (32) "Nonviolent offense" means an offense which is not a violent
19 offense.

20 (33) "Offender" means a person who has committed a felony
21 established by state law and is eighteen years of age or older or is
22 less than eighteen years of age but whose case is under superior court
23 jurisdiction under RCW 13.04.030 or has been transferred by the
24 appropriate juvenile court to a criminal court pursuant to RCW
25 13.40.110. In addition, for the purpose of community custody
26 requirements under this chapter, "offender" also means a misdemeanor or
27 gross misdemeanor probationer convicted of an offense included in RCW
28 9.94A.501(1) and ordered by a superior court to probation under the
29 supervision of the department pursuant to RCW 9.92.060, 9.95.204, or
30 9.95.210. Throughout this chapter, the terms "offender" and
31 "defendant" are used interchangeably.

32 (34) "Partial confinement" means confinement for no more than one
33 year in a facility or institution operated or utilized under contract
34 by the state or any other unit of government, or, if home detention or
35 work crew has been ordered by the court or home detention has been
36 ordered by the department as part of the parenting program, in an
37 approved residence, for a substantial portion of each day with the

1 balance of the day spent in the community. Partial confinement
2 includes work release, home detention, work crew, and a combination of
3 work crew and home detention.

4 (35) "Pattern of criminal street gang activity" means:

5 (a) The commission, attempt, conspiracy, or solicitation of, or any
6 prior juvenile adjudication of or adult conviction of, two or more of
7 the following criminal street gang-related offenses:

8 (i) Any "serious violent" felony offense as defined in this
9 section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a
10 Child 1 (RCW 9A.36.120);

11 (ii) Any "violent" offense as defined by this section, excluding
12 Assault of a Child 2 (RCW 9A.36.130);

13 (iii) Deliver or Possession with Intent to Deliver a Controlled
14 Substance (chapter 69.50 RCW);

15 (iv) Any violation of the firearms and dangerous weapon act
16 (chapter 9.41 RCW);

17 (v) Theft of a Firearm (RCW 9A.56.300);

18 (vi) Possession of a Stolen Firearm (RCW 9A.56.310);

19 (vii) Malicious Harassment (RCW 9A.36.080);

20 (viii) Harassment where a subsequent violation or deadly threat is
21 made (RCW 9A.46.020(2)(b));

22 (ix) Criminal Gang Intimidation (RCW 9A.46.120);

23 (x) Any felony conviction by a person eighteen years of age or
24 older with a special finding of involving a juvenile in a felony
25 offense under RCW 9.94A.833;

26 (xi) Residential Burglary (RCW 9A.52.025);

27 (xii) Burglary 2 (RCW 9A.52.030);

28 (xiii) Malicious Mischief 1 (RCW 9A.48.070);

29 (xiv) Malicious Mischief 2 (RCW 9A.48.080);

30 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);

31 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);

32 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);

33 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
34 9A.56.075);

35 (xix) Extortion 1 (RCW 9A.56.120);

36 (xx) Extortion 2 (RCW 9A.56.130);

37 (xxi) Intimidating a Witness (RCW 9A.72.110);

38 (xxii) Tampering with a Witness (RCW 9A.72.120);

1 (xxiii) Reckless Endangerment (RCW 9A.36.050);

2 (xxiv) Coercion (RCW 9A.36.070);

3 (xxv) Harassment (RCW 9A.46.020); or

4 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);

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

7 (c) That the most recent committed offense listed in (a) of this
8 subsection occurred within three years of a prior offense listed in (a)
9 of this subsection; and

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

13 (36) "Persistent offender" is an offender who:

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

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

24 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
25 of a child in the first degree, child molestation in the first degree,
26 rape in the second degree, rape of a child in the second degree, or
27 indecent liberties by forcible compulsion; (B) any of the following
28 offenses with a finding of sexual motivation: Murder in the first
29 degree, murder in the second degree, homicide by abuse, kidnapping in
30 the first degree, kidnapping in the second degree, assault in the first
31 degree, assault in the second degree, assault of a child in the first
32 degree, assault of a child in the second degree, or burglary in the
33 first degree; or (C) an attempt to commit any crime listed in this
34 subsection (36)(b)(i); and

