

**Sentencing Guidelines Commission
Criminal Code Review Committee’s Recommendations on Unranked Offenses**

Table of Contents

Leave as unranked felony or Repeal

74.09.240(1) - Receiving or Asking for Bribes, Kickbacks or Rebates..... 17
74.09.240(2) - Paying or Offering Bribes, Kickbacks or Rebates 17

Reduce to a Misdemeanor

9A.64.010 – Bigamy 30

Repeal

9.26A.110(3) – Fraud in Obtaining Telecommunications Services (Value Exceeds \$250) 3
9A.56.266 - Unlawful Sale of a Telecommunication Device..... 9
9A.56.264 - Unlawful Manufacture of a Telecommunication Device 10
9A.56.262 - Theft of Telecommunication Service 11
9A.56.230 - Unlawful Sale of Subscription Television Services 12

Leave as unranked felony

9A.58.020 - Possessing or Capturing Personal Identification Document..... 4
9A.56.380 - Possession of Stolen Mail..... 5
9A.56.370 - Mail Theft..... 6
9A.56.360(4) - Retail Theft with Special Circumstances 3..... 7
74.09.290 - Unlawful Disclosure of Patient Records or DSHS Information 13
74.09.260 - Excessive Charges, Payments 15
74.09.250 - False Statement Regarding Institutions, Facilities 16
74.09.230 - False Statement for Medical Assistance 19
16.08.100(2) – Dangerous Dog Attack (Subsequent Offense) 20
16.08.100(3) – Dangerous Dog Attack Resulting in Severe Injury or Death..... 20
19.116.080(1) – Unlawful Subleasing of Motor Vehicle..... 22
19.116.080(2) – Unlawful Transfer of Ownership of Motor Vehicle..... 22
19.158.160 - Commercial Telephone Solicitor Deception (Value of \$250 or more) 24
19.300.020 - Electronic Communication Devices – Illegal Scanning 25

11/3/2021

**Sentencing Guidelines Commission
Criminal Code Review Committee’s Recommendations on Unranked Offenses**

69.25.155(1) – Interference with Person Performing Official Duties.....	26
69.25.155(2) – Interference with Person Performing Official Duties with a Deadly Weapon	26
70.245.200(1) – Forging Request for Medication	27
70.245.200(2) – Coerce Patient to Request Life-ending Medication	27
9A.84.010(2)(b) - Criminal Mischief	28
9A.64.030(3)(a) – Child Selling	29
9A.64.030(3)(b) – Child Buying.....	29
79A.60.090 - Eluding a Law Enforcement Vessel	31

Sentencing Guidelines Commission Criminal Code Review Committee's Recommendations on Unranked Offenses

RCW	Offense Title	Class	FY00-20 Count	Effective Date
9.26A.110(3)	Fraud in Obtaining Telecommunications Services (Value Exceeds \$250)	C	15	5/18/1981

Recommendation: **Repeal** – can be charged under Theft

Discussion:

- Likely related to hacking.
- Theft (of services) would encompass this offense and others like it.
- If the cellular industry was still losing money, there would be many more convictions.
- Stricter than Theft as the value element is established in a 90-day period.

RCW [9.26A.110](#)

Fraud in obtaining telecommunications service—Penalty.

(1) Every person who, with intent to evade the provisions of any order or rule of the Washington utilities and transportation commission or of any tariff, price list, contract, or any other filing lawfully submitted to the commission by any telephone, telegraph, or telecommunications company, or with intent to defraud,

obtains telephone, telegraph, or telecommunications service from any telephone, telegraph, or telecommunications company through: (a) The use of a false or fictitious name or telephone number; (b) the unauthorized use of the name or telephone number of another; (c) the physical or electronic installation of, rearrangement of, or tampering with any equipment, or use of a telecommunications device; (d) the commission of computer trespass; or (e) any other trick, deceit, or fraudulent device, is guilty of a misdemeanor.

(2) If the value of the telephone, telegraph, or telecommunications service that any person obtains in violation of this section during a period of ninety days exceeds fifty dollars in the aggregate, then such person is guilty of a gross misdemeanor.

(3) If the value of the telephone, telegraph, or telecommunications service that any person obtains in violation of this section during a period of ninety days exceeds two hundred fifty dollars in the aggregate, then such person is guilty of a class C felony punishable according to chapter [9A.20](#) RCW.

(4) For any act that constitutes a violation of both this section and RCW [9.26A.115](#) the provisions of RCW [9.26A.115](#) shall be exclusive.

[[2003 c 53 § 20](#); [1990 c 11 § 2](#); [1981 c 252 § 1](#); [1977 ex.s. c 42 § 1](#); [1974 ex.s. c 160 § 2](#); [1972 ex.s. c 75 § 1](#); [1955 c 114 § 1](#). Formerly RCW [9.45.240](#).]

Conviction Date County Sent Total

2000	Clark	2.46
2000	Kitsap	0
2001	Yakima	12
2001	Kitsap	5
2001	Kitsap	1.02
2001	Lewis	1
2006	Spokane	8
2006	Cowlitz	1.31
2006	Spokane	0
2010	Pierce	0.03
2011	Lewis	12.03
2012	Spokane	2.23
2015	Grant	12.03
2015	Lewis	6

**Sentencing Guidelines Commission
Criminal Code Review Committee’s Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Effective Date
9A.58.020	Possessing or Capturing Personal Identification Document	C	10	6/12/2008

Recommendation: **Leave as unranked class C felony**

Discussion:

- Prior to this statute, there were no state laws that prohibited or restricted non-governmental entities from gaining, using, or distributing personal information gained through an electronic read of someone’s passport, driver’s license or other government issued identification.
- This offense is likely the lowest level of offenses of this nature because once personal information is unlawfully captured, its distribution and use could lead to other, more serious offenses.

