
BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: Z-0033.4/11 4th draft

ATTY/TYPIST: AI:ean

BRIEF DESCRIPTION: Concerning criminal street gangs.

AN ACT Relating to criminal street gangs; amending RCW 13.40.127, 9A.46.120, 9A.48.105, 9.94A.533, 9.94A.702, and 70.41.440; reenacting and amending RCW 9.94A.515, 13.04.030, and 9.94A.701; adding a new section to chapter 43.20A RCW; adding a new section to chapter 9A.46 RCW; adding a new section to chapter 9.94A RCW; adding a new chapter to Title 7 RCW; adding a new chapter to Title 10 RCW; making an appropriation; and prescribing penalties.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 43.20A RCW to read as follows:

Grants authorized.

(1) In general. From the amounts made available to carry out this section, the director of the Washington state partnership council on juvenile justice shall award grants to eligible entities described in subsection (3) of this section to carry out local projects focused on criminal street gang prevention and intervention programs. The executive director of the Washington association of sheriffs and

police chiefs or his or her designee and the attorney general or his or her designee shall serve on the grant application review committee. Each of these respective organizations shall have a vote when determining awards.

(2) Term. The director of the Washington state partnership council on juvenile justice shall award grants under this section for a period of one fiscal year.

(3) Eligible entities. Eligible entities under this section are:

(a) Nonprofit, nongovernmental organizations, or coalitions that serve the targeted populations that:

(i) Have a documented history of creating and administering effective projects; or

(ii) Work in partnership with an organization that has a documented history of creating and administering effective projects;

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

(4)(a) Applications. An eligible entity desiring a grant under this section shall submit an application to the director of the Washington state partnership council on juvenile justice at such time, in such form, and in such manner as the director may prescribe. Applications, at a minimum, shall demonstrate:

(i) That a significant gang problem exists in the jurisdiction or jurisdictions receiving the grant;

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

(iii) How the funds will be used to provide services to a targeted population; and

(iv) That the costs of administration shall not exceed four percent of appropriated funding.

(b) Consideration for grant awards shall primarily be given to, but not limited to, those applicants that show that gang violence is an increasing problem in their respective jurisdictions and that addressing the impact of street gangs is a high priority within their local community, and:

(i) Propose to conduct a community gang assessment utilizing proven evidence-based practices, such as the office of juvenile justice and office of delinquency programs comprehensive gang model; or

(ii) Where such an assessment has been conducted, to implement a prevention or intervention program utilizing either evidence-based or innovative and culturally relevant practices.

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

(6) Reports. Each eligible entity receiving a grant under this section shall submit within one month of the one-year anniversary of receiving the award to the director of the Washington state partnership council on juvenile justice a report describing the activities carried out with the grant funds.

NEW SECTION. **Sec. 2.** The sum of ten million dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 2013, from the general fund to the department of social and health services for the purposes of section 1 of this act.

Sec. 3. RCW 13.40.127 and 2009 c 236 s 1 are each amended to read as follows:

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

(a) Is charged with a sex or violent offense;

(b) Has a criminal history which includes any felony;

(c) Has a prior deferred disposition or deferred adjudication;

~~((or))~~

(d) Has two or more adjudications; or

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

(2) The juvenile court may, upon motion at least fourteen days before commencement of trial and, after consulting the juvenile's

custodial parent or parents or guardian and with the consent of the juvenile, continue the case for disposition for a period not to exceed one year from the date the juvenile is found guilty. The court shall consider whether the offender and the community will benefit from a deferred disposition before deferring the disposition.

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

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

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

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

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

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

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

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

(6) A parent who signed for a probation bond has the right to notify the counselor if the juvenile fails to comply with the bond or conditions of supervision. The counselor shall notify the court and surety of any failure to comply. A surety shall notify the court of

the juvenile's failure to comply with the probation bond. The state shall bear the burden to prove, by a preponderance of the evidence, that the juvenile has failed to comply with the terms of community supervision.

(7) A juvenile's lack of compliance shall be determined by the judge upon written motion by the prosecutor or the juvenile's juvenile court community supervision counselor. If a juvenile fails to comply with terms of supervision, the court shall enter an order of disposition.

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

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

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

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

NEW SECTION. **Sec. 4.** A new section is added to chapter 9A.46 RCW to read as follows:

(1) A person commits the offense of criminal gang intimidation if the person threatens another person with bodily injury because the other person refuses to join or has attempted to withdraw from a criminal street gang, as defined in RCW 9.94A.030.

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

Sec. 5. RCW 9A.46.120 and 1997 c 266 s 3 are each amended to read as follows:

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

(2) School criminal gang intimidation is a class ((E)) B felony.

Sec. 6. RCW 9.94A.515 and 2010 c 289 s 11 and 2010 c 227 s 9 are each reenacted and amended to read as follows:

TABLE 2
CRIMES INCLUDED WITHIN
EACH SERIOUSNESS LEVEL

XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055) Malicious explosion 1 (RCW 70.74.280(1)) Murder 1 (RCW 9A.32.030)
XIV	Murder 2 (RCW 9A.32.050) Trafficking 1 (RCW

9A.40.100(1))
XIII Malicious explosion 2
(RCW
70.74.280(2))
Malicious placement of
an explosive 1
(RCW 70.74.270(1))
XII Assault 1 (RCW
9A.36.011)
Assault of a Child 1
(RCW 9A.36.120)
Malicious placement of
an imitation
device 1 (RCW
70.74.272(1)(a))
Promoting Commercial
Sexual Abuse of a
Minor (RCW
9.68A.101)
Rape 1 (RCW 9A.44.040)
Rape of a Child 1 (RCW
9A.44.073)
Trafficking 2 (RCW
9A.40.100(2))
XI Manslaughter 1 (RCW
9A.32.060)
Rape 2 (RCW 9A.44.050)
Rape of a Child 2 (RCW
9A.44.076)
X Child Molestation 1
(RCW 9A.44.083)
Criminal Mistreatment
1 (RCW 9A.42.020)
Indecent Liberties
(with forcible

compulsion) (RCW
9A.44.100(1)(a))
Kidnapping 1 (RCW
9A.40.020)
Leading Organized
Crime (RCW
9A.82.060(1)(a))
Malicious explosion 3
(RCW
70.74.280(3))
Sexually Violent
Predator Escape
(RCW 9A.76.115)
IX Abandonment of
Dependent Person 1
(RCW 9A.42.060)
Assault of a Child 2
(RCW 9A.36.130)
Explosive devices
prohibited (RCW
70.74.180)
Hit and Run--Death
(RCW
46.52.020(4)(a))
Homicide by
Watercraft, by
being under the
influence of
intoxicating liquor
or any drug (RCW
79A.60.050)
Inciting Criminal
Profiteering (RCW
9A.82.060(1)(b))
Malicious placement of

an explosive 2
(RCW 70.74.270(2))
Robbery 1 (RCW
9A.56.200)
Sexual Exploitation
(RCW 9.68A.040)
Vehicular Homicide, by
being under the
influence of
intoxicating liquor
or any drug (RCW
46.61.520)
VIII Arson 1 (RCW
9A.48.020)
Commercial Sexual
Abuse of a Minor
(RCW 9.68A.100)
Homicide by
Watercraft, by the
operation of any
vessel in a
reckless manner
(RCW 79A.60.050)
Manslaughter 2 (RCW
9A.32.070)
Promoting Prostitution
1 (RCW 9A.88.070)
Theft of Ammonia (RCW
69.55.010)
Vehicular Homicide, by
the operation of
any vehicle in a
reckless manner
(RCW 46.61.520)
VII Burglary 1 (RCW