35 (ii) Has, before the commission of the offense under (b)(i) of this
36 subsection, been convicted as an offender on at least one occasion,
37 whether in this state or elsewhere, of an offense listed in (b)(i) of
38 this subsection or any federal or out-of-state offense or offense under

1 prior Washington law that is comparable to the offenses listed in
2 (b)(i) of this subsection. A conviction for rape of a child in the
3 first degree constitutes a conviction under (b)(i) of this subsection
4 only when the offender was sixteen years of age or older when the
5 offender committed the offense. A conviction for rape of a child in
6 the second degree constitutes a conviction under (b)(i) of this
7 subsection only when the offender was eighteen years of age or older
8 when the offender committed the offense.

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

31 (38) "Private school" means a school regulated under chapter
32 28A.195 or 28A.205 RCW.

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

34 (40) "Repetitive domestic violence offense" means any:

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

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

1 (iii) Domestic violence violation of a protection order under
2 chapter 26.09, 26.10, 26.26, or 26.50 RCW that is not a felony offense;
3 (iv) Domestic violence harassment offense under RCW 9A.46.020 that
4 is not a felony offense; or
5 (v) Domestic violence stalking offense under RCW 9A.46.110 that is
6 not a felony offense; or
7 (b) Any federal, out-of-state, tribal court, military, county, or
8 municipal conviction for an offense that under the laws of this state
9 would be classified as a repetitive domestic violence offense under (a)
10 of this subsection.

11 (41) "Restitution" means a specific sum of money ordered by the
12 sentencing court to be paid by the offender to the court over a
13 specified period of time as payment of damages. The sum may include
14 both public and private costs.

15 (42) "Risk assessment" means the application of the risk instrument
16 recommended to the department by the Washington state institute for
17 public policy as having the highest degree of predictive accuracy for
18 assessing an offender's risk of reoffense.

19 (43) "Serious traffic offense" means:
20 (a) Nonfelony driving while under the influence of intoxicating
21 liquor or any drug (RCW 46.61.502), nonfelony actual physical control
22 while under the influence of intoxicating liquor or any drug (RCW
23 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an
24 attended vehicle (RCW 46.52.020(5)); or
25 (b) Any federal, out-of-state, county, or municipal conviction for
26 an offense that under the laws of this state would be classified as a
27 serious traffic offense under (a) of this subsection.

28 (44) "Serious violent offense" is a subcategory of violent offense
29 and means:
30 (a)(i) Murder in the first degree;
31 (ii) Homicide by abuse;
32 (iii) Murder in the second degree;
33 (iv) Manslaughter in the first degree;
34 (v) Assault in the first degree;
35 (vi) Kidnapping in the first degree;
36 (vii) Rape in the first degree;
37 (viii) Assault of a child in the first degree; or

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

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

6 (45) "Sex offense" means:

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

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

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

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

14 (v) A felony violation of RCW 9A.44.132(1) (failure to register) if
15 the person has been convicted of violating RCW 9A.44.132(1) (failure to
16 register) on at least one prior occasion;

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

20 (c) A felony with a finding of sexual motivation under RCW
21 9.94A.835 or 13.40.135; or

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

25 (46) "Sexual motivation" means that one of the purposes for which
26 the defendant committed the crime was for the purpose of his or her
27 sexual gratification.

28 (47) "Standard sentence range" means the sentencing court's
29 discretionary range in imposing a nonappealable sentence.

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

34 (49) "Stranger" means that the victim did not know the offender
35 twenty-four hours before the offense.

