ORIGINAL

ORDINANCE NO. 2212

AN ORDINANCE OF THE CITY OF REDMOND, WASHINGTON, AMENDING REDMOND MUNICIPAL CODE SECTION 9.34.010, ASSAULT AND OTHER CRIMES INVOLVING HARM TO PERSONS; ADOPTING BY REFERENCE **RCW** 9.35.005, 9.35.030, DEFINITIONS, RCW SOLICITING UNDESIRED MAIL, RCW 9.61.240, PERMITTING PHONE TO BE USED, RCW 9.61.250, TELEPHONE HARASSMENT - OFFENSE, WHERE DEEMED COMMITTED, RCW 9A.42.10, DEFINITIONS, RCW 9A.42.035, CRIMINAL MISTREATMENT IN THE THIRD DEGREE, RCW 9A.42.037, **CRIMINAL** MISTREATMENT IN THE FOURTH DEGREE, RCW 9A.42.080, ABANDONMENT OF A DEPENDENT PERSON IN THE THIRD DEGREE - EXCEPTION, RCW 9A.49.010, DEFINITIONS, AND RCW 9A.49.030, UNLAWFUL DISCHARGE OF A LASER: CONTAINING A SEVERABILITY CLAUSE AND ESTABLISHING AN EFFECTIVE DATE OF JULY 1, 2004.

WHEREAS, the Redmond City Council finds that this ordinance is in the interest of the public health, safety, and welfare, NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF REDMOND, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. Section 9.34.010 Amended. Section 9.34.010 of the Redmond Municipal Code is hereby amended to read as follows:

9.34.010 Assault and other crimes involving harm to persons. The following statutes of the state of Washington, including any future amendments, additions thereto and repeals thereof, are hereby adopted by reference and incorporated herein by this reference as if set forth in full:

RCW 9.35.005 Definitions

RCW 9.35.030 Soliciting undesired mail

RCW 9.61.230	Telephone harassment
RCW 9.61.240	Permitting phone to be used
RCW 9.61.250	<u>Telephone harassment - Offense, where deemed</u>
	committed.
RCW 9A.36.041	Assault in the fourth degree
RCW 9A.36.050	Reckless endangerment in the second degree
RCW 9A.36.070	Coercion
Laws of 1996, Chapter 248,	
Section 3 RCW 9A.36.150	Interfering with the reporting of domestic violence
RCW 9A.42.010	<u>Definitions.</u>
RCW 9A.42.035	Criminal mistreatment in the third degree
RCW 9A.42.037	Criminal mistreatment in the fourth degree
RCW 9A.42.080	Abandonment of a dependent person in the third degree -
	Exception.
RCW 9A.49.010	<u>Definitions</u>
RCW 9A.49.030	Unlawful discharge of a laser

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other sections, sentence, clause or phrase of this ordinance.

Section 3. Procedure. Incident to the adoption by reference of certain state laws contained in the Revised Code of Washington, one copy of the text of the statute adopted by reference in this ordinance is attached hereto as Exhibit A and shall be filed with the City Clerk as required by RCW 35A.12.140 for use and examination by the public..

Section 4. Effective Date. This ordinance shall take effect on July 1, 2004.

PPROVED:

MAYOR. ROSEMARIE M. IVES

ATTEST/AUTHENTICATED:

Borni L. Metter

CITY CLERK, BONNIE L. MATTSON

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY:

BY:

FILED WITH THE CITY CLERK!

PASSED BY THE CITY COUNCIL:

PUBLISHED:

EFFECTIVE DATE:

ORDINANCE NO. 2212

May 11, 2004

May 18, 2004

May -24, - 2004 July 1, 2004

June 25, 2004*

*Clerk's Note - The summary was not published by The Seattle Times on the requested date. It was published on June 25, 2004 after the error was discovered.

enjoyment of any telephone or telegraph facilities or service without depositing in and surrendering to such machine, coin-box telephone or receptacle lawful coin of the United States of America to the amount required therefor by the owner, lessee or licensee of such machine, coin-box telephone or receptacle, shall be guilty of a misdemeanor. [1929 c 184 § 1; RRS § 5842-1. Formerly RCW 9.45.180.]

9.26A.130 Penalty for manufacture or sale of slugs to be used for coin. Any person who, with intent to cheat or defraud the owner, lessee, licensee or other person entitled to the contents of any coin-box telephone or other receptacle, depository or contrivance, designed to receive lawful coin of the United States of America in connection with the sale, use or enjoyment of property or service, or who, knowing or having cause to believe, that the same is intended for unlawful use, shall manufacture for sale, or sell or give away any slug, device, or substance whatsoever intended or calculated to be placed or deposited in any coin-box telephone or other such receptacle, depository or contrivance, shall be guilty of a misdemeanor. [1929 c 184 § 2; RRS § 5842-2. Formerly RCW 9.45.190.]

9.26A.900 Severability—1990 c 11. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1990 c 11 § 6.]

Chapter 9.27 INTERFERENCE WITH COURT

Sections

9.27.015 Interference, obstruction of any court, building, or residence—Violations.

Disturbing school or school meeting: RCW 28A.635.030.

9.27.015 Interference, obstruction of any court, building, or residence—Violations. Whoever, interfering with, obstructing, or impeding the administration of justice, pickets or parades in or near a building housing a court of the state of Washington or any political subdivision thereof, or in or near a building or residence occupied or used by such judge, juror, witness, or court officer, or uses any sound-truck or similar device or resorts to any other demonstration in or near any such building or residence, shall be guilty of a gross misdemeanor.

Nothing in this section shall interfere with or prevent the exercise by any court of the state of Washington or any political subdivision thereof of its power to punish for contempt. [1971 ex.s. c 302 § 16.]

Severability-1971 ex.s. c 302: See note following RCW 9.41.010.

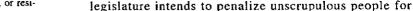
Chapter 9.31 ESCAPED PRISONER RECAPTURED

(Formerly: Escape)

Sections

9.31.090 Escaped prisoner recaptured.

Ordinance No. 2212



9.35.005 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Financial information" means any of the following information identifiable to the individual that concerns the amount and conditions of an individual's assets, liabilities, or credit:

(a) Account numbers and balances;

(b) Transactional information concerning an account; and

(c) Codes, passwords, social security numbers, tax identification numbers, driver's license or permit numbers, state identicard numbers issued by the department of licensing, and other information held for the purpose of account access or transaction initiation.

(2) "Financial information repository" means a person engaged in the business of providing services to customers who have a credit, deposit, trust, stock, or other financial account or relationship with the person.

(3) "Means of identification" means information or an item that is not describing finances or credit but is personal to or identifiable with an individual or other person, including: A current or former name of the person, telephone

Escape: RCW 9A.76.110 through 9A.76.130.

Limitation of action against officer for permitting escape: RCW 4.16.110.

Parole-revoked offender as escapee: RCW 9.95.130.

Prisoners—Correctional institutions: Chapter 9.94 RCW.

9.31.090 Escaped prisoner recaptured. Every person in custody, under sentence of imprisonment for any crime, who shall escape from custody, may be recaptured and imprisoned for a term equal to the unexpired portion of the original term. [1909 c 249 § 89; RRS § 2341.]

Indeterminate sentences: Chapter 9.95 RCW.