Conviction Date County Sent Tot

2012	Yakima	2.04
2012	Grant	0
2013	Grant	3
2014	Clark	12.03
2015	Yakima	12
2015	Clark	6
2015	Yakima	1.81
2017	King	11.9589
2018	Whatcom	11.9589
2018	Grant	2

RCW 9A.58.020

**Possessing, or reading or capturing, information contained on another person's identification document—
Exceptions.**

(1) Except as provided in subsection (2) of this section, a person is guilty of a class C felony if the person intentionally possesses, or reads or captures remotely using radio waves, information contained on another person's identification document, including the unique personal identifier number encoded on the identification document, without that person's express knowledge or consent.

(2) This section does not apply to:

- (a) A person or entity that reads an identification document to facilitate border crossing;
- (b) A person or entity that reads a person's identification document in the course of an act of good faith security research, experimentation, or scientific inquiry including, but not limited to, activities useful in identifying and analyzing security flaws and vulnerabilities; or
- (c) A person or entity that unintentionally reads an identification document remotely in the course of operating its own radio frequency identification system, provided that the inadvertently received information:
 - (i) Is not disclosed to any other party;
 - (ii) Is not used for any purpose; and
 - (iii) Is not stored or is promptly destroyed.

[**2008 c 200 § 3.**]

**Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Effective Date
9A.56.380	Possession of Stolen Mail	C	222	7/22/2011

Recommendation: **Leave as unranked class C felony**

Discussion:

- Similar to Theft 3 and Possession of Stolen Property but is a specific offense with specific elements.
- Elements: mail from 3 or more mailboxes and a minimum of 10 pcs of mail, which is a middle ground between a ranked felony and a misdemeanor Theft.
- Offense is good middle ground and good for plea bargaining.

RCW 9A.56.380

Possession of stolen mail.

(1) A person is guilty of possession of stolen mail if he or she: (a) Possesses stolen mail addressed to three or more different mailboxes; and (b) possesses a minimum of ten separate pieces of stolen mail.

(2) "Possesses stolen mail" means to knowingly receive, retain, possess, conceal, or dispose of stolen mail knowing that it has been stolen, and to withhold or appropriate to the use of any person other than the true owner, or the person to whom the mail is addressed.

(3) The fact that the person who stole the mail has not been convicted, apprehended, or identified is not a defense to the charge of possessing stolen mail.

(4) Each set of ten separate pieces of stolen mail addressed to three or more different mailboxes constitutes a separate and distinct crime and may be punished accordingly.

(5) Possession of stolen mail is a class C felony.

[2011 c 164 § 4.]

**Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Effective Date
9A.56.370	Mail Theft	C	371	7/22/2011

Recommendation: **Leave as unranked class C felony**

Discussion:

- Similar to Theft 3 and Possession of Stolen Property but is a specific offense with specific elements.
- Elements: mail from 3 or more mailboxes and a minimum of 10 pcs of mail, which is a middle ground between a ranked felony and a misdemeanor Theft.
- Offense is good middle ground and good for plea bargaining.

RCW 9A.56.370

Mail theft.

(1) A person is guilty of mail theft if he or she: (a) Commits theft of mail addressed to three or more different addresses; and (b) commits theft of a minimum of ten separate pieces of mail.

(2) Each set of ten separate pieces of stolen mail addressed to three or more different mailboxes constitutes a separate and distinct crime and may be punished accordingly.

(3) Mail theft is a class C felony.

[2011 c 164 § 3.]

Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses

RCW	Offense Title	Class	FY00-20 Count	Effective Date
9A.56.360(4)	Retail Theft with Special Circumstances 3	C	2,958	6/7/2006

Recommendation: **Leave as unranked class C felony**

Discussion:

- No other theft offense has the detailed list of aggravating factors that add the special circumstances.
- Elements: mail from 3 or more mailboxes and a minimum of 10 pcs of mail, which is a middle ground between a ranked felony and a misdemeanor Theft.
- Offense is good middle ground and good for plea bargaining.

RCW 9A.56.360

Retail theft with special circumstances.

(1) A person commits retail theft with special circumstances if he or she commits theft of property from a mercantile establishment with one of the following special circumstances:

- (a) To facilitate the theft, the person leaves the mercantile establishment through a designated emergency exit;
- (b) The person was, at the time of the theft, in possession of an item, article, implement, or device used, under circumstances evincing an intent to use or employ, or designed to overcome security systems including, but not limited to, lined bags or tag removers; or
- (c) The person committed theft at three or more separate and distinct mercantile establishments within a one hundred eighty-day period.

(2) A person is guilty of retail theft with special circumstances in the first degree if the theft involved constitutes theft in the first degree. Retail theft with special circumstances in the first degree is a class B felony.

(3) A person is guilty of retail theft with special circumstances in the second degree if the theft involved constitutes theft in the second degree. Retail theft with special circumstances in the second degree is a class C felony.

(4) A person is guilty of retail theft with special circumstances in the third degree if the theft involved constitutes theft in the third degree. Retail theft with special circumstances in the third degree is a class C felony.