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

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

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

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

12 (53) "Violent offense" means:

13 (a) Any of the following felonies:

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

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

18 (iii) Manslaughter in the first degree;

19 (iv) Manslaughter in the second degree;

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

21 (vi) Kidnapping in the second degree;

22 (vii) Arson in the second degree;

23 (viii) Assault in the second degree;

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

25 (x) Extortion in the first degree;

26 (xi) Robbery in the second degree;

27 (xii) Drive-by shooting;

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

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

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

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

4 (54) "Work crew" means a program of partial confinement consisting
5 of civic improvement tasks for the benefit of the community that
6 complies with RCW 9.94A.725.

7 (55) "Work ethic camp" means an alternative incarceration program
8 as provided in RCW 9.94A.690 designed to reduce recidivism and lower
9 the cost of corrections by requiring offenders to complete a
10 comprehensive array of real-world job and vocational experiences,
11 character-building work ethics training, life management skills
12 development, substance abuse rehabilitation, counseling, literacy
13 training, and basic adult education.

14 (56) "Work release" means a program of partial confinement
15 available to offenders who are employed or engaged as a student in a
16 regular course of study at school.

17 NEW SECTION. **Sec. 11.** (1) Every piece of real property, building,
18 or unit within a building that is rental or leased property upon or
19 within which three or more unrelated criminal street gang-related
20 offenses, as defined in RCW 9.94A.030, have occurred in the prior year
21 is a nuisance that may be enjoined, abated, and prevented, whether it
22 is a public or private nuisance. In a multiunit building, only the
23 offending unit may be declared a nuisance, and only the offending unit
24 may be enjoined, abated, and prevented. Nothing in this chapter
25 applies to property used for the purpose of, or actively involved in,
26 providing health services, food and financial assistance, treatment,
27 counseling, training, religious services, education, civic involvement,
28 or any social service or charitable assistance.

29 (2) As used in this chapter:

30 (a) "Building" includes, but is not limited to, any structure or
31 any separate part or portion thereof, whether permanent or not, or the
32 ground itself.

33 (b) "Unrelated" means offenses that are temporally separate and
34 distinct from one another and not part of the same criminal incident.
35 It does not require that different perpetrators commit the offenses.
36 Offenses that occur in retaliation for or in response to prior crimes
37 are unrelated to those prior crimes for purposes of this chapter.

1 NEW SECTION. **Sec. 12.** (1) The action provided for in this chapter
2 may be brought by a county or municipal government entity in the
3 superior court in the county in which the property is located. The
4 action is commenced by the filing of a complaint alleging the facts
5 constituting the nuisance.

6 (2) Any complaint filed under this chapter must be verified or
7 accompanied by affidavit. For purposes of showing that the owner of
8 the property or his or her agent has had an opportunity to abate the
9 nuisance, the affidavit must contain a description of all attempts by
10 the plaintiff to notify and locate the owner of the property or the
11 owner's agent.

12 (3) In addition, the affidavit must describe in detail the adverse
13 impact associated with the property on the surrounding neighborhood.
14 "Adverse impact" includes, but is not limited to, the following: Any
15 search warrants served on the property; investigative purchases of
16 controlled substances on or near the property by law enforcement or
17 their agents; arrests of persons who frequent the property for criminal
18 street gang-related offenses; the number of complaints made to law
19 enforcement of criminal street gang-related activity associated with
20 the property; and the existence of criminal street gang-related
21 graffiti within a one-eighth mile distance from the property.

22 (4) This chapter does not prevent county and municipal governments
23 from instituting similar abatement actions pursuant to local
24 ordinances.

25 NEW SECTION. **Sec. 13.** (1) Upon application for a temporary
26 restraining order or preliminary injunction, the court may, upon a
27 showing of good cause, issue an ex parte restraining order or
28 preliminary injunction, preventing the defendant and all other persons,
29 other than the legal owner, from removing or in any manner interfering
30 with the personal property and contents of the place where the nuisance
31 is alleged to exist. The court may grant such preliminary equitable
32 relief as is necessary to prevent the continuance or recurrence of the
33 nuisance pending final resolution of the matter on the merits. Such ex
34 parte restraining order or preliminary injunction may remain in effect
35 no more than fifteen days from the date of issuance, except as provided
36 in section 15 of this act.