Chapter 9.35 IDENTITY CRIMES

Sections	
9.35.001	Finding-Intent.
9.35.005	Definitions.
9.35.010	Improperly obtaining financial information
9.35.020	Identity theft.
9.35.030	Soliciting undesired mail.
9.35.040	Information available to victim.
9.35.800	Application of Consumer Protection Act.
9.35.900	Effective date-1999 c 368.
9.35.901	Captions not law1999 c 368.
0.35.002	Severability1999 c 368

Block of information appearing as result of identity theft: RCW 19.182.160.

financial information is personal and sensitive information that if unlawfully obtained by others may do significant

harm to a person's privacy, financial security, and other

interests. The legislature finds that unscrupulous persons find ever more clever ways, including identity theft, to

improperly obtain and use financial information. The

improperly obtaining financial information. [1999 c 368 §

9.35.001 Finding—Intent. The legislature finds that

[Title 9 RCW-page 13]



number, an electronic address, or identifier of the individual or a member of his or her family, including the ancestor of the person; information relating to a change in name, address, telephone number, or electronic address or identifier of the individual or his or her family; a social security, driver's license, or tax identification number of the individual or a member of his or her family; and other information that could be used to identify the person, including unique biometric data.

- (4) "Person" means a person as defined in RCW 9A.04.110.
- (5) "Victim" means a person whose means of identification or financial information has been used or transferred with the intent to commit, or to aid or abet, any unlawful activity. [2001 c 217 § 1.]

Captions not law—2001 c 217: "Captions used in this act are not any part of the law." [2001 c 217 § 14.]

9.35.010 Improperly obtaining financial information. (1) No person may obtain or attempt to obtain, or cause to be disclosed or attempt to cause to be disclosed to any person, financial information from a financial information repository, financial services provider, merchant, corporation, trust, partnership, or unincorporated association:

- (a) By knowingly making a false, fictitious, or fraudulent statement or representation to an officer, employee, or agent of a financial information repository with the intent to deceive the officer, employee, or agent into relying on that statement or representation for purposes of releasing the financial information;
- (b) By knowingly making a false, fictitious, or fraudulent statement or representation to a customer of a financial information repository, financial services provider, merchant, corporation, trust, partnership, or unincorporated association with the intent to deceive the customer into releasing financial information or authorizing the release of such information;
- (c) By knowingly providing any document to an officer, employee, or agent of a financial information repository, financial services provider, merchant, corporation, trust, partnership, or unincorporated association, knowing that the document is forged, counterfeit, lost, or stolen; was fraudulently obtained; or contains a false, fictitious, or fraudulent statement or representation, if the document is provided with the intent to deceive the officer, employee, or agent to release the financial information.
- (2) No person may request another person to obtain financial information from a financial information repository, financial services provider, merchant, corporation, trust, partnership, or unincorporated association and knows or should have known that the person will obtain or attempt to obtain the information from the financial institution repository, financial services provider, merchant, corporation, trust, partnership, or unincorporated association in any manner described in subsection (1) of this section.
- (3) No provision of this section shall be construed so as to prevent any action by a law enforcement agency, or any officer, employee, or agent of such agency, or any action of an agent of the financial information repository, financial services provider, merchant, corporation, trust, partnership, or unincorporated association when working in conjunction with a law enforcement agency.

(4) This section does not apply to:

- (a) Efforts by the financial information repository to test security procedures or systems of the financial institution repository for maintaining the confidentiality of customer information;
- (b) Investigation of alleged employee misconduct or negligence; or
- (c) Efforts to recover financial or personal information of the financial institution obtained or received by another person in any manner described in subsection (1) or (2) of this section.
 - (5) Violation of this section is a class C felony.
- (6) A person who violates this section is liable for five hundred dollars or actual damages, whichever is greater, and reasonable attorneys' fees. [2001 c 217 § 8; 1999 c 368 § 2.]

Captions not law-2001 c 217: See note following RCW 9.35.005.

- **9.35.020** Identity theft. (1) No person may knowingly obtain, possess, use, or transfer a means of identification or financial information of another person, living or dead, with the intent to commit, or to aid or abet, any crime.
- (2)(a) Violation of this section when the accused or an accomplice uses the victim's means of identification or financial information and obtains an aggregate total of credit, money, goods, services, or anything else of value in excess of one thousand five hundred dollars in value shall constitute identity theft in the first degree. Identity theft in the first degree is a class B felony.
- (b) Violation of this section when the accused or an accomplice uses the victim's means of identification or financial information and obtains an aggregate total of credit, money, goods, services, or anything else of value that is less than one thousand five hundred dollars in value, or when no credit, money, goods, services, or anything of value is obtained shall constitute identity theft in the second degree. Identity theft in the second degree is a class C felony.
- (3) A person who violates this section is liable for civil damages of five hundred dollars or actual damages, whichever is greater, including costs to repair the victim's credit record, and reasonable attorneys' fees as determined by the court.
- (4) In a proceeding under this section, the crime will be considered to have been committed in any locality where the person whose means of identification or financial information was appropriated resides, or in which any part of the offense took place, regardless of whether the defendant was ever actually in that locality.

(5) The provisions of this section do not apply to any person who obtains another person's driver's license or other form of identification for the sole purpose of misrepresenting

his or her age.

(6) In a proceeding under this section in which a person's means of identification or financial information was used without that person's authorization, and when there has been a conviction, the sentencing court may issue such orders as are necessary to correct a public record that contains false information resulting from a violation of this section. [2001 c 217 § 9; 1999 c 368 § 3.]

Captions not law-2001 c 217: See note following RCW 9.35.005.

- 9.35.030 Soliciting undesired mail. (1) It is unlawful for any person to knowingly use a means of identification or financial information of another person to solicit undesired mail with the intent to annoy, harass, intimidate, torment, or embarrass that person.
 - (2) Violation of this section is a misdemeanor.
- (3) Additionally, a person who violates this section is liable for civil damages of five hundred dollars or actual damages, including costs to repair the person's credit record, whichever is greater, and reasonable attorneys' fees as determined by the court. [2001 c 217 § 10; 2000 c 77 § 1.]

Captions not law-2001 c 217: See note following RCW 9.35,005.

- 9.35.040 Information available to victim. (1) A person, financial information repository, financial service provider, merchant, corporation, trust, partnership, or unincorporated association possessing information relating to an actual or potential violation of this chapter, and who may have entered into a transaction, provided credit, products, goods, or services, accepted payment, or otherwise done business with a person who has used the victim's means of identification, must, upon written request of the victim, provide copies of all relevant application and transaction information related to the transaction being alleged as a potential or actual violation of this chapter. Nothing in this section requires the information provider to disclose information that it is otherwise prohibited from disclosing by law. except that a law that prohibits disclosing a person's information to third parties shall not be used to deny disclosure of such information to the victim under this section.
- (2) Unless the information provider is otherwise willing to verify the victim's identification, the victim shall provide the following as proof of positive identification:
- (a) The showing of a government-issued photo identification card or, if providing proof by mail, a copy of a government-issued photo identification card;
- (b) A copy of a filed police report evidencing the victim's claim; and
- (c) A written statement from the state patrol showing that the state patrol has on file documentation of the victim's identity pursuant to the personal identification procedures in RCW 43.43.760.
- (3) The provider may require compensation for the reasonable cost of providing the information requested.
- (4) No person, financial information repository, financial service provider, merchant, corporation, trust, partnership, or unincorporated association may be held liable for an action taken in good faith to provide information regarding potential or actual violations of this chapter to other financial information repositories, financial service providers, merchants, law enforcement authorities, victims, or any persons alleging to be a victim who comply with subsection (2) of this section which evidences the alleged victim's claim for the purpose of identification and prosecution of violators of this chapter, or to assist a victim in recovery of fines, restitution, rehabilitation of the victim's credit, or such other relief as may be appropriate.
- (5) A person, financial information repository, financial service provider, merchant, corporation, trust, partnership, or unincorporated association may decline to provide information pursuant to this section when, in the exercise of good

faith and reasonable judgment, it believes this section does not require disclosure of the information.