9A.52.020)
Child Molestation 2
(RCW 9A.44.086)
Civil Disorder
Training (RCW
9A.48.120)
Dealing in depictions
of minor engaged
in sexually
explicit conduct 1
(RCW
9.68A.050(1))
Drive-by Shooting (RCW
9A.36.045)
Homicide by
Watercraft, by
disregard for the
safety of others
(RCW 79A.60.050)
Indecent Liberties
(without forcible
compulsion) (RCW
9A.44.100(1) (b)
and (c))
Introducing Contraband
1 (RCW 9A.76.140)
Malicious placement of
an explosive 3
(RCW 70.74.270(3))
Negligently Causing
Death By Use of a
Signal Preemption
Device (RCW
46.37.675)
Sending, bringing into

state depictions of
minor engaged in
sexually explicit
conduct 1 (RCW
9.68A.060(1))

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

Use of a Machine Gun
in Commission of
a Felony (RCW
9.41.225)

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

VI Bail Jumping with
Murder 1 (RCW
9A.76.170(3)(a))

Bribery (RCW
9A.68.010)

Incest 1 (RCW
9A.64.020(1))

Intimidating a Judge
(RCW 9A.72.160)

Intimidating a
Juror/Witness (RCW
9A.72.110,
9A.72.130)

Malicious placement of
an imitation
device 2 (RCW
70.74.272(1)(b))

Possession of

Depictions of a
Minor Engaged in
Sexually Explicit
Conduct 1 (RCW
9.68A.070(1))
Rape of a Child 3 (RCW
9A.44.079)
Theft of a Firearm
(RCW 9A.56.300)
Unlawful Storage of
Ammonia (RCW
69.55.020)
V Abandonment of
Dependent Person 2
(RCW 9A.42.070)
Advancing money or
property for
extortionate
extension of credit
(RCW 9A.82.030)
Bail Jumping with
class A Felony
(RCW
9A.76.170(3)(b))
Child Molestation 3
(RCW 9A.44.089)
Criminal Mistreatment
2 (RCW 9A.42.030)
Custodial Sexual
Misconduct 1 (RCW
9A.44.160)
Dealing in Depictions
of Minor Engaged in
Sexually Explicit
Conduct 2 (RCW

9.68A.050(2))
Domestic Violence
Court Order
Violation (RCW
10.99.040,
10.99.050,
26.09.300,
26.10.220,
26.26.138,
26.50.110,
26.52.070, or
74.34.145)
Driving While Under
the Influence
(RCW 46.61.502(6))
Extortion 1 (RCW
9A.56.120)
Extortionate Extension
of Credit (RCW
9A.82.020)
Extortionate Means to
Collect
Extensions of
Credit (RCW
9A.82.040)
Incest 2 (RCW
9A.64.020(2))
Kidnapping 2 (RCW
9A.40.030)
Perjury 1 (RCW
9A.72.020)
Persistent prison
misbehavior (RCW
9.94.070)
Physical Control of a

Vehicle While
Under the Influence
(RCW
46.61.504(6))
Possession of a Stolen
Firearm (RCW
9A.56.310)
Rape 3 (RCW 9A.44.060)
Rendering Criminal
Assistance 1 (RCW
9A.76.070)
Sending, Bringing into
State Depictions of
Minor Engaged in
Sexually Explicit
Conduct 2 (RCW
9.68A.060(2))
Sexual Misconduct with
a Minor 1 (RCW
9A.44.093)
Sexually Violating
Human Remains
(RCW 9A.44.105)
Stalking (RCW
9A.46.110)
Taking Motor Vehicle
Without
Permission 1 (RCW
9A.56.070)
IV Arson 2 (RCW
9A.48.030)
Assault 2 (RCW
9A.36.021)
Assault 3 (of a Peace
Officer with a

Projectile Stun
Gun) (RCW
9A.36.031(1)(h))
Assault by Watercraft
(RCW 79A.60.060)
Bribing a
Witness/Bribe
Received by
Witness (RCW
9A.72.090,
9A.72.100)
Cheating 1 (RCW
9.46.1961)
Commercial Bribery
(RCW 9A.68.060)
Counterfeiting (RCW
9.16.035(4))
Endangerment with a
Controlled
Substance (RCW
9A.42.100)
Escape 1 (RCW
9A.76.110)
Hit and Run--Injury
(RCW
46.52.020(4)(b))
Hit and Run with
Vessel--Injury
Accident (RCW
79A.60.200(3))
Identity Theft 1 (RCW
9.35.020(2))
Indecent Exposure to
Person Under Age
Fourteen

(subsequent sex
offense) (RCW
9A.88.010)

Influencing Outcome of
Sporting Event
(RCW 9A.82.070)

Malicious Harassment
(RCW 9A.36.080)

Possession of
Depictions of a
Minor Engaged in
Sexually Explicit
Conduct 2 (RCW
~~((9.68[A].070))~~
9.68A.070(2))

Residential Burglary
(RCW 9A.52.025)

Robbery 2 (RCW
9A.56.210)

School Criminal Gang
Intimidation (RCW
9A.46.120)

Theft of Livestock 1
(RCW 9A.56.080)

Threats to Bomb (RCW
9.61.160)

Trafficking in Stolen
Property 1 (RCW
9A.82.050)

Unlawful factoring of
a credit card or
payment card
transaction (RCW
9A.56.290(4)(b))

Unlawful transaction

of health
coverage as a
health care service
contractor (RCW
48.44.016(3))

Unlawful transaction
of health
coverage as a
health maintenance
organization (RCW
48.46.033(3))

Unlawful transaction
of insurance
business (RCW
48.15.023(3))

Unlicensed practice as
an insurance
professional (RCW
48.17.063(2))

Use of Proceeds of
Criminal
Profiteering (RCW
9A.82.080 (1) and
(2))

Vehicular Assault, by
being under the
influence of
intoxicating liquor
or any drug, or
by the operation or
driving of a
vehicle in a
reckless manner
(RCW 46.61.522)

Viewing of Depictions

of a Minor Engaged
in Sexually
Explicit Conduct 1
(RCW 9.68A.075(1))
Willful Failure to
Return from
Furlough (RCW
72.66.060)

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

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

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

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

Burglary 2 (RCW
9A.52.030)

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

Criminal Gang
Intimidation (~~(RCW
9A.46.120)~~)
(section 4 of this

act)
Custodial Assault (RCW
9A.36.100)
Cyberstalking
(subsequent
conviction or
threat of death)
(RCW 9.61.260(3))
Escape 2 (RCW
9A.76.120)
Extortion 2 (RCW
9A.56.130)
Harassment (RCW
9A.46.020)
Intimidating a Public
Servant (RCW
9A.76.180)
Introducing Contraband
2 (RCW 9A.76.150)
Malicious Injury to
Railroad Property
(RCW 81.60.070)
Mortgage Fraud (RCW
19.144.080)
Negligently Causing
Substantial Bodily
Harm By Use of a
Signal Preemption
Device (RCW
46.37.674)
Organized Retail Theft
1 (RCW
9A.56.350(2))
Perjury 2 (RCW
9A.72.030)