1 (2) The restraining order or preliminary injunction must be served
2 on the defendant personally, or by leaving a copy with any person of
3 suitable age and discretion who is in charge of the property or who is
4 residing at the property. Where the defendant cannot with reasonable
5 diligence be served as described, the restraining order or preliminary
6 injunction may be served by posting a copy in a conspicuous place on
7 the property and thereafter mailing a copy by registered mail to the
8 defendant to be served at his or her usual mailing address.
9 Additionally, a copy of the restraining order or preliminary injunction
10 must be sent by registered mail to the owner of the real property,
11 building, or unit within a building.

12 NEW SECTION. **Sec. 14.** An action under this chapter has
13 precedence over all other actions, except prior matters of the same
14 character, criminal proceedings, child dependency hearings, election
15 contests, hearings on temporary restraining orders and injunctions, and
16 actions to forfeit vehicles used in violation of the uniform controlled
17 substances act.

18 NEW SECTION. **Sec. 15.** A copy of the complaint, together with a
19 notice of the time and place of the hearing of the action, must be
20 served upon the defendant at least six business days before the hearing
21 and as provided for in section 13 of this act. If the hearing is then
22 continued at the request of any defendant, all temporary orders and
23 injunctions must be extended as a matter of course.

24 NEW SECTION. **Sec. 16.** (1) Except as provided in subsection (2) of
25 this section, if the existence of the nuisance is established in the
26 action, an order of abatement must be entered as part of the final
27 judgment in the case. The plaintiff's costs in the action, including
28 those of abatement, are a lien upon the real property, building, or
29 unit within a building to the extent of the owner's interest. The lien
30 must be filed as a judgment summary stating the name of the owner and
31 the legal description of the real property. The lien must be recorded
32 and enforced as a judgment summary.

33 (2) If the court finds and concludes that the owner of the real
34 property, building, or unit within a building: (a) Had no knowledge of
35 the existence of the nuisance or has been making reasonable efforts to

1 abate the nuisance; (b) has not been guilty of any contempt of court in
2 the proceedings; and (c) will immediately abate any such nuisance that
3 may exist at the real property, building, or unit within a building and
4 prevent it from being a nuisance within a period of one year
5 thereafter, the court shall, if satisfied of the owner's good faith,
6 order the real property, building, or unit within a building to be
7 delivered to the owner, and no order of abatement may be entered. If
8 an order of abatement has been entered and the owner subsequently meets
9 the requirements of this subsection, the order of abatement must be
10 canceled.

11 (3) For the purposes of determining whether the owner of the real
12 property, building, or unit within a building made reasonable efforts
13 to abate the nuisance, the court shall consider such factors as whether
14 the owner: (a) Terminated or attempted to terminate the tenancy or
15 lease of a tenant or leaseholder where the nuisance is occurring, if
16 the tenant or leaseholder is involved in the criminal street gang
17 activity; (b) placed restrictions on the rental agreement or lease; (c)
18 adopted feasible measures on the property to try to prevent the
19 criminal street gang activity; (d) cooperated with law enforcement to
20 attempt to stop the criminal street gang activity; or (e) made other
21 efforts the court finds relevant.

22 NEW SECTION. **Sec. 17.** Any final order of abatement issued under
23 this chapter may:

24 (1) If the building or unit is not subject to the interests of
25 innocent legal owners, provide for the immediate closure of the real
26 property, building, or unit within a building against its use for any
27 purpose, and for keeping it closed for a period of one year unless
28 released sooner as provided in this chapter;

29 (2) State that while the order of abatement remains in effect the
30 building or unit within a building must remain in the custody of the
31 court;

32 (3) Authorize a law enforcement officer to enter the real property,
33 building, or unit within a building to create an inventory of the
34 personal property and contents located on or in the real property,
35 building, or unit within a building for submission to the court; and

36 (4) Provide for any other relief necessary and proper under the
37 circumstances.