- (6) Nothing in this section creates an obligation on the part of a person, financial information repository, financial services provider, merchant, corporation, trust, partnership, or unincorporated association to retain or maintain information or records that they are not otherwise required to retain or maintain in the ordinary course of its business.
- (7) The legislature finds that the practices covered by this section are matters vitally affecting the public interest for the purpose of applying the Consumer Protection Act, chapter 19.86 RCW. Violations of this section are not reasonable in relation to the development and preservation of business. It is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the Consumer Protection Act, chapter 19.86 RCW. The burden of proof in an action alleging a violation of this section shall be by a preponderance of the evidence, and the applicable statute of limitation shall be as set forth in RCW 19.182.120. For purposes of a judgment awarded pursuant to an action by a consumer under chapter 19.86 RCW, the consumer shall be awarded actual damages. However, where there has been willful failure to comply with any requirement imposed under this section, the consumer shall be awarded actual damages, a monetary penalty of one thousand dollars, and the costs of the action together with reasonable attorneys' fees as determined by the court. [2001 c 217 § 2.]

Captions not law-2001 c 217: See note following RCW 9.35.005.

9.35.800 Application of Consumer Protection Act. The legislature finds that the practices covered by RCW 9.35.010 and 9.35.020 are matters vitally affecting the public interest for the purpose of applying the Consumer Protection Act, chapter 19.86 RCW. Violations of RCW 9.35.010 or 9.35.020 are not reasonable in relation to the development and preservation of business. A violation of RCW 9.35.010 or 9.35.020 is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the Consumer Protection Act, chapter 19.86 RCW.

Nothing in RCW 9.35.010 or 9.35.020 limits a victim's ability to receive treble damages under RCW 19.86.090. [2001 c 217 § 7.]

Captions not law-2001 c 217: See note following RCW 9.35.005.

- **9.35.900** Effective date—1999 c 368. This act takes effect January 1, 2000. [1999 c 368 § 4.]
- 9.35.901 Captions not law—1999 c 368. Captions used in this chapter are not part of the law. [1999 c 368 § 5.]
- 9.35.902 Severability—1999 c 368. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1999 c 368 § 6.]

Intent-Effective date-2003 c 53: See notes following RCW 2,48,180.

9.47.120 Bunco steering. (Effective July 1, 2004.) Every person who shall entice, or induce another, upon any pretense, to go to any place where any gambling game, scheme or device, or any trick, sleight of hand performance. fraud or fraudulent scheme, cards, dice or device, is being conducted or operated; or while in such place shall entice or induce another to bet, wager or hazard any money or property, or representative of either, upon any such game, scheme, device, trick, sleight of hand performance, fraud or fraudulent scheme, cards, dice, or device, or to execute any obligation for the payment of money, or delivery of property, or to lose. advance, or loan any money or property, or representative of either, is guilty of a class B felony and shall be punished by imprisonment in a state correctional facility for not more than ten years. [2003 c 53 § 37; 1992 c 7 § 14; 1909 c 249 § 227; RRS § 2479.]

Intent-Effective date-2003 c 53: See notes following RCW 2,48,180.

Swindling: Chapter 9A.60 RCW.

Chapter 9.61 RCW

MALICIOUS MISCHIEF—INJURY TO PROPERTY

Sections

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Threats to bomb or injure property-Penalty. (Effective July 9.61.160 1, 2004.) Repealed. (Effective July 1, 2004.) Repealed. (Effective July 1, 2004.) 9.61.170

9.61.180 9.61.230 Telephone harassment. (Effective July 1, 2004.)

9.61.160 Threats to bomb or injure property—Penalty. (Effective July 1, 2004.) (1) It shall be unlawful for any person to threaten to bomb or otherwise injure any public or private school building, any place of worship or public assembly, any governmental property, or any other building. common carrier, or structure, or any place used for human occupancy; or to communicate or repeat any information concerning such a threatened bombing or injury, knowing such information to be false and with intent to alarm the person or persons to whom the information is communicated or repeated.

(2) It shall not be a defense to any prosecution under this section that the threatened bombing or injury was a hoax.

(3) A violation of this section is a class B felony punishable according to chapter 9A.20 RCW. [2003 c 53 § 38; 1977 ex.s. c 231 § 1; 1959 c 141 § 1.]

Intent-Effective date-2003 c 53: See notes following RCW 2.48.180.

9.61.170 Repealed. (Effective July 1, 2004.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

9.61.180 Repealed. (Effective July 1, 2004.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

9.61.230 Telephone harassment. (Effective July 1, 2004.) (1) Every person who, with intent to harass, intimidate, torment or embarrass any other person, shall make a telephone call to such other person:

- (a) Using any lewd, lascivious, profane, indecent, or obscene words or language, or suggesting the commission of any lewd or lascivious act; or
- (b) Anonymously or repeatedly or at an extremely inconvenient hour, whether or not conversation ensues; or
- (c) Threatening to inflict injury on the person or property of the person called or any member of his or her family or household:
- is guilty of a gross misdemeanor, except as provided in subsection (2) of this section.
- (2) The person is guilty of a class C felony punishable according to chapter 9A.20 RCW if either of the following applies:
- (a) That person has previously been convicted of any crime of harassment, as defined in RCW 9A.46.060, with the same victim or member of the victim's family or household or any person specifically named in a no-contact or no-harassment order in this or any other state; or
- (b) That person harasses another person under subsection (1)(c) of this section by threatening to kill the person threatened or any other person. [2003 c 53 § 39; 1992 c 186 § 6; 1985 c 288 § 11; 1967 c 16 § 1.]

Intent-Effective date-2003 c 53: See notes following RCW

Severability-1992 c 186: See note following RCW 9A.46.110.

Effective date-Severability-1985 c 288: See RCW 9A.46,905 and

Severability-1967 c 16: "If any portion of this act is held to be unconstitutional or void, such decision shall not affect the validity of the remaining parts of this act." [1967 c 16 § 4.]

Communicating with child for immoral purposes: RCW 9,68A.090. Interference with telephone message: RCW 9A.48.070, 9A.48.080.

Chapter 9.62 RCW

MALICIOUS PROSECUTION—ABUSE OF PROCESS

Sections

9.62.010 Malicious prosecution. (Effective July 1, 2004.)

- 9.62.010 Malicious prosecution. (Effective July 1, 2004.) Every person who shall, maliciously and without probable cause therefor, cause or attempt to cause another to be arrested or proceeded against for any crime of which he or she is innocent:
- (1) If such crime be a felony, is guilty of a class C felony and shall be punished by imprisonment in a state correctional facility for not more than five years; and
- (2) If such crime be a gross misdemeanor or misdemeanor, shall be guilty of a misdemeanor. [2003 c 53 § 40; 1992 c 7 § 15; 1909 c 249 § 117; Code 1881 § 899; 1873 p 203 § 98; 1854 p 92 § 89; RRS § 2369.]

Intent-Effective date-2003 c 53: See notes following RCW 2.48.180.

Chapter 9.68 RCW OBSCENITY AND PORNOGRAPHY

Sections

9.68.060 "Erotic material"-Determination by court-Labeling-Penalties. (Effective July 1, 2004.)

9.68.060 "Erotic material"—Determination by court—Labeling—Penalties. (Effective July 1, 2004.) (1)

[2003 RCW Supp-page 39]

Effective date-1987 c 456 §§ 9-31: See RCW 7.80.901.