Possession of
Incendiary Device
(RCW 9.40.120)

Possession of Machine
Gun or Short-
Barreled Shotgun or
Rifle (RCW
9.41.190)

Promoting Prostitution
2 (RCW 9A.88.080)

Retail Theft with
Extenuating
Circumstances 1
(RCW 9A.56.360(2))

Securities Act
violation (RCW
21.20.400)

Tampering with a
Witness (RCW
9A.72.120)

Telephone Harassment
(subsequent
conviction or
threat of death)
(RCW 9.61.230(2))

Theft of Livestock 2
(RCW 9A.56.083)

Theft with the Intent
to Resell 1 (RCW
9A.56.340(2))

Trafficking in Stolen
Property 2 (RCW
9A.82.055)

Unlawful Imprisonment
(RCW 9A.40.040)

Unlawful possession of
firearm in the
second degree (RCW
9.41.040(2))

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

Willful Failure to
Return from Work
Release (RCW
72.65.070)

II Computer Trespass 1
(RCW 9A.52.110)

Counterfeiting (RCW
9.16.035(3))

Escape from Community
Custody (RCW
72.09.310)

Failure to Register as
a Sex Offender
(second or
subsequent offense)
(RCW
(~~9A.44.130(11)(a)~~)
) 9A.44.132)

Health Care False
Claims (RCW
48.80.030)

Identity Theft 2 (RCW
9.35.020(3))

Improperly Obtaining

Financial
Information (RCW
9.35.010)
Malicious Mischief 1
(RCW 9A.48.070)
Organized Retail Theft
2 (RCW
9A.56.350(3))
Possession of Stolen
Property 1 (RCW
9A.56.150)
Possession of a Stolen
Vehicle (RCW
9A.56.068)
Retail Theft with
Extenuating
Circumstances 2
(RCW 9A.56.360(3))
Theft 1 (RCW
9A.56.030)
Theft of a Motor
Vehicle (RCW
9A.56.065)
Theft of Rental,
Leased, or Lease-
purchased Property
(valued at one
thousand five
hundred dollars or
more) (RCW
9A.56.096(5) (a))
Theft with the Intent
to Resell 2 (RCW
9A.56.340(3))
Trafficking in

Insurance Claims
(RCW 48.30A.015)

Unlawful factoring of
a credit card or
payment card
transaction (RCW
9A.56.290(4)(a))

Unlawful Practice of
Law (RCW
2.48.180)

Unlicensed Practice of
a Profession or
Business (RCW
18.130.190(7))

Voyeurism (RCW
9A.44.115)

I Attempting to Elude a
Pursuing Police
Vehicle (RCW
46.61.024)

False Verification for
Welfare (RCW
74.08.055)

Forgery (RCW
9A.60.020)

Fraudulent Creation or
Revocation of a
Mental Health
Advance Directive
(RCW 9A.60.060)

Malicious Mischief 2
(RCW 9A.48.080)

Mineral Trespass (RCW
78.44.330)

Possession of Stolen

Property 2 (RCW
9A.56.160)
Reckless Burning 1
(RCW 9A.48.040)
Taking Motor Vehicle
Without
Permission 2 (RCW
9A.56.075)
Theft 2 (RCW
9A.56.040)
Theft of Rental,
Leased, or Lease-
purchased Property
(valued at two
hundred fifty
dollars or more but
less than one
thousand five
hundred dollars)
(RCW
9A.56.096(5) (b))
Transaction of
insurance business
beyond the scope of
licensure (RCW
48.17.063)
Unlawful Issuance of
Checks or Drafts
(RCW 9A.56.060)
Unlawful Possession of
Fictitious
Identification (RCW
9A.56.320)
Unlawful Possession of
Instruments of

Financial Fraud
(RCW 9A.56.320)
Unlawful Possession of
Payment
Instruments (RCW
9A.56.320)
Unlawful Possession of
a Personal
Identification
Device (RCW
9A.56.320)
Unlawful Production of
Payment
Instruments (RCW
9A.56.320)
Unlawful Trafficking
in Food Stamps
(RCW 9.91.142)
Unlawful Use of Food
Stamps (RCW
9.91.144)
Vehicle Prowl 1 (RCW
9A.52.095)

Sec. 7. RCW 13.04.030 and 2009 c 526 s 1 and 2009 c 454 s 1 are each reenacted and amended to read as follows:

(1) Except as provided in this section, the juvenile courts in this state shall have exclusive original jurisdiction over all proceedings:

(a) Under the interstate compact on placement of children as provided in chapter 26.34 RCW;

(b) Relating to children alleged or found to be dependent as provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.161;

(c) Relating to the termination of a parent and child relationship as provided in RCW 13.34.180 through 13.34.210;

(d) To approve or disapprove out-of-home placement as provided in RCW 13.32A.170;

(e) Relating to juveniles alleged or found to have committed offenses, traffic or civil infractions, or violations as provided in RCW 13.40.020 through 13.40.230, unless:

(i) The juvenile court transfers jurisdiction of a particular juvenile to adult criminal court pursuant to RCW 13.40.110;

(ii) The statute of limitations applicable to adult prosecution for the offense, traffic or civil infraction, or violation has expired;

(iii) The alleged offense or infraction is a traffic, fish, boating, or game offense, or traffic or civil infraction committed by a juvenile sixteen years of age or older and would, if committed by an adult, be tried or heard in a court of limited jurisdiction, in which instance the appropriate court of limited jurisdiction shall have jurisdiction over the alleged offense or infraction, and no guardian ad litem is required in any such proceeding due to the juvenile's age. If such an alleged offense or infraction and an alleged offense or infraction subject to juvenile court jurisdiction arise out of the same event or incident, the juvenile court may have jurisdiction of both matters. The jurisdiction under this subsection does not constitute "transfer" or a "decline" for purposes of RCW 13.40.110 (1) and (2) or (e) (i) of this subsection. Courts of limited jurisdiction which confine juveniles for an alleged offense or infraction may place juveniles in juvenile detention facilities under an agreement with the officials responsible for the administration of the juvenile detention facility in RCW 13.04.035 and 13.20.060;

(iv) The alleged offense is a traffic or civil infraction, a violation of compulsory school attendance provisions under chapter 28A.225 RCW, or a misdemeanor, and a court of limited jurisdiction has assumed concurrent jurisdiction over those offenses as provided in RCW 13.04.0301; or

(v) The juvenile is sixteen or seventeen years old on the date the alleged offense is committed and the alleged offense is:

(A) A serious violent offense as defined in RCW 9.94A.030;

(B) A violent offense as defined in RCW 9.94A.030 and the juvenile has a criminal history consisting of: (I) One or more prior serious violent offenses; (II) two or more prior violent offenses; or (III) three or more of any combination of the following offenses: Any class A felony, any class B felony, vehicular assault, or manslaughter in the second degree, all of which must have been committed after the juvenile's thirteenth birthday and prosecuted separately;

(C) A violent offense as defined in RCW 9.94A.030 and that offense is alleged to be a criminal street gang-related offense as defined in RCW 9.94A.030;

(D) Robbery in the first degree, rape of a child in the first degree, or drive-by shooting, committed on or after July 1, 1997;

~~((D))~~ (E) Burglary in the first degree committed on or after July 1, 1997, and the juvenile has a criminal history consisting of one or more prior felony or misdemeanor offenses; or

~~((E))~~ (F) Any violent offense as defined in RCW 9.94A.030 committed on or after July 1, 1997, and the juvenile is alleged to have been armed with a firearm.