(5) For the purposes of this section, "special circumstances" means the particular aggravating circumstances described in subsection (1)(a) through (c) of this section.

(6)(a) A series of thefts committed by the same person from one or more mercantile establishments over a period of one hundred eighty days may be aggregated in one count and the sum of the value of all the property shall be the value considered in determining the degree of the retail theft with special circumstances involved. Thefts committed by the same person in different counties that have been aggregated in one county may be

Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses

prosecuted in any county in which any one of the thefts occurred. In no case may an aggregated series of thefts, or a single theft that has been aggregated in one county, be prosecuted in more than one county.

(b) The mercantile establishment or establishments whose property is alleged to have been stolen may request that the charge be aggregated with other thefts of property about which the mercantile establishment or establishments is aware. In the event a request to aggregate the prosecution is declined, the mercantile establishment or establishments shall be promptly advised by the prosecuting jurisdiction making the decision to decline aggregating the prosecution of the decision and the reasons for the decision.

[[2017 c 224 § 1](#); [2013 c 153 § 1](#); [2006 c 277 § 3](#).]

**Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Effective Date
9A.56.266	Unlawful Sale of a Telecommunication Device	C	4	7/23/1995

Recommendation: **Repeal**

Discussion:

- Related to a device used to steal service.
- Created to address theft of services for cellular and other subscription services as well as people trying to avoid payment.
- Theft statutes may apply, however dollar amount of services stolen does not need to be proven under this offense.

Conviction Year	County	Sent Total
1999	Pierce	12
2000	King	1
2002	Grant	0
2004	Benton	2

RCW [9A.56.266](#)

Unlawful sale of telecommunication device.

(1) A person is guilty of unlawful sale of a telecommunication device if he or she sells, leases, exchanges, or offers to sell, lease, or exchange:

- (a) A telecommunication device, knowing that the purchaser, lessee, or recipient, or a third person, intends to use the device to avoid payment or to facilitate avoidance of payment for telecommunication services; or
- (b) Any material, including data, computer software, or other information and equipment, knowing that the purchaser, lessee, or recipient, or a third person, intends to use the material to avoid payment or to facilitate avoidance of payment for telecommunication services.

(2) Unlawful sale of a telecommunication device is a class C felony.

[[1995 c 92 § 8](#).]

**Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Effective Date
9A.56.264	Unlawful Manufacture of a Telecommunication Device	C	0	7/23/1995

Recommendation: **Repeal**

Discussion:

- Related to a stealing of service.
- Created to address theft of services for cellular and other subscription services as well as people trying to avoid payment.
- Theft statutes may apply, however dollar amount of services stolen does not need to be proven under this offense.

RCW [9A.56.264](#)

Unlawful manufacture of telecommunication device.

(1) A person is guilty of unlawful manufacture of a telecommunication device if he or she knowingly and with intent to avoid payment or to facilitate avoidance of payment:

- (a) Manufactures, produces, or assembles a telecommunication device;
- (b) Modifies, alters, programs, or reprograms a telecommunication device to be capable of acquiring or of facilitating the acquisition of telecommunication service without the consent of the telecommunication service provider; or
- (c) Writes, creates, or modifies a computer program that he or she knows is thereby capable of being used to manufacture a telecommunication device.

(2) Unlawful manufacture of a telecommunication device is a class C felony.

[[1995 c 92 § 7.](#)]

**Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Effective Date
9A.56.262	Theft of Telecommunication Service	C	23	7/23/1995

Recommendation: **Repeal**

Discussion:

- Related to a stealing of service.
- Created to address theft of services for cellular and other subscription services as well as people trying to avoid payment.
- Theft statutes may apply, however dollar amount of services stolen does not need to be proven under this offense.

RCW [9A.56.262](#)

Theft of telecommunication services.

(1) A person is guilty of theft of telecommunication services if he or she knowingly and with intent to avoid payment:

- (a) Uses a telecommunication device to obtain telecommunication services without having entered into a prior agreement with a telecommunication service provider to pay for the telecommunication services; or
- (b) Possesses a telecommunication device.

(2) Theft of telecommunication services is a class C felony.

[[1995 c 92 § 6.](#)]

Conviction Year	County	Sent Total
1999	Spokane	1
2000	Kitsap	1.02
2000	Kitsap	0.03
2001	Kitsap	1
2002	Klickitat	1
2004	Yakima	2
2005	Clark	12.03
2005	Pierce	5
2005	Clark	4.9
2008	Pierce	8
2008	King	5
2008	Whatcom	1
2009	Pierce	3.88
2009	Yakima	1
2009	Pierce	0.07
2010	Walla Walla	1.48
2011	Cowlitz	1
2019	Pierce	5.1253

Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses

RCW	Offense Title	Class	FY00-20 Count	Effective Date
9A.56.230	Unlawful Sale of Subscription Television Services	C	0	5/21/1985

Recommendation: **Repeal**

Discussion:

- May be covered under Theft statute.
- This offense was created when stealing television services only required someone to climb a pole or open a pedestal, find the coaxial cable and screw into the tap or use descramblers to steal cable channels.
- The cable industry has since built digital cable systems, which are very difficult to steal, plus it is a federal crime.
- Customers face a big fine if they don't return their cable box upon termination of services, further protecting the cable industry.

RCW [9A.56.230](#)

Unlawful sale of subscription television services.