9.61.200 Carrier or racing pigeons—Removal or alteration of identification. It is a class 2 civil infraction for any person other than the owner thereof or his authorized agent to remove or alter any stamp, leg band, ring, or other mark of identification attached to any Antwerp Messenger or Racing Pigeon. [1987 c 456 § 26; 1963 c 69 § 2.]

Legislative finding—1987 c 456: See RCW 7.80.005, Effective date—1987 c 456 §§ 9-31: See RCW 7.80.901.

- 9.61.230 Telephone harassment. Every person who, with intent to harass, intimidate, torment or embarrass any other person, shall make a telephone call to such other person:
- (1) Using any lewd, lascivious, profane, indecent, or obscene words or language, or suggesting the commission of any lewd or lascivious act; or
- (2) Anonymously or repeatedly or at an extremely inconvenient hour, whether or not conversation ensues; or
- (3) Threatening to inflict injury on the person or property of the person called or any member of his or her family or household;

shall be guilty of a gross misdemeanor, except that the person is guilty of a class C felony if either of the following applies:

- (a) That person has previously been convicted of any crime of harassment, as defined in RCW 9A.46.060, with the same victim or member of the victim's family or household or any person specifically named in a no-contact or no-harassment order in this or any other state; or
- (b) That person harasses another person under subsection (3) of this section by threatening to kill the person threatened or any other person. [1992 c 186 § 6; 1985 c 288 § 11; 1967 c 16 § 1.]

Severability-1992 c 186: See note following RCW 9A.46.110.

Effective date—Severability—1985 c 288: See RCW 9A.46.905 and 9A.46.910.

Severability—1967 c 16: "If any portion of this act is held to be unconstitutional or void, such decision shall not affect the validity of the remaining parts of this act." [1967 c 16 § 4.]

Communicating with child for immoral purposes: RCW 9.68A.090, Interference with telephone message: RCW 9A.48.070, 9A.48.080,

- 9.61.240 Telephone harassment—Permitting telephone to be used. Any person who knowingly permits any telephone under his control to be used for any purpose prohibited by RCW 9.61.230 shall be guilty of a misdemeanor. [1967 c 16 § 2.]
- 9.61.250 Telephone harassment—Offense, where deemed committed. Any offense committed by use of a telephone as set forth in RCW 9.61.230 may be deemed to have been committed either at the place from which the telephone call or calls were made or at the place where the telephone call or calls were received. [1967 c 16 § 3.]

Chapter 9.62 MALICIOUS PROSECUTION—ABUSE OF PROCESS

Sections 9.62.010

Malicious prosecution.

9.62.020 Instituting suit in name of another.

9.62.010 Malicious prosecution. Every person who shall, maliciously and without probable cause therefor, cause or attempt to cause another to be arrested or proceeded against for any crime of which he or she is innocent:

(1) If such crime be a felony, shall be punished by imprisonment in a state correctional facility for not more

than five years; and

(2) If such crime be a gross misdemeanor or misdemeanor, shall be guilty of a misdemeanor. [1992 c 7 § 15; 1909 c 249 § 117; Code 1881 § 899; 1873 p 203 § 98; 1854 p 92 § 89; RRS § 2369.]

9.62.020 Instituting suit in name of another. Every person who shall institute or prosecute any action or other proceeding in the name of another, without his consent and contrary to law, shall be guilty of a gross misdemeanor. [1909 c 249 § 124; RRS § 2376.]

Chapter 9.66 NUISANCE

Sections

9.66.010 Public nuisance.

9.66.020 Unequal damage.

9.66.030 Maintaining or permitting nuisance.

9.66.040 Abatement of nuisance.

9.66.050 Deposit of unwholesome substance.

Cemeteries established illegally: RCW 68.56.040.

Furnishing impure water: RCW 70.54,020.

Malicious mischief-Injury to property: Chapters 9.61, 9A.48 RCW.

Mausoleums and columbariums constructed illegally: RCW 68.28.060.

Nuisances: Chapter 7.48 RCW.

Poisoning food or water: RCW 69.40.030.

Sexually transmitted disease control, penalty: RCW 70.24.080.

- 9.66.010 Public nuisance. A public nuisance is a crime against the order and economy of the state. Every place
- (1) Wherein any fighting between people or animals or birds shall be conducted; or,
- (2) Wherein any intoxicating liquors are kept for unlawful use, sale or distribution; or,
 - (3) Where vagrants resort; and

Every act unlawfully done and every omission to perform a duty, which act or omission

- Shall annoy, injure or endanger the safety, health, comfort, or repose of any considerable number of persons; or,
 - (2) Shall offend public decency; or,
- (3) Shall unlawfully interfere with, befoul, obstruct, or tend to obstruct, or render dangerous for passage, a lake, navigable river, bay, stream, canal or basin, or a public park,

(f) With criminal negligence, causes bodily harm accompanied by substantial pain that extends for a period sufficient to cause considerable suffering; or

(g) Assaults a law enforcement officer or other employee of a law enforcement agency who was performing his or

her official duties at the time of the assault; or

(h) Assaults a nurse, physician, or health care provider who was performing his or her nursing or health care duties at the time of the assault. For purposes of this subsection: "Nurse" means a person licensed under chapter 18.79 RCW; "physician" means a person licensed under chapter 18.57 or 18.71 RCW; and "health care provider" means a person certified under chapter 18.71 or 18.73 RCW who performs emergency medical services or a person regulated under Title 18 RCW and employed by, or contracting with, a hospital licensed under chapter 70.41 RCW.

(2) Assault in the third degree is a class C felony. [1999 c 328 § 1; 1998 c 94 § 1; 1997 c 172 § 1; 1996 c 266 § 1; 1990 c 236 § 1; 1989 c 169 § 1; 1988 c 158 § 3; 1986

c 257 § 6.1

Effective date-1988 c 158: See note following RCW 9A.04.110. Severability-1986 c 257: See note following RCW 9A.56.010.

Effective date-1986 c 257 §§ 3-10: See note following RCW 9A.04.110.

9A.36.041 Assault in the fourth degree. (1) A person is guilty of assault in the fourth degree if, under circumstances not amounting to assault in the first, second, or third degree, or custodial assault, he or she assaults another.

(2) Assault in the fourth degree is a gross misdemeanor.

[1987 c 188 § 2; 1986 c 257 § 7.]

Effective date-1986 c 257 §§ 3-10: See note following RCW

Effective date-1987 c 188: See note following RCW 9A.36.100. Severability-1986 c 257: See note following RCW 9A.56.010.

9A.36.045 Drive-by shooting. (1) A person is guilty of drive-by shooting when he or she recklessly discharges a firearm as defined in RCW 9.41.010 in a manner which creates a substantial risk of death or serious physical injury to another person and the discharge is either from a motor vehicle or from the immediate area of a motor vehicle that was used to transport the shooter or the firearm, or both, to the scene of the discharge.

(2) A person who unlawfully discharges a firearm from a moving motor vehicle may be inferred to have engaged in reckless conduct, unless the discharge is shown by evidence satisfactory to the trier of fact to have been made without

such recklessness.

(3) Drive-by shooting is a class B felony. [1997 c 338 § 44; 1995 c 129 § 8 (Initiative Measure No. 159); (1994 sp.s. c 7 § 511 repealed by 1995 c 129 § 19 (Initiative Measure No. 159); 1989 c 271 § 109.]

Finding-Evaluation-Report-1997 c 338: See note following RCW 13.40.0357.

Severability-Effective dates-1997 c 338: See notes following RCW 5.60.060.

Findings and intent-Short title-Severability-Captions not law-1995 c 129: See notes following RCW 9.94A.510.