(I) In such a case the adult criminal court shall have exclusive original jurisdiction, except as provided in (e) (v) ~~((E))~~ (F) (II) and (III) of this subsection.

(II) The juvenile court shall have exclusive jurisdiction over the disposition of any remaining charges in any case in which the juvenile is found not guilty in the adult criminal court of the charge or charges for which he or she was transferred, or is convicted in the adult criminal court of a lesser included offense that is not also an offense listed in (e) (v) of this subsection. The juvenile court shall enter an order extending juvenile court jurisdiction if the juvenile has turned eighteen years of age during the adult criminal court proceedings pursuant to RCW 13.40.300. However, once the case is returned to juvenile court, the court may hold a decline hearing pursuant to RCW 13.40.110 to determine whether to retain the case in juvenile court for the purpose of disposition or return the case to adult criminal court for sentencing.

(III) The prosecutor and respondent may agree to juvenile court jurisdiction and waive application of exclusive adult criminal jurisdiction in (e) (v) (A) through ~~((E))~~ (F) of this subsection and remove the proceeding back to juvenile court with the court's approval.

If the juvenile challenges the state's determination of the juvenile's criminal history under (e) (v) of this subsection, the state may establish the offender's criminal history by a preponderance of the evidence. If the criminal history consists of adjudications entered upon a plea of guilty, the state shall not bear a burden of establishing the knowing and voluntariness of the plea;

(f) Under the interstate compact on juveniles as provided in chapter 13.24 RCW;

(g) Relating to termination of a diversion agreement under RCW 13.40.080, including a proceeding in which the divertee has attained eighteen years of age;

(h) Relating to court validation of a voluntary consent to an out-of-home placement under chapter 13.34 RCW, by the parent or Indian custodian of an Indian child, except if the parent or Indian custodian and child are residents of or domiciled within the boundaries of a federally recognized Indian reservation over which the tribe exercises exclusive jurisdiction;

(i) Relating to petitions to compel disclosure of information filed by the department of social and health services pursuant to RCW 74.13.042; and

(j) Relating to judicial determinations and permanency planning hearings involving developmentally disabled children who have been placed in out-of-home care pursuant to a voluntary placement agreement between the child's parent, guardian, or legal custodian and the department of social and health services.

(2) The family court shall have concurrent original jurisdiction with the juvenile court over all proceedings under this section if the superior court judges of a county authorize concurrent jurisdiction as provided in RCW 26.12.010.

(3) The juvenile court shall have concurrent original jurisdiction with the family court over child custody proceedings under chapter 26.10 RCW and parenting plans or residential schedules under chapters 26.09 and 26.26 RCW as provided for in RCW 13.34.155.

(4) A juvenile subject to adult superior court jurisdiction under subsection (1)(e)(i) through (v) of this section, who is detained pending trial, may be detained in a detention facility as defined in RCW 13.40.020 pending sentencing or a dismissal.

Sec. 8. RCW 9A.48.105 and 2008 c 276 s 306 are each amended to read as follows:

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

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

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

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

(2) Criminal street gang tagging and graffiti is a (~~gross misdemeanor offense~~) class C felony.

(3) In addition to any other penalty imposed for a violation of this section, the court shall impose as a condition of the sentence that the person perform one hundred hours of community service.

Sec. 9. RCW 9.94A.533 and 2009 c 141 s 2 are each amended to read as follows:

(1) The provisions of this section apply to the standard sentence ranges determined by RCW 9.94A.510 or 9.94A.517.

(2) For persons convicted of the anticipatory offenses of criminal attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the standard sentence range is determined by locating the sentencing grid sentence range defined by the appropriate offender score and the

seriousness level of the completed crime, and multiplying the range by seventy-five percent.

(3) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any firearm enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the firearm enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a firearm enhancement. If the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any firearm enhancements, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Five years for any felony defined under any law as a class A felony or with a statutory maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection;

(b) Three years for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both, and not covered under (f) of this subsection;

(c) Eighteen months for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both, and not covered under (f) of this subsection;

(d) If the offender is being sentenced for any firearm enhancements under (a), (b), and/or (c) of this subsection and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (4)(a), (b), and/or (c) of this section, or both, all firearm enhancements under this subsection shall be twice the amount of the enhancement listed;

(e) Notwithstanding any other provision of law, all firearm enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728(~~(4)~~) (3);

(f) The firearm enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony;

(g) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a firearm enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(4) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any deadly weapon enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the deadly weapon enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a deadly weapon enhancement. If the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any deadly weapon enhancements, the following additional

times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Two years for any felony defined under any law as a class A felony or with a statutory maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection;

(b) One year for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both, and not covered under (f) of this subsection;

(c) Six months for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both, and not covered under (f) of this subsection;

(d) If the offender is being sentenced under (a), (b), and/or (c) of this subsection for any deadly weapon enhancements and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (3)(a), (b), and/or (c) of this section, or both, all deadly weapon enhancements under this subsection shall be twice the amount of the enhancement listed;

(e) Notwithstanding any other provision of law, all deadly weapon enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728(~~(+4)~~) (3);

(f) The deadly weapon enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony;

(g) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a

persistent offender. If the addition of a deadly weapon enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(5) The following additional times shall be added to the standard sentence range if the offender or an accomplice committed the offense while in a county jail or state correctional facility and the offender is being sentenced for one of the crimes listed in this subsection. If the offender or an accomplice committed one of the crimes listed in this subsection while in a county jail or state correctional facility, and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section:

(a) Eighteen months for offenses committed under RCW 69.50.401(2) (a) or (b) or 69.50.410;

(b) Fifteen months for offenses committed under RCW 69.50.401(2) (c), (d), or (e);

(c) Twelve months for offenses committed under RCW 69.50.4013.

For the purposes of this subsection, all of the real property of a state correctional facility or county jail shall be deemed to be part of that facility or county jail.

(6) An additional twenty-four months shall be added to the standard sentence range for any ranked offense involving a violation of chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435 or ((~~9.94A.605~~)) 9.94A.827. All enhancements under this subsection shall run consecutively to all other sentencing provisions, for all offenses sentenced under this chapter.

(7) An additional two years shall be added to the standard sentence range for vehicular homicide committed while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502 for each prior offense as defined in RCW 46.61.5055.

(8)(a) The following additional times shall be added to the standard sentence range for felony crimes committed on or after July

1, 2006, if the offense was committed with sexual motivation, as that term is defined in RCW 9.94A.030. If the offender is being sentenced for more than one offense, the sexual motivation enhancement must be added to the total period of total confinement for all offenses, regardless of which underlying offense is subject to a sexual motivation enhancement. If the offender committed the offense with sexual motivation and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(i) Two years for any felony defined under the law as a class A felony or with a statutory maximum sentence of at least twenty years, or both;

(ii) Eighteen months for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both;

(iii) One year for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both;

(iv) If the offender is being sentenced for any sexual motivation enhancements under (i), (ii), and/or (iii) of this subsection and the offender has previously been sentenced for any sexual motivation enhancements on or after July 1, 2006, under (i), (ii), and/or (iii) of this subsection, all sexual motivation enhancements under this subsection shall be twice the amount of the enhancement listed;

(b) Notwithstanding any other provision of law, all sexual motivation enhancements under this subsection are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other sexual motivation enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728(~~(4)~~) (3);

(c) The sexual motivation enhancements in this subsection apply to all felony crimes;

(d) If the standard sentence range under this subsection exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a sexual motivation enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced;

(e) The portion of the total confinement sentence which the offender must serve under this subsection shall be calculated before any earned early release time is credited to the offender;

(f) Nothing in this subsection prevents a sentencing court from imposing a sentence outside the standard sentence range pursuant to RCW 9.94A.535.