1 rental premises, or for physically assaulting another person on the
2 rental premises, shall make a reasonable attempt to discover the
3 identity of the landlord and notify the landlord about the arrest in
4 writing, at the last address listed in the property tax records and at
5 any other address known to the law enforcement agency.

6 (3)(a) A law enforcement agency that has probable cause to believe
7 that a tenant or other occupant of a rental unit has committed a
8 criminal street gang-related offense, as defined in RCW 9.94A.030,
9 shall make a reasonable attempt to discover the identity of the
10 landlord and notify the landlord in writing, at the last address listed
11 in the property tax records and at any other address known to the law
12 enforcement agency, of the criminal street gang-related offense on the
13 rental premises.

14 (b) For the purposes of this subsection (3), the law enforcement
15 agency shall include the following information with the notice:

16 (i) The name of the tenant and the individual or individuals who
17 were involved in the criminal street gang-related offense;

18 (ii) The rental unit where the incident occurred;

19 (iii) The date of the incident;

20 (iv) Actions taken by the law enforcement agency in response to the
21 incident;

22 (v) A statement outlining the authority of a landlord under chapter
23 59.12 RCW to commence an unlawful detainer action against a tenant who
24 has committed or permitted gang-related activity at the premises; and

25 (vi) Penalties the landlord may face for failure to abate a
26 nuisance.

27 NEW SECTION. Sec. 23. The legislature finds that the presence of
28 criminal street gangs and the gang-related crimes they commit is
29 increasing in Washington. In communities where criminal street gangs
30 have become established, the gangs' criminal activities have become a
31 blight on the community, endangering the physical safety of the
32 citizens living there, negatively affecting the communities' economic
33 vitality, and reducing the citizens' right to fully enjoy their liberty
34 and property rights. The legislature further finds that the government
35 has a compelling interest in protecting the physical safety and the
36 property and liberty interests of its citizens. Finally, the
37 legislature finds that these compelling interests will be served by

1 permitting a local or municipal government to apply for a protection
2 order that is narrowly tailored to a specific area where a gang and its
3 individual members have become a blight on the community in order to
4 break the gang's hold over that area.

5 NEW SECTION. **Sec. 24.** (1) "Criminal street gang" has the same
6 meaning as in RCW 9.94A.030.

7 (2) "Criminal street gang associate or member" has the same meaning
8 as in RCW 9.94A.030. However, in determining whether a person is a
9 criminal street gang associate or member, the court may also consider
10 all other relevant evidence including, but not limited to, admissions
11 by a person that he or she is an associate or member of a criminal
12 street gang.

13 (3) "Protection zone" means a specific geographic area within which
14 the provisions of the injunctive relief sought and ordered by the court
15 are operable and enforceable.

16 NEW SECTION. **Sec. 25.** An action seeking a protection order
17 against a criminal street gang and associates or members thereof may be
18 brought by the county prosecuting attorney or municipal attorney in any
19 county or municipality where the protection zone sought pursuant to the
20 action is located.

21 NEW SECTION. **Sec. 26.** (1) A party seeking a protection order
22 under this chapter may file a petition seeking such relief in superior
23 court in the county in which the protection zone sought pursuant to the
24 action is located.

25 (2) The petition must:

26 (a) Be supported with an affidavit providing the factual bases
27 supporting the issuance of a protection order including, but not
28 limited to, the factual bases of support for the issuance of the order
29 as to each respondent whose activities and behavior the petition seeks
30 to enjoin;

31 (b) Contain a specific description of the protection zone within
32 which the petitioner seeks to have the protection order operate; and

33 (c) Contain a specific list of the activities in the protection
34 zone sought to be enjoined.

1 (3) The court shall order a hearing on the petition, which must be
2 held not later than fourteen days after the petition is filed.