Finding-Intent-Severability-Effective dates-Contingent expiration date-1994 sp.s. c 7: See notes following RCW 43.70.540.

Finding—Intent—1989 c 271 §§ 102, 109, and 110: See note following RCW 9A.36.050.

Application-1989 c 271 §§ 101-111: See note following RCW 9.94A.510.

Severability-1989 c 271: See note following RCW 9.94A.510.

9A.36.050 Reckless endangerment. (1) A person is guilty of reckless endangerment when he or she recklessly engages in conduct not amounting to drive-by shooting but that creates a substantial risk of death or serious physical injury to another person.

(2) Reckless endangerment is a gross misdemeanor. [1997 c 338 § 45; 1989 c 271 § 110; 1975 1st ex.s. c 260 §

Finding-Evaluation-Report-1997 c 338: See note following RCW 13.40.0357.

Severability-Effective dates-1997 c 338: See notes following RCW 5.60,060.

Finding-Intent-1989 c 271 §§ 102, 109, and 110: "The legislature finds that increased trafficking in illegal drugs has increased the likelihood of "drive-by shootings." It is the intent of the legislature in sections 102, 109, and 110 of this act to categorize such reckless and criminal activity into a separate crime and to provide for an appropriate punishment." [1989 c 271 § 108.]

Application-1989 c 271 \$\$ 101-111: See note following RCW 9.94A.510.

Severability-1989 c 271: See note following RCW 9,94A.510. Criminal history and driving record: RCW 46.61.513.

9A.36.060 Promoting a suicide attempt. (1) A person is guilty of promoting a suicide attempt when he knowingly causes or aids another person to attempt suicide.

(2) Promoting a suicide attempt is a class C felony.

[1975 1st ex.s. c 260 § 9A.36.060.]

9A.36.070 Coercion. (1) A person is guilty of coercion if by use of a threat he compels or induces a person to engage in conduct which the latter has a legal right to abstain from, or to abstain from conduct which he has a legal right to engage in.

(2) "Threat" as used in this section means:

(a) To communicate, directly or indirectly, the intent immediately to use force against any person who is present at the time; or

(b) Threats as defined in RCW 9A.04.110(25)(a), (b), or

(3) Coercion is a gross misdemeanor. [1975 1st ex.s. c 260 § 9A.36.070.]

9A.36.078 Malicious harassment-Finding. The legislature finds that crimes and threats against persons because of their race, color, religion, ancestry, national origin, gender, sexual orientation, or mental, physical, or sensory handicaps are serious and increasing. The legislature also finds that crimes and threats are often directed against interracial couples and their children or couples of mixed religions, colors, ancestries, or national origins because of bias and bigotry against the race, color, religion, ancestry, or national origin of one person in the couple or family. The legislature finds that the state interest in preventing crimes and threats motivated by bigotry and bias goes beyond the state interest in preventing other felonies or Severability—1989 c 95: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1989 c 95 § 4.]

Harassment: Chapters 9A.46 and 10.14 RCW.

9A.36.083 Malicious harassment—Civil action. In addition to the criminal penalty provided in RCW 9A.36.080 for committing a crime of malicious harassment, the victim may bring a civil cause of action for malicious harassment against the harasser. A person may be liable to the victim of malicious harassment for actual damages, punitive damages of up to ten thousand dollars, and reasonable attorneys' fees and costs incurred in bringing the action. [1993 c 127 § 3.]

Severability-1993 c 127: See note following RCW 9A.36.078.

- 9A.36.090 Threats against governor or family. (1) Whoever knowingly and wilfully deposits for conveyance in the mail or for a delivery from any post office or by any letter carrier any letter, paper, writing, print, missive, or document containing any threat to take the life of or to inflict bodily harm upon the governor of the state or his immediate family, the governor-elect, the lieutenant governor, other officer next in the order of succession to the office of governor of the state, or the lieutenant governor-elect, or knowingly and wilfully otherwise makes any such threat against the governor, governor-elect, lieutenant governor, other officer next in the order of succession to the office of governor, or lieutenant governor-elect, shall be guilty of a class C felony.
- (2) As used in this section, the term "governor-elect" and "lieutenant governor-elect" means such persons as are the successful candidates for the offices of governor and lieutenant governor, respectively, as ascertained from the results of the general election. As used in this section, the phrase "other officer next in the order of succession to the office of governor" means the person other than the lieutenant governor next in order of succession to the office of governor under Article 3, section 10 of the state Constitution.
- (3) The Washington state patrol may investigate for violations of this section. [1982 c 185 § 1.]

Reviser's note: 1982 c 185 § 2 directed that this section constitute a new chapter in Title 9 RCW. Since this placement appears inappropriate, this section has been codified as part of chapter 9A.36 RCW.

9A.36.100 Custodial assault. (1) A person is guilty of custodial assault if that person is not guilty of an assault in the first or second degree and where the person:

(a) Assaults a full or part-time staff member or volunteer, any educational personnel, any personal service provider, or any vendor or agent thereof at any juvenile corrections institution or local juvenile detention facilities who was performing official duties at the time of the assault;

(b) Assaults a full or part-time staff member or volunteer, any educational personnel, any personal service provider, or any vendor or agent thereof at any adult corrections institution or local adult detention facilities who was performing official duties at the time of the assault;

(c)(i) Assaults a full or part-time community correction officer while the officer is performing official duties; or

(ii) Assaults any other full or part-time employee who is employed in a community corrections office while the employee is performing official duties; or

(d) Assaults any volunteer who was assisting a person described in (c) of this subsection at the time of the assault.

(2) Custodial assault is a class C felony. [1988 c 151 § 1; 1987 c 188 § 1.]

Effective date—1987 c 188: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1987 c 188 § 3.]

9A.36.120 Assault of a child in the first degree. (1) A person eighteen years of age or older is guilty of the crime of assault of a child in the first degree if the child is under the age of thirteen and the person:

(a) Commits the crime of assault in the first degree, as defined in RCW 9A.36.011, against the child; or

(b) Intentionally assaults the child and either:

(i) Recklessly inflicts great bodily harm; or

(ii) Causes substantial bodily harm, and the person has previously engaged in a pattern or practice either of (A) assaulting the child which has resulted in bodily harm that is greater than transient physical pain or minor temporary marks, or (B) causing the child physical pain or agony that is equivalent to that produced by torture.

(2) Assault of a child in the first degree is a class A

felony. [1992 c 145 § 1.]

9A.36.130 Assault of a child in the second degree.
(1) A person eighteen years of age or older is guilty of the crime of assault of a child in the second degree if the child is under the age of thirteen and the person:

(a) Commits the crime of assault in the second degree,

as defined in RCW 9A.36.021, against a child; or

(b) Intentionally assaults the child and causes bodily harm that is greater than transient physical pain or minor temporary marks, and the person has previously engaged in a pattern or practice either of (i) assaulting the child which has resulted in bodily harm that is greater than transient pain or minor temporary marks, or (ii) causing the child physical pain or agony that is equivalent to that produced by torture.

(2) Assault of a child in the second degree is a class B

felony. [1992 c 145 § 2.]

9A.36.140 Assault of a child in the third degree.
(1) A person eighteen years of age or older is guilty of the crime of assault of a child in the third degree if the child is under the age of thirteen and the person commits the crime of assault in the third degree as defined in RCW 9A.36.031(1)(d) or (f) against the child.

(2) Assault of a child in the third degree is a class C

felony. [1992 c 145 § 3.]