(9) An additional one-year enhancement shall be added to the standard sentence range for the felony crimes of RCW 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on or after July 22, 2007, if the offender engaged, agreed, or offered to engage the victim in the sexual conduct in return for a fee. If the offender is being sentenced for more than one offense, the one-year enhancement must be added to the total period of total confinement for all offenses, regardless of which underlying offense is subject to the enhancement. If the offender is being sentenced for an anticipatory offense for the felony crimes of RCW 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the offender attempted, solicited another, or conspired to engage, agree, or offer to engage the victim in the sexual conduct in return for a fee, an additional one-year enhancement shall be added to the standard sentence range determined under subsection (2) of this section. For purposes of this subsection, "sexual conduct" means sexual intercourse or sexual contact, both as defined in chapter 9A.44 RCW.

(10)(a) For a person age eighteen or older convicted of any criminal street gang-related felony offense for which the person compensated, threatened, or solicited a minor in order to involve the minor in the commission of the felony offense, the standard sentence range is determined by locating the sentencing grid sentence range

defined by the appropriate offender score and the seriousness level of the completed crime, and multiplying the range by one hundred twenty-five percent. If the standard sentence range under this subsection exceeds the statutory maximum sentence for the offense, the statutory maximum sentence is the presumptive sentence unless the offender is a persistent offender.

(b) This subsection does not apply to any criminal street gang-related felony offense for which involving a minor in the commission of the felony offense is an element of the offense.

(c) The increased penalty specified in (a) of this subsection is unavailable in the event that the prosecution gives notice that it will seek an exceptional sentence based on an aggravating factor under RCW 9.94A.535.

(11) An additional twelve months and one day shall be added to the standard sentence range for a conviction of attempting to elude a police vehicle as defined by RCW 46.61.024, if the conviction included a finding by special allegation of endangering one or more persons under RCW 9.94A.834.

(12) An additional twelve months shall be added to the standard sentence range for an offense that is also a violation of RCW 9.94A.831.

(13) The following additional times shall be added to the standard sentence range for felony crimes if the offender is being sentenced for an offense found pursuant to section 10 of this act to be a criminal street gang-related offense as defined in RCW 9.94A.030. If the offender is being sentenced for more than one offense, the criminal street gang enhancement must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a criminal street gang enhancement. If the criminal street gang-related offense is an anticipatory offense under chapter 9A.28 RCW, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Five years for any felony defined under any law as a class A

felony or with a statutory maximum sentence of at least twenty years, or both;

(b) Three years for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both;

(c) Eighteen months for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both;

(d) All criminal street gang-related enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728(3);

(e) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be presumptive unless the offender is a persistent offender. If the addition of a criminal street gang-related enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced;

(f) The criminal street gang-related enhancement is unavailable in the event that the prosecution gives notice that it will seek an exceptional sentence based on the criminal street gang-related aggravating factor provided by RCW 9.94A.535(3) (aa).

(14) (a) Any offender who is being sentenced for a felony offense found pursuant to section 10 of this act to be a criminal street gang-related offense as defined in RCW 9.94A.030 may be punished by a fine and imprisonment of up to twice the fine and imprisonment otherwise authorized if the offense occurs:

(i) In a school;

(ii) On a school bus;

(iii) Within one thousand feet of a school bus route stop designated by the school district; and

(iv) Within one thousand feet of the perimeter of the school

grounds.

(b) It is not a defense for purposes of this subsection that the offender was unaware that the prohibited conduct took place in a school, on a school bus, or within one thousand feet of a designated school bus stop or school grounds. It is also not a defense for purposes of this subsection that at the time of the offense school was not in session or persons under the age of eighteen were not present in the school, within the school perimeter, on the school bus, or at the designated school bus stop.

NEW SECTION. **Sec. 10.** A new section is added to chapter 9.94A RCW to read as follows:

(1) Where the prosecuting attorney charges a person with a felony offense, the prosecuting attorney may file a special allegation charging that the offense is a criminal street gang-related offense as defined in RCW 9.94A.030.

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

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

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

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

(4) If the evidence regarding the criminal street gang-related offense special allegation is not presented to the jury during the trial of the alleged crime, the court shall conduct a separate proceeding to determine the existence of this special allegation. The

proceeding shall immediately follow the trial on the underlying conviction, if possible. If any person who served on the jury is unable to continue, the court shall substitute an alternate juror.

Sec. 11. RCW 9.94A.701 and 2010 c 267 s 11 and 2010 c 224 s 5 are each reenacted and amended to read as follows:

(1) If an offender is sentenced to the custody of the department for one of the following crimes, the court shall, in addition to the other terms of the sentence, sentence the offender to community custody for three years:

- (a) A sex offense not sentenced under RCW 9.94A.507; or
- (b) A serious violent offense.

(2) A court shall, in addition to the other terms of the sentence, sentence an offender to community custody for eighteen months when the court sentences the person to the custody of the department for a violent offense that is not considered a serious violent offense.

(3) A court shall, in addition to the other terms of the sentence, sentence an offender to community custody for one year when the court sentences the person to the custody of the department for:

- (a) Any crime against persons under RCW 9.94A.411(2);
- (b) An offense involving the unlawful possession of a firearm under RCW 9.41.040, where the offender is a criminal street gang member or associate;

(c) A felony offense under chapter 69.50 or 69.52 RCW, committed on or after July 1, 2000; (~~(e)~~)

(d) A felony violation of RCW 9A.44.132(1) (failure to register) that is the offender's first violation for a felony failure to register; or

(e) A felony offense that is a criminal street gang-related offense under RCW 9.94A.030, unless the longer terms of community custody of subsections (1) and (2) of this section apply.

(4) If an offender is sentenced under the drug offender sentencing alternative, the court shall impose community custody as provided in RCW 9.94A.660.

(5) If an offender is sentenced under the special sex offender sentencing alternative, the court shall impose community custody as provided in RCW 9.94A.670.

(6) If an offender is sentenced to a work ethic camp, the court shall impose community custody as provided in RCW 9.94A.690.

(7) If an offender is sentenced under the parenting sentencing alternative, the court shall impose a term of community custody as provided in RCW 9.94A.655.

(8) If a sex offender is sentenced as a nonpersistent offender pursuant to RCW 9.94A.507, the court shall impose community custody as provided in that section.

(9) The term of community custody specified by this section shall be reduced by the court whenever an offender's standard range term of confinement in combination with the term of community custody exceeds the statutory maximum for the crime as provided in RCW 9A.20.021.

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

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

(a) A sex offense;

(b) A violent offense;

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

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

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

or

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

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

NEW SECTION. **Sec. 13.** (1) Every piece of real property, building, or unit within a building upon or within which three or more

unrelated criminal street gang-related offenses, as defined in RCW 9.94A.030, have occurred in the prior year is a nuisance which may be enjoined, abated, and prevented, whether it is a public or private nuisance.