3 (4) All respondents must be personally served with a copy of the
4 petition, notice of the date and time of the hearing, and notice that
5 they are entitled to appear in person and respond to the allegations
6 contained in the petition not less than five court days before the
7 hearing. If timely personal service cannot be made, the court shall
8 set a new hearing date and shall either require additional attempts at
9 obtaining personal service or permit service by publication as provided
10 by RCW 10.14.085. If the court permits service by publication, the
11 court shall set the hearing date not later than twenty-four days from
12 the date the court enters the order permitting service by publication.

13 (5) The court may appoint counsel to represent the respondent at
14 the hearing at county expense.

15 (6) At the hearing, the county prosecuting attorney or municipal
16 attorney must prove, and the court must find, that the evidence
17 presented establishes by clear and convincing evidence:

18 (a) That in a specific and delineated geographic area, there exists
19 the following:

20 (i) A criminal street gang;

21 (ii) Whose associates or members individually or collectively have
22 been convicted or adjudicated of committing, attempting, or conspiring
23 to commit, or soliciting the commitment of, two or more of the offenses
24 listed in RCW 9.94A.030(35); and

25 (iii) That at least one of the offenses listed in RCW 9.94A.030(35)
26 occurred after July 1, 2008;

27 (iv) That the most recent committed offense listed in RCW
28 9.94A.030(35) occurred within three years of a prior offense listed in
29 RCW 9.94A.030(35); and

30 (v) The offenses in RCW 9.94A.030(35) that were committed occurred
31 on separate occasions or were committed by two or more persons;

32 (b) A substantial amount of the criminal street gang's activities
33 have occurred in the specified geographic area; and

34 (c) The named respondent is a criminal street gang associate or
35 member of the criminal street gang established in (a) of this
36 subsection.

1 NEW SECTION. **Sec. 27.** If the court finds the petitioner has
2 satisfied the burden under section 26(6) of this act, the court shall
3 enter an order:

4 (1) Specifically describing the geographic boundaries within which
5 the protection order will apply;

6 (2) Providing for all relief necessary and proper under the
7 circumstances, including an order that any respondent who the court has
8 found to be a criminal street gang associate or member may not engage
9 in certain conduct, including but not limited to the following:

10 (a) Associating or communicating directly or indirectly with any
11 other person found by the court to be a criminal street gang associate
12 or member;

13 (b) Engaging in any intimidation of any person;

14 (c) Possessing firearms, imitation firearms, or dangerous weapons;

15 (d) Possessing or consuming drugs or alcohol;

16 (e) Trespassing;

17 (f) Engaging in gang-related graffiti or possessing graffiti tools;

18 (g) Forcibly recruiting any person into the criminal street gang or
19 preventing any criminal street gang associate or member from leaving
20 the criminal street gang;

21 (h) Violating any law;

22 (i) Violating any curfew set by the court;

23 (j) Going on the grounds of any named public and private schools,
24 not including home-based instruction, as defined in RCW 28A.225.010;

25 (k) Going to any other designated locations;

26 (l) Directly or indirectly contacting minors going to and from
27 schools, if the respondent is eighteen years of age or older;

28 (m) Wearing gang clothing in public; and

29 (n) Directly or indirectly contacting specified individuals such as
30 persons on probation or parole;

31 (3) Providing the expiration date of the order, which must be one
32 year from the date the order is entered;

33 (4) Providing that a respondent who knows of the order who
34 willfully violates the order may be criminally prosecuted pursuant to
35 section 29 of this act and, if convicted, may be punished by a fine of
36 not more than five thousand dollars, imprisonment for not more than one
37 year, or both;

1 (5) With respect to any condition imposed pursuant to subsection
2 (2)(a), (j), (k), (l), and (n) of this section, the condition may not
3 apply to enjoin a person from:

4 (a) Communicating with another criminal street gang associate or
5 member who:

6 (i) Resides with the person if they are related by blood or
7 marriage or have a dating relationship;

8 (ii) Is married to the person;

9 (iii) Has a child with the person, regardless of whether they have
10 been married; or

11 (iv) Has a biological or legal parent-child, grandparent-child, or
12 sibling relationship with the person;

13 (b) Communicating with a minor or another criminal street gang
14 associate or member on school grounds where the communication is
15 necessary for legitimate educational purposes;

16 (c) Communicating with another criminal street gang associate or
17 member on the grounds of a church, synagogue, mosque, or similar
18 property where the communication is necessary for religious purposes;

19 (d) Going on the grounds of any public or private school, not
20 including home-based instruction, where the visit is for legitimate
21 educational purposes; or

22 (e) Going on the grounds of any church, synagogue, mosque, or
23 similar property where the visit is for religious purposes.