9A.36.150 Interfering with the reporting of domestic violence. (1) A person commits the crime of interfering with the reporting of domestic violence if the person:

(a) Commits a crime of domestic violence, as defined in

RCW 10.99.020; and

(b) Prevents or attempts to prevent the victim of or a witness to that domestic violence crime from calling a 911

emergency communication system, obtaining medical assistance, or making a report to any law enforcement official.

- (2) Commission of a crime of domestic violence under subsection (1) of this section is a necessary element of the crime of interfering with the reporting of domestic violence.
- (3) Interference with the reporting of domestic violence is a gross misdemeanor. [1996 c 248 § 3.]

Chapter 9A.40

KIDNAPPING, UNLAWFUL IMPRISONMENT, AND CUSTODIAL INTERFERENCE

Sections

9A.40.010 Definitions.

9A.40.020 Kidnapping in the first degree.

9A.40.030 Kidnapping in the second degree.

9A.40.040 Unlawful imprisonment.

9A.40.060 Custodial interference in the first degree.

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9A.40.080 Custodial interference—Assessment of costs—Defense—

Consent defense, restricted.

9A.40.090 Luring.

9A.40.010 Definitions. The following definitions apply in this chapter:

- (1) "Restrain" means to restrict a person's movements without consent and without legal authority in a manner which interferes substantially with his liberty. Restraint is "without consent" if it is accomplished by (a) physical force, intimidation, or deception, or (b) any means including acquiescence of the victim, if he is a child less than sixteen years old or an incompetent person and if the parent, guardian, or other person or institution having lawful control or custody of him has not acquiesced.
- (2) "Abduct" means to restrain a person by either (a) secreting or holding him in a place where he is not likely to be found, or (b) using or threatening to use deadly force;
- (3) "Relative" means an ancestor, descendant, or sibling, including a relative of the same degree through marriage or adoption, or a spouse. [1975 1st ex.s. c 260 § 9A.40.010.]
- 9A.40.020 Kidnapping in the first degree. (1) A person is guilty of kidnapping in the first degree if he intentionally abducts another person with intent:
- (a) To hold him for ransom or reward, or as a shield or hostage; or
- (b) To facilitate commission of any felony or flight thereafter; or
 - (c) To inflict bodily injury on him; or
- (d) To inflict extreme mental distress on him or a third person; or
- (e) To interfere with the performance of any governmental function.
- (2) Kidnapping in the first degree is a class A felony. [1975 1st ex.s. c 260 § 9A.40.020.]
- **9A.40.030** Kidnapping in the second degree. (1) A person is guilty of kidnapping in the second degree if he or she intentionally abducts another person under circumstances not amounting to kidnapping in the first degree.

- (2) In any prosecution for kidnapping in the second degree, it is a defense if established by the defendant by a preponderance of the evidence that (a) the abduction does not include the use of or intent to use or threat to use deadly force, and (b) the actor is a relative of the person abducted, and (c) the actor's sole intent is to assume custody of that person. Nothing contained in this paragraph shall constitute a defense to a prosecution for, or preclude a conviction of, any other crime.
- (3) Kidnapping in the second degree is a class B felony, except that kidnapping in the second degree with a finding of sexual motivation under RCW *9.94A.835 or 13.40.135 is a class A felony. [2001 2nd sp.s. c 12 § 356; 1975 1st ex.s. c 260 § 9A.40.030.]

*Reviser's note: This RCW reference has been corrected to reflect the reorganization of chapter 9.94A RCW by 2001 c 10 § 6.

Intent—Severability—Effective dates—2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

Application—2001 2nd sp.s. c 12 §§ 301-363: See note following RCW 9.94A.030.

- **9A.40.040** Unlawful imprisonment. (1) A person is guilty of unlawful imprisonment if he knowingly restrains another person.
- (2) Unlawful imprisonment is a class C felony. [1975 1st ex.s. c 260 § 9A.40.040.]

9A.40.060 Custodial interference in the first degree.

(1) A relative of a child under the age of eighteen or of an incompetent person is guilty of custodial interference in the first degree if, with the intent to deny access to the child or incompetent person by a parent, guardian, institution, agency, or other person having a lawful right to physical custody of such person, the relative takes, entices, retains, detains, or

conceals the child or incompetent person from a parent, guardian, institution, agency, or other person having a lawful right to physical custody of such person and:

(a) Intends to hold the child or incompetent person permanently or for a protracted period; or

(b) Exposes the child or incompetent person to a substantial risk of illness or physical injury; or

(c) Causes the child or incompetent person to be removed from the state of usual residence; or

(d) Retains, detains, or conceals the child or incompetent person in another state after expiration of any authorized visitation period with intent to intimidate or harass a parent, guardian, institution, agency, or other person having lawful right to physical custody or to prevent a parent, guardian, institution, agency, or other person with lawful right to physical custody from regaining custody.

(2) A parent of a child is guilty of custodial interference in the first degree if the parent takes, entices, retains, detains, or conceals the child, with the intent to deny access, from the other parent having the lawful right to time with the child pursuant to a court-ordered parenting plan, and:

(a) Intends to hold the child permanently or for a protracted period; or

(b) Exposes the child to a substantial risk of illness or physical injury; or

(c) Causes the child to be removed from the state of usual residence.

9A.42.039	Arresting officer, notification by.
9A.42.040	Withdrawal of life support systems.
9A.42.045	Palliative care.
9A.42.050	Defense of financial inability.
9A.42.060	Abandonment of a dependent person in the first degree— Exception.
9A.42.070	Abandonment of a dependent person in the second degree- Exception.
9A.42.080	Abandonment of a dependent person in the third degree— Exception.
9A.42.090	Abandonment of a dependent person-Defense.
9A.42.100	Endangerment with a controlled substance.
9A.42.110	Leaving a child in the care of a sex offender.

9A.42.005 Findings and intent-Christian Science treatment-Rules of evidence. The legislature finds that there is a significant need to protect children and dependent persons, including frail elder and vulnerable adults, from abuse and neglect by their parents, by persons entrusted with their physical custody, or by persons employed to provide them with the basic necessities of life. The legislature further finds that such abuse and neglect often takes the forms of either withholding from them the basic necessities of life, including food, water, shelter, clothing, and health care, or abandoning them, or both. Therefore, it is the intent of the legislature that criminal penalties be imposed on those guilty of such abuse or neglect. It is the intent of the legislature that a person who, in good faith, is furnished Christian Science treatment by a duly accredited Christian Science practitioner in lieu of medical care is not considered deprived of medically necessary health care or abandoned. Prosecutions under this chapter shall be consistent with the rules of evidence, including hearsay, under law. [1997 c 392 § 507.1

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

9A.42.010 Definitions. As used in this chapter:

(1) "Basic necessities of life" means food, water, shelter, clothing, and medically necessary health care, including but not limited to health-related treatment or activities, hygiene, oxygen, and medication.

(2)(a) "Bodily injury" means physical pain or injury, illness, or an impairment of physical condition;

(b) "Substantial bodily harm" means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily part or organ, or which causes a fracture of any bodily part;

(c) "Great bodily harm" means bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily part or organ.

(3) "Child" means a person under eighteen years of age.

(4) "Dependent person" means a person who, because of physical or mental disability, or because of extreme advanced age, is dependent upon another person to provide the basic necessities of life. A resident of a nursing home, as defined in RCW 18.51.010, a resident of an adult family home, as defined in RCW 70.128.010, and a frail elder or vulnerable adult, as defined in *RCW 74.34.020(8), is

presumed to be a dependent person for purposes of this chapter.

(5) "Employed" means hired by a dependent person, another person acting on behalf of a dependent person, or by an organization or governmental entity, to provide to a dependent person any of the basic necessities of life. A person may be "employed" regardless of whether the person is paid for the services or, if paid, regardless of who pays for the person's services.