(2) As used in this chapter:

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

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

NEW SECTION. **Sec. 14.** (1) The action provided for in this chapter may be brought by a county or municipal government entity in the superior court in the county in which the property is located. The action shall be commenced by the filing of a complaint alleging the facts constituting the nuisance.

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

(3) In addition, the affidavit shall describe in detail the adverse impact associated with the property on the surrounding neighborhood. "Adverse impact" includes, but is not limited to, the following: Any search warrants served on the property; investigative purchases of controlled substances on or near the property by law enforcement or their agents; arrests of persons who frequent the property for criminal street gang-related offenses; the number of complaints made to law enforcement of criminal street gang-related activity associated with the property; and the existence of criminal

temporary restraining orders and injunctions, and actions to forfeit vehicles used in violation of the uniform controlled substances act.

NEW SECTION. **Sec. 17.** A copy of the complaint, together with a notice of the time and place of the hearing of the action, shall be served upon the defendant at least one business day before the hearing. Service may also be made by posting the papers in the same manner as is provided for in section 15 of this act. If the hearing is then continued at the request of any defendant, all temporary orders and injunctions shall be extended as a matter of course.

NEW SECTION. **Sec. 18.** (1) Except as provided in subsection (2) of this section, if the existence of the nuisance is established in the action, an order of abatement shall be entered as part of the final judgment in the case. The plaintiff's costs in the action, including those of abatement, are a lien upon the real property, building, or unit within a building. The lien is enforceable and collectible by execution issued by order of the court.

(2) If the court finds and concludes that the owner of the real property, building, or unit within a building: (a) Had no knowledge of the existence of the nuisance or has been making reasonable efforts to abate the nuisance; (b) has not been guilty of any contempt of court in the proceedings; and (c) will immediately abate any such nuisance that may exist at the real property, building, or unit within a building and prevent it from being a nuisance within a period of one year thereafter, the court shall, if satisfied of the owner's good faith, order the real property, building, or unit within a building to be delivered to the owner, and no order of abatement shall be entered. If an order of abatement has been entered and the owner subsequently meets the requirements of this subsection, the order of abatement shall be canceled.

NEW SECTION. **Sec. 19.** (1) Any final order of abatement issued under this chapter shall direct the removal of all personal property subject to seizure and forfeiture pursuant to section 21 of this act

from the real property, building, or unit within a building, and direct their disposition pursuant to the forfeiture provisions of that subsection.

(2) Any final order of abatement issued under this chapter may:

(a) Provide for the immediate closure of the real property, building, or unit within a building against its use for any purpose, and for keeping it closed for a period of one year unless released sooner as provided in this chapter; and

(b) State that while the order of abatement remains in effect the building or unit within a building shall remain in the custody of the court; or

(c) Provide for any other relief necessary and proper under the circumstances.

NEW SECTION. **Sec. 20.** (1) In all actions brought under this chapter, the proceeds and all moneys forfeited pursuant to the forfeiture provisions of section 21 of this act shall be applied as follows:

(a) First, to the fees and costs of the removal and sale;

(b) Second, to the allowances and costs of closing and keeping closed the real property, building, or unit within a building;

(c) Third, to the payment of the plaintiff's costs in the action; and

(d) Fourth, the balance, if any, to the owner of the property.

(2) If the proceeds of the sale of items subject to seizure and forfeiture do not fully discharge all of the costs, fees, and allowances, the real property, building, or unit within a building shall then also be sold under execution issued upon the order of the court, and the proceeds of the sale shall be applied in a like manner.

(3) Real property, building, or unit within a building shall not be sold under this section unless the court finds and concludes by clear and convincing evidence that the owner of the real property, building, or unit within a building had actual or constructive knowledge or notice of the existence of the nuisance. However, this

shall not be construed as limiting or prohibiting the entry of any final order of abatement as provided in this chapter.

NEW SECTION. **Sec. 21.** (1) The following are subject to seizure and forfeiture and no property right exists in them:

(a) All controlled substances which have been manufactured, distributed, dispensed, acquired, or possessed in violation of law and all hazardous chemicals, as defined in RCW 64.44.010, used or intended to be used in the manufacture of controlled substances;

(b) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of law;

(c) All property which is used, or intended for use, as a container for property described in (a) or (b) of this subsection;

(d) All conveyances, including aircraft, vehicles, or vessels, which are used, or intended for use, in any manner to facilitate the commission of or flight from a felony criminal street gang-related offense, except that:

(i) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance has actual or constructive knowledge of its use in the commission of a felony criminal street gang-related offense;

(ii) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission; and

(iii) When the owner of a conveyance has been arrested and charged with a felony criminal street gang-related offense, the conveyance in which the person is arrested may not be subject to forfeiture unless it is seized or process is issued for its seizure within ten days of the owner's arrest;

(e) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in any criminal street gang-related offenses;

(f) All drug paraphernalia;

(g) All moneys, negotiable instruments, securities, or other tangible or intangible property of value used or intended to be used to facilitate a felony criminal street gang-related offense; all tangible or intangible personal property, proceeds, or assets acquired in whole or in part with proceeds traceable to a felony criminal street gang-related offense. However:

(i) A forfeiture of money, negotiable instruments, securities, or other tangible or intangible property encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party did not, at any time after the security interest is created, have actual knowledge of the aforementioned relationship between the property and the felony criminal street gang-related offense; and

(ii) No personal property may be forfeited under this subsection (1)(g), to the extent of the interest of an owner, by reason of any act or omission which that owner establishes was committed or omitted without the owner's knowledge or consent;

(h) All firearms subject to forfeiture pursuant to RCW 9.41.098; and

(i) All real property, including any right, title, and interest in the whole of any lot or tract of land, and any appurtenances or improvements which are being used with the knowledge of the owner to facilitate the commission of a felony criminal gang-related offense, or which have been acquired in whole or in part with proceeds traceable to the commission of such an offense provided that there exists a substantial nexus between the offense and the real property. However:

(i) No property may be forfeited pursuant to this subsection (1)(h), to the extent of the interest of an owner, by reason of any act or omission committed or omitted without the owner's knowledge or consent; and

(ii) A forfeiture of real property encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party did not at any time have actual knowledge nor consented to the felony criminal street gang-related offense.

(2) Real or personal property subject to forfeiture under this chapter may be seized by any law enforcement officer of this state upon process issued by any superior court having jurisdiction over the property. Seizure of real property shall include the filing of a lis pendens by the seizing agency. Real property seized under this section shall not be transferred or otherwise conveyed until ninety days after seizure or until a judgment of forfeiture is entered, whichever is later: PROVIDED, That real property seized under this section may be transferred or conveyed to any person or entity who acquires title by foreclosure or deed in lieu of foreclosure of a security interest. Seizure of personal property without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter;

(c) A law enforcement officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(d) A law enforcement officer has probable cause to believe that the property was used or is intended to be used in furtherance of a criminal street gang-related offense.