(1) A person is guilty of unlawful sale of subscription television services if, with intent to avoid payment or to facilitate the avoidance of payment of the lawful charge for any subscription television service, he or she, without authorization from the subscription television service company:

- (a) Publishes or advertises for sale a plan for a device that is designed in whole or in part to receive subscription television or services offered for sale by the subscription television service company, regardless of whether the programming or services are encoded, filtered, scrambled, or otherwise made unintelligible;
- (b) Advertises for sale or lease a device or kit for a device designed in whole or in part to receive subscription television services offered for sale by the subscription television service company, regardless of whether the programming or services are encoded, filtered, scrambled, or otherwise made unintelligible; or
- (c) Manufactures, imports into the state of Washington, distributes, sells, leases, or offers for sale or lease a device, plan, or kit for a device designed in whole or in part to receive subscription television services offered for sale by the subscription television service company, regardless of whether the programming or services are encoded, filtered, scrambled, or otherwise made unintelligible.

(2) Unlawful sale of subscription television services is a class C felony.

[[1995 c 92 § 3](#); [1985 c 430 § 2](#).]

Sentencing Guidelines Commission
Criminal Code Review Committee’s Recommendations on Unranked Offenses

RCW	Offense Title	Class	FY00-20 Count	Effective Date
74.09.290	Unlawful Disclosure of Patient Records or DSHS Information	C	0	5/10/1979

Recommendation: **Leave as unranked class C felony**

Discussion:

- If records disclosed are medical, mental health, or drug treatment records, there is an alternate state and federal criminal statutes that prohibit disclosure, such as HIPPA.
- Zero convictions but may serve as a deterrent.

RCW 74.09.290

Audits and investigations of providers—Patient records—Penalties.

The secretary or director shall have the authority to:

(1) Conduct audits and investigations of providers of medical and other services furnished pursuant to this chapter or other applicable law, except that the Washington medical commission shall generally serve in an advisory capacity to the secretary or director in the conduct of audits or investigations of physicians. Any overpayment discovered as a result of an audit of a provider under this authority shall be offset by any underpayments discovered in that same audit sample. In order to determine the provider's actual, usual, customary, or prevailing charges, the secretary or director may examine such random representative records as necessary to show accounts billed and accounts received except that in the conduct of such examinations, patient names, other than public assistance applicants or recipients, shall not be noted, copied, or otherwise made available to the department or authority. In order to verify costs incurred by the department or authority for treatment of public assistance applicants or recipients, the secretary or director may examine patient records or portions thereof in connection with services to such applicants or recipients rendered by a health care provider, notwithstanding the provisions of RCW 5.60.060, 18.53.200, 18.83.110, or any other statute which may make or purport to make such records privileged or confidential: PROVIDED, That no original patient records shall be removed from the premises of the health care provider, and that the disclosure of any records or information by the department or the authority is prohibited and shall be punishable as a class C felony according to chapter 9A.20 RCW, unless such disclosure is directly connected to the official purpose for which the records or information were obtained: PROVIDED FURTHER, That the disclosure of patient information as required under this section shall not subject any physician or other health services provider to any liability for breach of any confidential relationship between the provider and the patient, but no evidence resulting from such disclosure may be used in any civil, administrative, or criminal proceeding against the patient unless a waiver of the applicable evidentiary privilege is obtained: PROVIDED FURTHER, That the secretary or director shall destroy all copies of patient medical records in their possession upon completion of the audit, investigation or proceedings;

(2) Approve or deny applications to participate as a provider of services furnished pursuant to this chapter or other applicable law;

11/3/2021

Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses

(3) Terminate or suspend eligibility to participate as a provider of services furnished pursuant to this chapter or other applicable law; and

(4) Adopt, promulgate, amend, and repeal administrative rules, in accordance with the administrative procedure act, chapter [34.05](#) RCW, to carry out the policies and purposes of this section and RCW [74.09.200](#) through [74.09.280](#).

[[2019 c 55 § 19](#); [2018 c 201 § 7015](#); [2011 1st sp.s. c 15 § 19](#); [1994 sp.s. c 9 § 749](#); [1990 c 100 § 5](#); [1983 1st ex.s. c 41 § 23](#); [1979 ex.s. c 152 § 10](#).]

**Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Effective Date
74.09.260	Excessive Charges, Payments	C	0	5/10/1979

Recommendation: **Leave as unranked class C felony**

Discussion:

- Is not duplicative of another statute.
- Zero convictions but may serve as a deterrent.

RCW 74.09.260

Excessive charges, payments—Penalties.

Any person, including any corporation, that knowingly:

(1) Charges, for any service provided to a patient under any medical care plan authorized under this chapter or other applicable law, money or other consideration at a rate in excess of the rates established by the department or authority, as appropriate; or

(2) Charges, solicits, accepts, or receives, in addition to any amount otherwise required to be paid under such plan, any gift, money, donation, or other consideration (other than a charitable, religious, or philanthropic contribution from an organization or from a person unrelated to the patient):

(a) As a precondition of admitting a patient to a hospital or nursing facility; or

(b) As a requirement for the patient's continued stay in such facility, when the cost of the services provided therein to the patient is paid for, in whole or in part, under such plan, shall be guilty of a class C felony: PROVIDED, That the fine, if imposed, shall not be in an amount more than twenty-five thousand dollars, except as authorized by RCW 9A.20.030.