(6) "Parent" has its ordinary meaning and also includes a guardian and the authorized agent of a parent or guardian.

(7) "Abandons" means leaving a child or other dependent person without the means or ability to obtain one or more of the basic necessities of life. [1997 c 392 § 508; 1996 c 302 § 1; 1986 c 250 § 1.]

*Reviser's note: RCW 74.34.020 was amended by 1999 c 176 § 3, deleting subsection (8). "Vulnerable adult" is now defined in subsection (13).

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

Severability—1996 c 302: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1996 c 302 § 7.]

9A.42.020 Criminal mistreatment in the first degree. (1) A parent of a child, the person entrusted with the physical custody of a child or dependent person, or a person employed to provide to the child or dependent person the basic necessities of life is guilty of criminal mistreatment in the first degree if he or she recklessly, as defined in RCW 9A.08.010, causes great bodily harm to a child or dependent person by withholding any of the basic necessities of life.

(2) Criminal mistreatment in the first degree is a class B felony. [1997 c 392 § 510; 1986 c 250 § 2.]

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

9A.42.030 Criminal mistreatment in the second degree. (1) A parent of a child, the person entrusted with the physical custody of a child or dependent person, or a person employed to provide to the child or dependent person the basic necessities of life is guilty of criminal mistreatment in the second degree if he or she recklessly, as defined in RCW 9A.08.010, either (a) creates an imminent and substantial risk of death or great bodily harm, or (b) causes substantial bodily harm by withholding any of the basic necessities of life.

(2) Criminal mistreatment in the second degree is a class C felony. [1997 c 392 § 511; 1986 c 250 § 3.]

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

9A.42.035 Criminal mistreatment in the third degree. (1) A person is guilty of the crime of criminal mistreatment in the third degree if the person is the parent of a child, is a person entrusted with the physical custody of a child or other dependent person, or is a person employed to provide to the child or dependent person the basic necessities of life, and either:

(b) With criminal negligence, causes substantial bodily harm to a child or dependent person by withholding any of

the basic necessities of life.

(2) Criminal mistreatment in the third degree is a gross misdemeanor. [2000 c 76 § 1.]

9A.42.037 Criminal mistreatment in the fourth degree. (1) A person is guilty of the crime of criminal mistreatment in the fourth degree if the person is the parent of a child, is a person entrusted with the physical custody of a child or other dependent person, or is a person employed to provide to the child or dependent person the basic necessities of life, and either:

(a) With criminal negligence, creates an imminent and substantial risk of bodily injury to a child or dependent person by withholding any of the basic necessities of life; or

- (b) With criminal negligence, causes bodily injury or extreme emotional distress manifested by more than transient physical symptoms to a child or dependent person by withholding the basic necessities of life.
- (2) Criminal mistreatment in the fourth degree is a misdemeanor. [2002 c 219 § 2.]

Intent—Finding—2002 c 219: "The legislature recognizes that responses by the department of social and health services and public safety agencies have varied between jurisdictions when allegations of withholding of the basic necessities of life are made. The legislature intends to improve the capacity of the department of social and health services and public safety agencies to respond to situations where the basic necessities of life are withheld by allowing an earlier intervention in such cases. The legislature finds that improved coordination between the department of social and health services and public safety agencies at an earlier point will lead to better treatment of children and families and will reduce the likelihood of serious harm." [2002 c 219 § 1.]

9A.42.039 Arresting officer, notification by. (1) When a law enforcement officer arrests a person for criminal mistreatment of a child, the officer must notify child protective services.

(2) When a law enforcement officer arrests a person for criminal mistreatment of a dependent person other than a child, the officer must notify adult protective services. [2002 c 219 § 5.]

Intent-Finding-2002 c 219: See note following RCW 9A.42.037.

9A.42.040 Withdrawal of life support systems. RCW 9A.42.020, 9A.42.030, 9A.42.035, and 9A.42.037 do not apply to decisions to withdraw life support systems made in accordance with chapter 7.70 or 70.122 RCW by the dependent person, his or her legal surrogate, or others with a legal duty to care for the dependent person. [2002 c 219 § 3; 2000 c 76 § 2; 1986 c 250 § 4.]

Intent-Finding-2002 c 219: See note following RCW 9A.42.037.

9A.42.045 Palliative care. RCW 9A.42.020, 9A.42.030, 9A.42.035, and 9A.42.037 do not apply when a terminally ill or permanently unconscious person or his or her legal surrogate, as set forth in chapter 7.70 RCW, requests, and the person receives, palliative care from a

licensed home health agency, hospice agency, nursing home, or hospital providing care under the medical direction of a physician. As used in this section, the terms "terminally ill" and "permanently unconscious" have the same meaning as "terminal condition" and "permanent unconscious condition" in chapter 70.122 RCW. [2002 c 219 § 4; 2000 c 76 § 3; 1997 c 392 § 512.]

Intent—Finding—2002 c 219: See note following RCW 9A.42.037.

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

9A.42.050 Defense of financial inability. In any prosecution for criminal mistreatment, it shall be a defense that the withholding of the basic necessities of life is due to financial inability only if the person charged has made a reasonable effort to obtain adequate assistance. This defense is available to a person employed to provide the basic necessities of life only when the agreed-upon payment has not been made. [1997 c 392 § 509; 1986 c 250 § 5.]

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

9A.42.060 Abandonment of a dependent person in the first degree—Exception. (1) Except as provided in subsection (2) of this section, a person is guilty of the crime of abandonment of a dependent person in the first degree if:

(a) The person is the parent of a child, a person entrusted with the physical custody of a child or other dependent person, or a person employed to provide to the child or other dependent person any of the basic necessities of life;

(b) The person recklessly abandons the child or other

dependent person; and

(c) As a result of being abandoned, the child or other dependent person suffers great bodily harm.

- (2) A parent of a newborn who transfers the newborn to a qualified person at an appropriate location pursuant to RCW 13.34.360 is not subject to criminal liability under this section.
- (3) Abandonment of a dependent person in the first degree is a class B felony. [2002 c 331 § 3; 1996 c 302 § 2.]

Intent—Effective date—2002 c 331: See notes following RCW 13.34.360.

Severability-1996 c 302: See note following RCW 9A.42.010.

- 9A.42.070 Abandonment of a dependent person in the second degree—Exception. (1) Except as provided in subsection (2) of this section, a person is guilty of the crime of abandonment of a dependent person in the second degree if:
- (a) The person is the parent of a child, a person entrusted with the physical custody of a child or other dependent person, or a person employed to provide to the child or other dependent person any of the basic necessities of life; and

(b) The person recklessly abandons the child or other

dependent person; and:

(i) As a result of being abandoned, the child or other dependent person suffers substantial bodily harm; or

- (ii) Abandoning the child or other dependent person creates an imminent and substantial risk that the child or other dependent person will die or suffer great bodily harm.
- (2) A parent of a newborn who transfers the newborn to a qualified person at an appropriate location pursuant to RCW 13.34.360 is not subject to criminal liability under this section.
- (3) Abandonment of a dependent person in the second degree is a class C felony. [2002 c 331 § 4; 1996 c 302 § 3.]

Intent—Effective date—2002 c 331: See notes following RCW 13.34.360.

Severability-1996 c 302: See note following RCW 9A.42.010.