(3) In the event of seizure pursuant to subsection (2) of this section, proceedings for forfeiture shall be deemed commenced by the seizure. The law enforcement agency under whose authority the seizure was made shall cause notice to be served within fifteen days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, including any community property interest, of the seizure and

intended forfeiture of the seized property. Service of notice of seizure of real property shall be made according to the rules of civil procedure. However, the state may not obtain a default judgment with respect to real property against a party who is served by substituted service absent an affidavit stating that a good faith effort has been made to ascertain if the defaulted party is incarcerated within the state, and that there is no present basis to believe that the party is incarcerated within the state. Notice of seizure in the case of property subject to a security interest that has been perfected by filing a financing statement in accordance with chapter 62A.9A RCW, or a certificate of title, shall be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title. The notice of seizure in other cases may be served by any method authorized by law or court rule including but not limited to service by certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the fifteen-day period following the seizure.

(4) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (1)(d), (g), (h), or (i) of this section within forty-five days of the service of notice from the seizing agency in the case of personal property and ninety days in the case of real property, the item seized shall be deemed forfeited. The community property interest in real property of a person whose spouse or domestic partner committed a violation giving rise to seizure of the real property may not be forfeited if the person did not participate in the violation.

(5) If any person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (1)(b), (c), (d), (e), (f), (g), (h), or (i) of this section within forty-five days of the service of notice from the seizing agency in the case of personal property and ninety days in the case of real property, the person or persons shall be afforded a reasonable opportunity to be heard as to the claim or

right. The notice of claim may be served by any method authorized by law or court rule including, but not limited to, service by first-class mail. Service by mail shall be deemed complete upon mailing within the forty-five day period following service of the notice of seizure in the case of personal property and within the ninety-day period following service of the notice of seizure in the case of real property. The hearing shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except where the seizing agency is a state agency as defined in RCW 34.12.020(4), the hearing shall be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction. Removal of any matter involving personal property may only be accomplished according to the rules of civil procedure. The person seeking removal of the matter must serve process against the state, county, political subdivision, or municipality that operates the seizing agency, and any other party of interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-five days after the person seeking removal has notified the seizing law enforcement agency of the person's claim of ownership or right to possession. The court to which the matter is to be removed shall be the district court when the aggregate value of personal property is within the jurisdictional limit set forth in RCW 3.66.020. A hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW. In all cases, the burden of proof is upon the law enforcement agency to establish, by a preponderance of the evidence, that the property is subject to forfeiture.

The seizing law enforcement agency shall promptly return the article or articles to the claimant upon a determination by the administrative law judge or court that the claimant is the present lawful owner or is lawfully entitled to possession thereof of items specified in subsection (1)(b), (c), (d), (e), (f), (g), (h), or (i) of this section.

(6) In any proceeding to forfeit property under this title, where the claimant substantially prevails, the claimant is entitled to reasonable attorneys' fees reasonably incurred by the claimant. In addition, in a court hearing between two or more claimants to the article or articles involved, the prevailing party is entitled to a judgment for costs and reasonable attorneys' fees.

(7) When property is forfeited under this chapter the seizing law enforcement agency may:

(a) Retain it for official use or upon application by any law enforcement agency of this state release such property to such agency for the exclusive use of enforcing the provisions of this chapter;

(b) Sell that which is not required to be destroyed by law and which is not harmful to the public;

(c) Request the appropriate sheriff or director of public safety to take custody of the property and remove it for disposition in accordance with law; or

(d) Forward it to the drug enforcement administration for disposition.

(8) (a) When property is forfeited, the seizing agency shall keep a record indicating the identity of the prior owner, if known, a description of the property, the disposition of the property, the value of the property at the time of seizure, and the amount of proceeds realized from disposition of the property.

(b) Each seizing agency shall retain records of forfeited property for at least seven years.

(c) Each seizing agency shall file a report including a copy of the records of forfeited property with the state treasurer each calendar quarter.

(d) The quarterly report need not include a record of forfeited property that is still being held for use as evidence during the investigation or prosecution of a case or during the appeal from a conviction.

(9) (a) By January 31st of each year, each seizing agency shall remit to the state treasurer an amount equal to ten percent of the net

proceeds of any property forfeited during the preceding calendar year. Money remitted shall be deposited in the state general fund.

(b) The net proceeds of forfeited property is the value of the forfeitable interest in the property after deducting the cost of satisfying any bona fide security interest to which the property is subject at the time of seizure; and in the case of sold property, after deducting the cost of sale, including reasonable fees or commissions paid to independent selling agents, and the cost of any valid landlord's claim for damages under subsection (15) of this section.

(c) The value of sold forfeited property is the sale price. The value of retained forfeited property is the fair market value of the property at the time of seizure, determined when possible by reference to an applicable commonly used index, such as the index used by the department of licensing for valuation of motor vehicles. A seizing agency may use, but need not use, an independent qualified appraiser to determine the value of retained property. If an appraiser is used, the value of the property appraised is net of the cost of the appraisal. The value of destroyed property and retained firearms or illegal property is zero.

(10) Forfeited property and net proceeds not required to be paid to the state treasurer shall be retained by the seizing law enforcement agency exclusively for the expansion and improvement of criminal street gang-related law enforcement activity. Money retained under this section may not be used to supplant preexisting funding sources.

(11) Upon the entry of an order of forfeiture of real property, the court shall forward a copy of the order to the assessor of the county in which the property is located. Orders for the forfeiture of real property shall be entered by the superior court, subject to court rules. An order shall be filed by the seizing agency in the county auditor's records in the county in which the real property is located.

(12) A landlord may assert a claim against proceeds from the sale of assets seized and forfeited under subsection (7)(b) of this section, only if:

(a) A law enforcement officer, while acting in his or her official capacity, directly caused damage to the complaining landlord's property while executing a search of a tenant's residence; and

(b) The landlord has applied any funds remaining in the tenant's deposit, to which the landlord has a right under chapter 59.18 RCW, to cover the damage directly caused by a law enforcement officer prior to asserting a claim under the provisions of this section;

(i) Only if the funds applied under (b) of this subsection are insufficient to satisfy the damage directly caused by a law enforcement officer, may the landlord seek compensation for the damage by filing a claim against the governmental entity under whose authority the law enforcement agency operates within thirty days after the search;

(ii) Only if the governmental entity denies or fails to respond to the landlord's claim within sixty days of the date of filing, may the landlord collect damages under this subsection by filing within thirty days of denial or the expiration of the sixty-day period, whichever occurs first, a claim with the seizing law enforcement agency. The seizing law enforcement agency must notify the landlord of the status of the claim by the end of the thirty-day period. Nothing in this section requires the claim to be paid by the end of the sixty-day or thirty-day period.

(c) For any claim filed under (b) of this subsection, the law enforcement agency shall pay the claim unless the agency provides substantial proof that the landlord knew or consented to actions of the tenant that led to the forfeiture of the property.

(13) The landlord's claim for damages under subsection (12) of this section may not include a claim for loss of business and is limited to:

(a) Damage to tangible property and clean-up costs;

(b) The lesser of the cost of repair or fair market value of the damage directly caused by a law enforcement officer;

(c) The proceeds from the sale of the specific tenant's property seized and forfeited under subsection (7) (b) of this section; and

(d) The proceeds available after the seizing law enforcement agency satisfies any bona fide security interest in the tenant's property and costs related to sale of the tenant's property as provided by subsection (9)(b) of this section.