[2018 c 201 § 7013; 2011 1st sp.s. c 15 § 17; 1991 sp.s. c 8 § 7; 1979 ex.s. c 152 § 7.]

Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses

RCW	Offense Title	Class	FY00-20 Count	Effective Date
74.09.250	False Statement Regarding Institutions, Facilities	C	0	5/10/1979

Recommendation: **Leave as unranked class C felony**

Discussion:

- Could possibly be captured under Theft but that may be harder to prove.

RCW 74.09.250

False statements regarding institutions, facilities—Penalties.

Any person, including any corporation, that knowingly makes or causes to be made, or induces or seeks to induce the making of, any false statement or representation of a material fact with respect to the conditions or operations of any institution or facility in order that such institution or facility may qualify (either upon initial certification or upon recertification) as a hospital, nursing facility, or home health agency, shall be guilty of a class C felony: PROVIDED, That the fine, if imposed, shall not be in an amount more than five thousand dollars.

[1991 sp.s. c 8 § 6; 1979 ex.s. c 152 § 6.]

**Sentencing Guidelines Commission
Criminal Code Review Committee’s Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Effective Date
74.09.240(1)	Receiving or Asking for Bribes, Kickbacks or Rebates	C	0	5/10/1979
74.09.240(2)	Paying or Offering Bribes, Kickbacks or Rebates	C	0	5/10/1979

Recommendation:

- Leave as unranked class C felonies
- Consider **repealing** due to no convictions in past 20 years

Discussion:

- 74.09.240(2) doesn’t apply to public officials.
- Wonder if another offense, such as Theft, has been used instead?
- NOTE: Maximum fine for class C is \$10,000 but statute shows \$25,000. Is that allowed?

RCW [74.09.240](#)

Bribes, kickbacks, rebates—Self-referrals—Penalties.

(1) Any person, including any corporation, that solicits or receives any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind

(a) in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under this chapter or other applicable law, or

(b) in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any goods, facility, service, or item for which payment may be made in whole or in part under this chapter or other applicable law, shall be guilty of a class C felony; however, the fine, if imposed, shall not be in an amount more than twenty-five thousand dollars, except as authorized by RCW **9A.20.030**.

(2) Any person, including any corporation, that offers or pays any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind to any person to induce such person

(a) to refer an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made, in whole or in part, under this chapter or other applicable law, or

(b) to purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering any goods, facility, service, or item for which payment may be made in whole or in part under this chapter or other applicable law, shall be guilty of a class C felony; however, the fine, if imposed, shall not be in an amount more than twenty-five thousand dollars, except as authorized by RCW **9A.20.030**.

(3)(a) Except as provided in 42 U.S.C. 1395 nn, physicians are prohibited from self-referring any client eligible under this chapter for the following designated health services to a facility in which the physician or an immediate family member has a financial relationship:

11/3/2021

Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses

- (i) Clinical laboratory services;
- (ii) Physical therapy services;
- (iii) Occupational therapy services;
- (iv) Radiology including magnetic resonance imaging, computerized axial tomography, and ultrasound services;
- (v) Durable medical equipment and supplies;
- (vi) Parenteral and enteral nutrients equipment and supplies;
- (vii) Prosthetics, orthotics, and prosthetic devices;
- (viii) Home health services;
- (ix) Outpatient prescription drugs;
- (x) Inpatient and outpatient hospital services;
- (xi) Radiation therapy services and supplies.

(b) For purposes of this subsection, "financial relationship" means the relationship between a physician and an entity that includes either:

- (i) An ownership or investment interest; or
- (ii) A compensation arrangement.

For purposes of this subsection, "compensation arrangement" means an arrangement involving remuneration between a physician, or an immediate family member of a physician, and an entity.

(c) The department or authority, as appropriate, is authorized to adopt by rule amendments to 42 U.S.C. 1395 nn enacted after July 23, 1995.

(d) This section shall not apply in any case covered by a general exception specified in 42 U.S.C. Sec. 1395 nn.

(4) Subsections (1) and (2) of this section shall not apply to:

(a) A discount or other reduction in price obtained by a provider of services or other entity under this chapter or other applicable law if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the provider or entity under this chapter or other applicable law; and

(b) Any amount paid by an employer to an employee (who has a bona fide employment relationship with such employer) for employment in the provision of covered items or services.

(5) Subsections (1) and (2) of this section, if applicable to the conduct involved, shall supersede the criminal provisions of chapter [19.68](#) RCW, but shall not preclude administrative proceedings authorized by chapter [19.68](#) RCW.

[[2018 c 201 § 7012](#); [2011 1st sp.s. c 15 § 16](#); [1995 c 319 § 1](#); [1979 ex.s. c 152 § 5](#).]

Sentencing Guidelines Commission
Criminal Code Review Committee’s Recommendations on Unranked Offenses

RCW	Offense Title	Class	FY00-20 Count	Effective Date
74.09.230	False Statement for Medical Assistance	C	250	5/10/1979

Recommendation: **Leave as class C unranked felony**

Discussion:

Conviction Years	Average Sent Total
1999 - 2018	.76 (0 = 37 cases)

- Offense could possibly be charged under Theft or Forgery.
- Is often used to plea down from Theft offense.
- The fact that this offense was charged 250 times but the other offenses under Chapter 74.09 RCW (below) were never charged may indicate that primarily poor people get charged with crimes.
- Other unranked offenses under Chapter 74.09 RCW:
 - 74.09.240(2) – Paying or Offering Bribes, Kickbacks, or Rebates
 - 74.09.240(1) – Receiving or Asking for Bribes, Kickbacks or Rebates
 - 74.09.250 – False Statements Regarding Institutions, Facilities
 - 74.09.260 – Excessive Charges, Payments
 - 74.09.290 – Unlawful Disclosure of Patient Records or DSHS Information

RCW [74.09.230](#)

False statements, fraud—Penalties.