9A.42.080 Abandonment of a dependent person in the third degree—Exception. (1) Except as provided in subsection (2) of this section, a person is guilty of the crime of abandonment of a dependent person in the third degree if:

(a) The person is the parent of a child, a person entrusted with the physical custody of a child or other dependent person, or a person employed to provide to the child or dependent person any of the basic necessities of life; and

(b) The person recklessly abandons the child or other dependent person; and:

(i) As a result of being abandoned, the child or other dependent person suffers bodily harm; or

(ii) Abandoning the child or other dependent person creates an imminent and substantial risk that the child or other person will suffer substantial bodily harm.

(2) A parent of a newborn who transfers the newborn to a qualified person at an appropriate location pursuant to RCW 13.34.360 is not subject to criminal liability under this section.

(3) Abandonment of a dependent person in the third degree is a gross misdemeanor. [2002 c 331 § 5; 1996 c 302 § 4.]

Intent—Effective date—2002 c 331: See notes following RCW 13.34.360.

Severability-1996 c 302: See note following RCW 9A.42.010.

9A.42.090 Abandonment of a dependent person—Defense. It is an affirmative defense to the charge of abandonment of a dependent person, that the person employed to provide any of the basic necessities of life to the child or other dependent person, gave reasonable notice of termination of services and the services were not terminated until after the termination date specified in the notice. The notice must be given to the child or dependent person, and to other persons or organizations that have requested notice of termination of services furnished to the child or other dependent person.

The department of social and health services and the department of health shall adopt rules establishing procedures for termination of services to children and other dependent persons. [1996 c 302 § 5.]

Severability-1996 c 302: See note following RCW 9A.42.010.

9A.42.100 Endangerment with a controlled substance. A person is guilty of the crime of endangerment with a controlled substance if the person knowingly or intentionally permits a dependent child or dependent adult to

be exposed to, ingest, inhale, or have contact with methamphetamine or ephedrine, pseudoephedrine, or anhydrous ammonia, that are being used in the manufacture of methamphetamine. Endangerment with a controlled substance is a class B felony. [2002 c 229 § 1.]

Effective date—2002 c 229: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 28, 2002]." [2002 c 229 § 4.]

9A.42.110 Leaving a child in the care of a sex offender. (1) A person is guilty of the crime of leaving a child in the care of a sex offender if the person is (a) the parent of a child; (b) entrusted with the physical custody of a child; or (c) employed to provide to the child the basic necessities of life, and leaves the child in the care or custody of another person who is not a parent, guardian, or lawful custodian of the child, knowing that the person is registered or required to register as a sex offender under the laws of this state, or a law or ordinance in another jurisdiction with similar requirements, because of a sex offense against a child.

(2) It is an affirmative defense to the charge of leaving a child in the care of a sex offender under this section, that the defendant must prove by a preponderance of the evidence, that a court has entered an order allowing the offender to have unsupervised contact with children, or that the offender is allowed to have unsupervised contact with the child in question under a family reunification plan, which has been approved by a court, the department of corrections, or the department of social and health services in accordance with department policies.

(3) Leaving a child in the care of a sex offender is a misdemeanor. [2002 c 170 § 1.]

Chapter 9A.44 SEX OFFENSES

Sections	
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9A.44.150	Testimony of child by closed circuit television.

Custodial sexual misconduct in the first degree.

9A.44.160

9A.49.010 Lasers

9A.49.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Aircraft" means any contrivance known or hereafter invented, used, or designed for navigation of or flight in air.

(2) "Laser" means any device designed or used to amplify electromagnetic radiation by simulated emission which is visible to the human eye.

(3) "Laser sighting system or device" means any system or device which is integrated with or affixed to a firearm and which emits a laser light beam that is used by the shooter to assist in the sight alignment of that firearm. [1999 c 180 § 2.1

9A.49.020 Unlawful discharge of a laser in the first degree. (1) A person is guilty of unlawful discharge of a laser in the first degree if he or she knowingly and maliciously discharges a laser, under circumstances not amounting to malicious mischief in the first degree:

(a) At a law enforcement officer or other employee of a law enforcement agency who is performing his or her official duties in uniform or exhibiting evidence of his or her authority, and in a manner that would support that officer's or employee's reasonable belief that he or she is targeted with a laser sighting device or system; or

(b) At a law enforcement officer or other employee of a law enforcement agency who is performing his or her official duties, causing an impairment of the safety or operation of a law enforcement vehicle or causing an interruption or impairment of service rendered to the public by negatively affecting the officer or employee; or

(c) At a pilot, causing an impairment of the safety or operation of an aircraft or causing an interruption or impairment of service rendered to the public by negatively affect-

ing the pilot; or

(d) At a fire fighter or other employee of a fire department, county fire marshal's office, county fire prevention bureau, or fire protection district who is performing his or her official duties, causing an impairment of the safety or operation of an emergency vehicle or causing an interruption or impairment of service rendered to the public by negatively affecting the fire fighter or employee; or

(e) At a transit operator or driver of a public or private transit company while that person is performing his or her official duties, causing an impairment of the safety or operation of a transit vehicle or causing an interruption or impairment of service rendered to the public by negatively

affecting the operator or driver; or

(f) At a school bus driver employed by a school district or private company while the driver is performing his or her official duties, causing an impairment of the safety or operation of a school bus or causing an interruption or impairment of service by negatively affecting the bus driver.

(2) Except as provided in RCW 9A.49.040, unlawful discharge of a laser in the first degree is a class C felony.

[1999 c 180 § 3.]

9A.49.030 Unlawful discharge of a laser in the second degree. (1) A person is guilty of unlawful discharge of a laser in the second degree if he or she knowingly and maliciously discharges a laser, under circumstances not amounting to unlawful discharge of a laser in the first degree or malicious mischief in the first or second degree:

(a) At a person, not described in RCW 9A.49.020(1) (a) through (f), who is operating a motor vehicle at the time. causing an impairment of the safety or operation of a motor vehicle by negatively affecting the driver; or

(b) At a person described in RCW 9A.49.020(1) (b) through (f), causing a substantial risk of an impairment or interruption as described in RCW 9A.49.020(1) (b) through

(c) At a person in order to intimidate or threaten that person.

(2) Except as provided in RCW 9A.49.040, unlawful discharge of a laser in the second degree is a gross misdemeanor. [1999 c 180 § 4.]

9A.49.040 Civil infraction, when. Unlawful discharge of a laser in the first degree or second degree is a civil infraction if committed by a juvenile who has not before committed either offense. The monetary penalty imposed upon a juvenile may not exceed one hundred dollars. [1999 c 180 § 5.]

9A.49.050 Exclusions. This chapter does not apply to the conduct of a laser development activity by or on behalf of the United States armed forces. [1999 c 180 § 6.]

Chapter 9A.50

INTERFERENCE WITH HEALTH CARE FACILITIES OR PROVIDERS

Sections 9A.50.005 Finding. 9A.50.010 Definitions. 9A.50.020 Interference with health care facility. 9A.50.030 Penalty. 9A.50.040 Civil remedies. 9A.50.050 Civil damages. 9A.50.060 Informational picketing. 9A.50.070 Protection of health care patients and providers. 9A.50.900 Construction. Severability-1993 c 128. 9A.50.901 Effective date-1993 c 128. 9A.50.902

9A.50.005 Finding. The legislature finds that seeking or obtaining health care is fundamental to public health and safety. [1993 c 128 § 1.]

9A.50.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Health care Tacility." means a facility that provides health care services directly to patients, including but not limited to, a hospital, clinic, health care provider's office, health maintenance organization, diagnostic or treatment center, neuropsychiatric or mental health facility, hospice, or nursing home.

(2) "Health care provider" has the same meaning as defined in RCW 7.70.020 (1) and (2), and also means an officer, director, employee, or agent of a health care facility who sues or testifies regarding matters within the scope of

his or her employment.