24 NEW SECTION. **Sec. 28.** (1) If the court issues a protection order
25 under this chapter, all respondents who are subject to the court's
26 order must be personally served with a copy of the order. However, if
27 the order issued by the court recites that the respondent appeared in
28 person before the court, the necessity for further service is waived
29 and proof of service of that order is not necessary.

30 (2) If personal service cannot be made, the petitioner may apply to
31 the court for permission to serve a copy of the order on the respondent
32 by publication consistent with the procedures found in RCW 10.14.085.

33 NEW SECTION. **Sec. 29.** (1) Any respondent who willfully violates
34 any protection order issued pursuant to this chapter is guilty of a
35 gross misdemeanor punishable by a fine of not more than five thousand
36 dollars, imprisonment for not more than one year, or both.

1 (2) However, the sentence imposed for any willful violation of such
2 an order must include at least seven days in jail for an adult or seven
3 days in detention for a juvenile if the violation occurs:

4 (a) In a school;

5 (b) On a school bus;

6 (c) Within three hundred feet of a school bus route stop designated
7 by the school district;

8 (d) Within one thousand feet of the perimeter of school grounds; or

9 (e) In a public park.

10 (3) When detention is imposed under this section on a respondent
11 who is under the age of eighteen, the court may impose an alternative
12 to total confinement.

13 NEW SECTION. **Sec. 30.** (1) An order issued pursuant to this
14 chapter is effective for one year.

15 (2) The petitioner may reapply for a continuation of the order by
16 filing a new petition no more than thirty days prior to the expiration
17 of the current order. The petition must comply in all respects with
18 the procedures governing the issuance of the initial order found in
19 section 26 of this act.

20 NEW SECTION. **Sec. 31.** (1) Any respondent to whom an order issued
21 pursuant to this chapter applies may petition the court to modify the
22 terms and conditions of the order. The court may only consider such a
23 motion where the petitioner is provided notice consistent with the
24 provisions of this chapter. Where the requested modification is to
25 exempt from the provisions of the order a particular respondent, notice
26 of the motion and the contents thereof need not be served on other
27 respondents but only the petitioner and the respondent who seeks
28 exemption from the order.

29 (2) The petitioner may petition the court to modify the terms and
30 conditions of the order. The court may only consider such a motion
31 where any respondents to whom the modification would apply are provided
32 notice consistent with the provisions of this chapter.

33 (3) The court may grant any requested modifications of the terms
34 and conditions of the order that it deems necessary and proper under
35 the circumstances considering the evidence presented at the hearing at

1 which the order was issued, as well as the evidence presented at the
2 modification hearing.

3 NEW SECTION. **Sec. 32.** Nothing in this chapter precludes a
4 petitioner's right to utilize other existing civil remedies.

5 **Sec. 33.** RCW 26.50.160 and 2006 c 138 s 26 are each amended to
6 read as follows:

7 To prevent the issuance of competing protection orders in different
8 courts and to give courts needed information for issuance of orders,
9 the judicial information system shall be available in each district,
10 municipal, and superior court by July 1, 1997, and shall include a
11 database containing the following information:

12 (1) The names of the parties and the cause number for every order
13 of protection issued under this title, every sexual assault protection
14 order issued under chapter 7.90 RCW, every criminal no-contact order
15 issued under chapters 9A.46 and 10.99 RCW, every antiharassment order
16 issued under chapter 10.14 RCW, every dissolution action under chapter
17 26.09 RCW, every third-party custody action under chapter 26.10 RCW,
18 every parentage action under chapter 26.26 RCW, every restraining order
19 issued on behalf of an abused child or adult dependent person under
20 chapter 26.44 RCW, every foreign protection order filed under chapter
21 26.52 RCW, and every order for protection of a vulnerable adult under
22 chapter 74.34 RCW. When a guardian or the department of social and
23 health services has petitioned for relief on behalf of an abused child,
24 adult dependent person, or vulnerable adult, the name of the person on
25 whose behalf relief was sought shall be included in the database as a
26 party rather than the guardian or department. The names of the parties
27 and the cause number for a protection order issued under section 27 of
28 this act need not be entered in the judicial information system;

29 (2) A criminal history of the parties; and

30 (3) Other relevant information necessary to assist courts in
31 issuing orders under this chapter as determined by the judicial
32 information system committee.

33 **Sec. 34.** RCW 70.41.440 and 2009 c 359 s 2 are each amended to read
34 as follows:

35 (1) A hospital shall report to a local law enforcement authority as

1 soon as reasonably possible, taking into consideration a patient's
2 emergency care needs, when the hospital provides treatment for a bullet
3 wound, gunshot wound, or stab wound to a patient (~~who is~~
4 ~~unconscious~~). A hospital shall establish a written policy to identify
5 the person or persons responsible for making the report.

6 (2) The report required under subsection (1) of this section must
7 include the following information, if known:

8 (a) The name, residence, sex, and age of the patient;

9 (b) Whether the patient has received a bullet wound, gunshot wound,
10 or stab wound; and

11 (c) The name of the health care provider providing treatment for
12 the bullet wound, gunshot wound, or stab wound.

13 (3) Nothing in this section shall limit a person's duty to report
14 under RCW 26.44.030 or 74.34.035.

15 (4) Any bullets, clothing, or other foreign objects that are
16 removed from a patient for whom a hospital is required to make a report
17 pursuant to subsection (1) of this section shall be preserved and kept
18 in custody in such a way that the identity and integrity thereof are
19 reasonably maintained until the bullets, clothing, or other foreign
20 objects are taken into possession by a law enforcement authority or the
21 hospital's normal period for retention of such items expires, whichever
22 occurs first.

23 (5) Any hospital or person who in good faith, and without gross
24 negligence or willful or wanton misconduct, makes a report required by
25 this section, cooperates in an investigation or criminal or judicial
26 proceeding related to such report, or maintains bullets, clothing, or
27 other foreign objects, or provides such items to a law enforcement
28 authority as described in subsection (4) of this section, is immune
29 from civil or criminal liability or professional licensure action
30 arising out of or related to the report and its contents or the absence
31 of information in the report, cooperation in an investigation or
32 criminal or judicial proceeding, and the maintenance or provision to a
33 law enforcement authority of bullets, clothing, or other foreign
34 objects under subsection (4) of this section.

35 (6) The physician-patient privilege described in RCW 5.60.060(4),
36 the registered nurse-patient privilege described in RCW 5.62.020, and
37 any other health care provider-patient privilege created or recognized

1 by law are not a basis for excluding as evidence in any criminal
2 proceeding any report, or information contained in a report made under
3 this section.

4 (7) All reporting, preservation, or other requirements of this
5 section are secondary to patient care needs and may be delayed or
6 compromised without penalty to the hospital or person required to
7 fulfill the requirements of this section.

8 NEW SECTION. **Sec. 35.** If any provision of this act or its
9 application to any person or circumstance is held invalid, the
10 remainder of the act or the application of the provision to other
11 persons or circumstances is not affected.

12 NEW SECTION. **Sec. 36.** Sections 11 through 21 of this act
13 constitute a new chapter in Title 7 RCW.

14 NEW SECTION. **Sec. 37.** Sections 23 through 32 of this act
15 constitute a new chapter in Title 10 RCW.

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