Any person, including any corporation, that

(1) knowingly makes or causes to be made any false statement or representation of a material fact in any application for any payment under any medical care program authorized under this chapter or other applicable law, or

(2) at any time knowingly makes or causes to be made any false statement or representation of a material fact for use in determining rights to such payment, or knowingly falsifies, conceals, or covers up by any trick, scheme, or device a material fact in connection with such application or payment, or

(3) having knowledge of the occurrence of any event affecting (a) the initial or continued right to any payment, or (b) the initial or continued right to any such payment of any other individual in whose behalf he or she has applied for or is receiving such payment, conceals or fails to disclose such event with an intent fraudulently to secure such payment either in a greater amount or quantity than is due or when no such payment is authorized, shall be guilty of a class C felony: PROVIDED, That the fine, if imposed, shall not be in an amount more than twenty-five thousand dollars, except as authorized by RCW [9A.20.030](#).

[[2018 c 201 § 7011](#); [2013 c 23 § 203](#); [1979 ex.s. c 152 § 4](#).]

**Sentencing Guidelines Commission
Criminal Code Review Committee’s Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Effective Date
16.08.100(2)	Dangerous Dog Attack (Subsequent Offense)	C	0	4/20/1987
16.08.100(3)	Dangerous Dog Attack Resulting in Severe Injury or Death	C	8	4/20/1987

Recommendation: **Leave as unranked class C felonies**

Discussion:

- These offenses are not duplicated in another statute.

RCW [16.08.100](#)

Dangerous dogs—Confiscation—Conditions—Duties of animal control authority—Penalties and affirmative defenses for owners of dogs that attack.

Conviction Year	County	Sent Total
2009	King	12
2009	Klickitat	1
2010	Clallam	3
2013	Cowlitz	3
2014	Snohomish	0
2015	Snohomish	12
2020	Pacific	1

(1) Any dangerous dog shall be immediately confiscated by an animal control authority if the:

- (a) Dog is not validly registered under RCW [16.08.080](#);
- (b) owner does not secure the liability insurance coverage required under RCW [16.08.080](#);
- (c) dog is not maintained in the proper enclosure; or
- (d) dog is outside of the dwelling of the owner, or outside of the proper enclosure and not under physical restraint of the responsible person. The owner must pay the costs of confinement and control. The animal control authority must serve notice upon the dog owner in person or by regular and certified mail, return receipt requested, specifying the reason for the confiscation of the dangerous dog, that the owner is responsible for payment of the costs of confinement and control, and that the dog will be destroyed in an expeditious and humane manner if the deficiencies for which the dog was confiscated are not corrected within twenty days. The animal control authority shall destroy the confiscated dangerous dog in an expeditious and humane manner if any deficiencies required by this subsection are not corrected within twenty days of notification. In addition, the owner shall be guilty of a gross misdemeanor punishable in accordance with RCW [9A.20.021](#).

(2) If a dangerous dog of an owner with a prior conviction under this chapter attacks or bites a person or another domestic animal, the dog's owner is guilty of a class C felony, punishable in accordance with RCW [9A.20.021](#). It is an affirmative defense that the defendant must prove by a preponderance of the evidence that he or she was in compliance with the requirements for ownership of a dangerous dog pursuant to this chapter and the person or domestic animal attacked or bitten by the defendant's dog trespassed on the defendant's real or personal property or provoked the defendant's dog without justification or excuse. In addition, the dangerous dog shall be immediately confiscated by an animal control authority, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner.

Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses

(3) The owner of any dog that aggressively attacks and causes severe injury or death of any human, whether or not the dog has previously been declared potentially dangerous or dangerous, shall, upon conviction, be guilty of a class C felony punishable in accordance with RCW [9A.20.021](#). It is an affirmative defense that the defendant must prove by a preponderance of the evidence that the human severely injured or killed by the defendant's dog:

(a) Trespassed on the defendant's real or personal property which was enclosed by fencing suitable to prevent the entry of young children and designed to prevent the dog from escaping and marked with clearly visible signs warning people, including children, not to trespass and to beware of dog; or

(b) provoked the defendant's dog without justification or excuse on the defendant's real or personal property which was enclosed by fencing suitable to prevent the entry of young children and designed to prevent the dog from escaping and marked with clearly visible signs warning people, including children, not to trespass and to beware of dog. In such a prosecution, the state has the burden of showing that the owner of the dog either knew or should have known that the dog was potentially dangerous as defined in this chapter. The state may not meet its burden of proof that the owner should have known the dog was potentially dangerous solely by showing the dog to be a particular breed or breeds. In addition, the dog shall be immediately confiscated by an animal control authority, quarantined, and upon conviction of the owner destroyed in an expeditious and humane manner.

[[2020 c 158 § 1](#); [2002 c 244 § 3](#); [1987 c 94 § 4](#).]