(14) Subsections (12) and (13) of this section do not limit any other rights a landlord may have against a tenant to collect for damages. However, if a law enforcement agency satisfies a landlord's claim under subsection (12) of this section, the rights the landlord has against the tenant for damages directly caused by a law enforcement officer under the terms of the landlord and tenant's contract are subrogated to the law enforcement agency.

NEW SECTION. **Sec. 22.** An intentional violation of a restraining order, preliminary injunction, or order of abatement under this chapter is a contempt of court as provided in chapter 7.21 RCW.

NEW SECTION. **Sec. 23.** Whenever the owner of real property, building, or unit within a building upon which the act or acts constituting the contempt have been committed, or the owner of any interest in the real property, building, or unit within a building has been found in contempt of court, and fined in any proceedings under this chapter, the fine is a lien upon the real property, building, or unit within a building to the extent of the owner's interest. The lien is enforceable and collectible by execution issued by order of the court.

NEW SECTION. **Sec. 24.** The abatement of a nuisance under this chapter does not prejudice the right of any person to recover damages for its past existence.

NEW SECTION. **Sec. 25.** The legislature finds that the presence of criminal street gangs and the gang-related crimes they commit is increasing in Washington. In communities where criminal street gangs have become established, the gangs' criminal activities have become a blight on the community, endangering the physical safety of the

citizens living there, negatively affecting the communities' economic vitality, and reducing the citizens' right to fully enjoy their liberty and property rights. The legislature further finds that the government has a compelling interest in protecting the physical safety and the property and liberty interests of its citizens. Finally, the legislature finds that these compelling interests will be served by permitting a local or municipal government to apply for a protection order that is narrowly tailored to a specific area where a gang and its individual members' have become a blight on the community in order to break the gang's hold over that area.

NEW SECTION. **Sec. 26.** (1) "Criminal street gang" has the same meaning as in RCW 9.94A.030.

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

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

NEW SECTION. **Sec. 27.** An action seeking a protection order against a criminal street gang and associates or members thereof may be brought by the county prosecuting attorney or municipal attorney in any county or municipality where the protection zone sought pursuant to the action is located.

NEW SECTION. **Sec. 28.** (1) A party seeking a protection order under this chapter may file a petition seeking such relief in superior court in the county in which the protection zone sought pursuant to the action is located.

(2) The petition must:

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

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

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

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

(4) Persons whose activities and behavior the protection order would apply must be personally served with a copy of the petition, notice of the date and time of the hearing, and notice that they are entitled to appear in person and respond to the allegations contained in the petition not less than five court days before the hearing. If timely personal service cannot be made, the court shall set a new hearing date and shall either require additional attempts at obtaining personal service or permit service by publication as provided by RCW 10.14.085. If the court permits service by publication, the court shall set the hearing date not later than twenty-four days from the date the court enters the order permitting service by publication.

(5) At the hearing, the burden is on the petitioner to prove by clear and convincing evidence that:

(a) A criminal street gang exists in a specified geographic area;

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

(c) The named respondent is a member or associate of that criminal street gang.

NEW SECTION. **Sec. 29.** If the court finds the petitioner has satisfied his burden under section 28(5) of this act, the court shall enter an order:

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

(2) Providing for all relief necessary and proper under the circumstances including, but not limited to, an order that the respondent which the court has found to be a criminal street gang associate or member shall not:

(a) Associate or communicate directly or indirectly with any other person found by the court to be a criminal street gang associate or member;

(b) Engage in any intimidation of any person;

(c) Possess firearms, imitation firearms, or dangerous weapons;

(d) Possess or consume drugs or alcohol;

(e) Trespass;

(f) Engage in gang-related graffiti or possess graffiti tools;

(g) Forcibly recruit any person into the criminal street gang or prevent any criminal street gang associate or member from leaving the criminal street gang;

(h) Violate any law;

(i) Violate any curfew set by the court;

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

(k) Go to any other designated locations;

(l) Directly or indirectly contact minors going to and from schools;

(m) Wear gang clothing in public; and

(n) Directly or indirectly contact specified individuals such as persons on probation or parole;

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

(4) Providing that a respondent who knows of the order may be found in contempt of court as provided in chapter 7.21 RCW and subject to the penalties therein, including but not limited to:

(a) For persons over eighteen years of age who are found to have willfully violated the order, a fine of not more than five thousand dollars or imprisonment for not more than one year, or both; or

(b) For persons less than eighteen years of age who are found to have willfully violated the order, commitment of the person to juvenile detention for a period of time not to exceed seven days;

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

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

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

(ii) Is married to the person;

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

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

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

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

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

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

NEW SECTION. **Sec. 30.** (1) If the court issues a protection order under this chapter, all persons who are subject to the court's order must be personally served with a copy of the order. However, if the order issued by the court recites that the respondent appeared in person before the court, the necessity for further service is waived and proof of service of that order is not necessary.

(2) If personal service cannot be made, the petitioner may apply to the court for permission to serve a copy of the order on the

respondent by publication consistent with the procedures found in RCW 10.14.085.

NEW SECTION. **Sec. 31.** (1) Any respondent who willfully disobeys any protection order issued pursuant to this chapter shall be guilty of a gross misdemeanor.

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

(a) In a school;

(b) On a school bus;

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

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

(e) In a public park.

NEW SECTION. **Sec. 32.** (1) An order issued pursuant to this chapter shall be effective for one year.

(2) The petitioner may reapply for a continuation of the order by filing a new petition no more than thirty days prior to the expiration of the current order. However, the petition must comply in all respects with the procedures governing the issuance of the initial order found in section 28 of this act.

NEW SECTION. **Sec. 33.** Nothing in this chapter shall preclude a petitioner's right to utilize other existing civil remedies.

NEW SECTION. **Sec. 34.** (1) The petitioner or any person to whom an order issued pursuant to this chapter applies may petition the court to modify the terms and conditions of the order. However, the court may only consider such a motion where all parties which may be affected by the modifications are provided notice consistent with the provisions of this chapter.

(2) Where the requested modification is to exempt from the provisions of the order a particular respondent, notice of the motion and the contents thereof need not be served on other respondents but only the petitioner and the respondent who seeks exemption from the order.

(3) The court may grant any requested modifications of the terms and conditions of the order that it deems necessary and proper under the circumstances and considering the evidence presented at the hearing at which the order was issued, as well as the evidence presented at the modification hearing.

Sec. 35. RCW 70.41.440 and 2009 c 359 s 2 are each amended to read as follows:

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

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

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

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

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

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

(4) Any bullets, clothing, or other foreign objects that are removed from a patient for whom a hospital is required to make a report pursuant to subsection (1) of this section shall be preserved and kept in custody in such a way that the identity and integrity thereof are reasonably maintained until the bullets, clothing, or other foreign objects are taken into possession by a law enforcement

authority or the hospital's normal period for retention of such items expires, whichever occurs first.

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

(6) The physician-patient privilege described in RCW 5.60.060(4), the registered nurse-patient privilege described in RCW 5.62.020, and any other health care provider-patient privilege created or recognized by law are not a basis for excluding as evidence in any criminal proceeding any report, or information contained in a report made under this section.

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

NEW SECTION. **Sec. 36.** 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.

NEW SECTION. **Sec. 37.** Sections 13 through 24 of this act constitute a new chapter in Title 7 RCW.

NEW SECTION. **Sec. 38.** Sections 25 through 34 of this act constitute a new chapter in Title 10 RCW.