**Sentencing Guidelines Commission
Criminal Code Review Committee’s Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Effective Date
19.116.080(1)	Unlawful Subleasing of Motor Vehicle	C	22	3/14/1990
19.116.080(2)	Unlawful Transfer of Ownership of Motor Vehicle	C	0	3/14/1990

Recommendation: **Leave as unranked class C felonies**

Discussion:

- These offenses are not duplicated in another statute.

RCW [19.116.080](#)

Unlawful subleasing or transfer—Class C felony.

(1) Unlawful subleasing of a motor vehicle is a class C felony punishable under chapter [9A.20](#) RCW.

(2) Unlawful transfer of an ownership interest in a motor vehicle is a class C felony punishable under chapter [9A.20](#) RCW.

[[2003 c 53 § 157](#); [1990 c 44 § 9](#).]

RCW [19.116.060](#)

Unlawful subleasing of motor vehicle—Conditions.

A person engages in an act of unlawful subleasing of a motor vehicle if all of the following conditions are met:

- (1) The motor vehicle is subject to a lease contract or security agreement the terms of which prohibit the transfer or assignment of any right or interest in the motor vehicle or under the lease contract or security agreement; and
- (2) The person is not a party to the lease contract or security agreement; and
- (3) The person transfers or assigns or purports to transfer or assign any right or interest in the motor vehicle or under the lease contract or security agreement to any person who is not a party to the lease contract or security agreement; and
- (4) The person does not obtain, before the transfer or assignment described in subsection (3) of this section, written consent to the transfer or assignment from the motor vehicle lessor in connection with a lease contract or from the secured party in connection with a security agreement; and
- (5) The person receives compensation or some other consideration for the transfer or assignment described in subsection (3) of this section.

Conviction Year	County	Sent Total
2005	Pierce	6
2005	Pierce	4
2006	Pierce	5.88
2007	King	6
2007	Pierce	4.57
2007	Pierce	3.52
2007	Pierce	2.27
2009	Pierce	2.14
2010	Pierce	12
2013	Clark	6
2013	Clark	4
2013	Clark	2
2015	Pierce	3.52
2016	Pierce	12
2016	Pierce	9
2016	Pierce	4.01
2016	Pierce	1.64
2017	Pierce	2
2017	Pierce	0.1314
2019	Pierce	0.0329
2020	Pierce	6
2020	Pierce	0.0329

Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses

RCW [19.116.050](#)

Unlawful transfer of motor vehicle—Conditions.

A dealer engages in an act of unlawful transfer of ownership interest in motor vehicles when all of the following circumstances are met:

- (1) The dealer does not pay off any balance due to the secured party on a vehicle acquired by the dealer, no later than the close of the second business day after the acquisition date of the vehicle; and
- (2) The dealer does not obtain a certificate of title under RCW [46.70.124](#) for each used vehicle kept in his or her possession unless that certificate is in the possession of the person holding a security interest in the dealer's inventory; and
- (3) The dealer does not transfer the certificate of title after the transferee has taken possession of the motor vehicle.

RCW [19.116.070](#)

Nonparties assisting, causing, or arranging unlawful assignment or transfer.

- (1) A person engages in an act of unlawful subleasing of a motor vehicle when the person is not a party to the lease contract or security agreement, and assists, causes, or arranges an actual or purported assignment as described in RCW [19.116.060](#).
- (2) A dealer engages in an act of unlawful transfer of an ownership interest in a motor vehicle when the dealer is not a party to the security agreement, and assists, causes, or arranges an actual or purported transfer as described in RCW [19.116.050](#).

Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses

RCW	Offense Title	Class	FY00-20 Count	Effective Date
19.158.160	Commercial Telephone Solicitor Deception (Value of \$250 or more)	C	1	4/18/1989

Recommendation: **Leave as unranked class C felony**

Discussion:

Conviction Year	County	Sent Total
2009	Ferry	2

- [HB 1497](#) (2021/22) sponsored by Rep. Mosbrucker is about a similar topic. Is this language related to that bill? Or should it be captured in that bill?

RCW [19.158.160](#)

Penalties.

(1) Except as provided in RCW [19.158.150](#), any person who knowingly violates any provision of this chapter or who knowingly, directly or indirectly employs any device, scheme or artifice to deceive in connection with the offer or sale by any commercial telephone solicitor is guilty of the following:

- (a) If the value of a transaction made in violation of RCW [19.158.040](#)(1) is less than fifty dollars, the person is guilty of a misdemeanor;
- (b) If the value of a transaction made in violation of RCW [19.158.040](#)(1) is fifty dollars or more, then the person is guilty of a gross misdemeanor; and
- (c) If the value of a transaction made in violation of RCW [19.158.040](#)(1) is two hundred fifty dollars or more, then the person is guilty of a class C felony.

(2) When any series of transactions which constitute a violation of this section would, when considered separately, constitute a series of misdemeanors or gross misdemeanors because of the value of the transactions, and the series of transactions are part of a common scheme or plan, the transactions may be aggregated in one count and the sum of the value of all the transactions shall be the value considered in determining whether the violations are to be punished as a class C felony or a gross misdemeanor.

[[2003 c 53 § 160](#); [1989 c 20 § 16](#).]

RCW [19.158.040](#)

Unprofessional conduct.

In addition to the unprofessional conduct described in RCW [18.235.130](#), the director of the department of licensing may take disciplinary action for any of the following conduct, acts, or conditions:

- (1) It shall be unlawful for any person to engage in unfair or deceptive commercial telephone solicitation.
- (2) A commercial telephone solicitor shall not place calls to any residence which will be received before 8:00 a.m. or after 9:00 p.m. at the purchaser's local time.
- (3) A commercial telephone solicitor may not engage in any conduct the natural consequence of which is to harass, intimidate, or torment any person in connection with the telephone call.

[[2002 c 86 § 284](#); [1989 c 20 § 4](#).]

11/3/2021

**Sentencing Guidelines Commission
Criminal Code Review Committee’s Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Effective Date
19.300.020	Electronic Communication Devices – Illegal Scanning	C	1	6/12/2008

Recommendation: **Leave as unranked class C felony**

Conviction Year	County	Sent Total
2016	Clark	12.03

Discussion:

- Very specific means of activity. Offense is not duplicated in another statute.

RCW [19.300.020](#)

Identity theft or fraud—Penalty.

A person that intentionally scans another person's identification device remotely, without that person's prior knowledge and prior consent, for the purpose of fraud, identity theft, or for any other illegal purpose, shall be guilty of a class C felony.

[[2008 c 138 § 3.](#)]

Sentencing Guidelines Commission Criminal Code Review Committee's Recommendations on Unranked Offenses

RCW	Offense Title	Class	FY00-20 Count	Effective Date
69.25.155(1)	Interference with Person Performing Official Duties	C	19	7/1/2004
69.25.155(2)	Interference with Person Performing Official Duties with a Deadly Weapon	B	0	7/1/2004

Recommendation: **Leave as unranked class C and B felonies**

Discussion:

- General description to catch official duties not specifically included in Assault 3.
- 69.25.155(1) could possibly be accomplished through Assault 3 and/or Obstruction.
- 69.25.155(2) may be used in plea negotiations if not interested in pursuing dangerous weapon enhancement.

RCW [69.25.155](#)

Interference with person performing official duties.

(1) Notwithstanding any other provision of law, any person who forcibly assaults, resists, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of his or her official duties under this chapter is guilty of a class C felony and shall be punished by a fine of not more than five thousand dollars or imprisonment in a state correctional facility for not more than three years, or both.

(2) Whoever, in the commission of any act described in subsection (1) of this section, uses a deadly or dangerous weapon is guilty of a class B felony and shall be punished by a fine of not more than ten thousand dollars or by imprisonment in a state correctional facility for not more than ten years, or both.

[[2003 c 53 § 318.](#)]

Conviction Year	County	Sent Total
2015	Lewis	1.48
2015	King	0.39
2016	Clark	4
2016	Walla Walla	1.48
2016	Clark	1.48
2016	Clark	1
2017	Grant	12.03
2017	Grant	12.03
2017	Whatcom	11.9589
2017	Clark	6
2017	Walla Walla	3
2017	Clark	2
2017	Grant	1
2017	Grant	0.0329
2017	Whatcom	0
2018	Whatcom	9.0021
2018	Whatcom	6

**Sentencing Guidelines Commission
Criminal Code Review Committee’s Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Effective Date
70.245.200(1)	Forging Request for Medication	A	1	11/4/2008
70.245.200(2)	Coerce Patient to Request Life-ending Medication	A	0	11/4/2008

Recommendation: **Leave as unranked class A felonies**

Conviction Year	County	Sent Total
2012	Grant	3

Discussion:

- Related to Washington Physician-Assisted Death Initiative (I-1000) which allows mentally competent, terminally ill adults to request and self-administer a lethal overdose of medication.
- 70.245.200(1) possibly captured under Forgery?
- Could either of these be captured under Murder?

RCW [70.245.200](#)

Willful alteration/forgery—Coercion or undue influence—Penalties—Civil damages—Other penalties not precluded.

(1) A person who without authorization of the patient willfully alters or forges a request for medication or conceals or destroys a rescission of that request with the intent or effect of causing the patient's death is guilty of a class A felony.

(2) A person who coerces or exerts undue influence on a patient to request medication to end the patient's life, or to destroy a rescission of a request, is guilty of a class A felony.

(3) This chapter does not limit further liability for civil damages resulting from other negligent conduct or intentional misconduct by any person.

(4) The penalties in this chapter do not preclude criminal penalties applicable under other law for conduct that is inconsistent with this chapter.

[[2009 c 1 § 20](#) (Initiative Measure No. 1000, approved November 4, 2008).]

Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses

RCW	Offense Title	Class	FY00-20 Count	Effective Date
9A.84.010(2)(b)	Criminal Mischief	C	3,705	7/1/1976

Recommendation: **Leave as unranked class C felony**

Discussion:

- Similar to Assault, Robbery, Malicious Mischief, but not duplicative.
- Offense is relevant to demonstrations and protests, however, doesn't identify the characteristics that distinguish criminal mischief against a person or against property.
- Gives the defendant a felony and avoids a dangerous weapon enhancement making it good for plea bargaining.

RCW 9A.84.010

Criminal mischief.

(1) A person is guilty of the crime of criminal mischief if, acting with three or more other persons, he or she knowingly and unlawfully uses or threatens to use force, or in any way participates in the use of such force, against any other person or against property.

(2)(a) Except as provided in (b) of this subsection, the crime of criminal mischief is a gross misdemeanor.

(b) The crime of criminal mischief is a class C felony if the actor is armed with a deadly weapon.

[[2013 c 20 § 1](#); [2003 c 53 § 91](#); [1975 1st ex.s. c 260 § 9A.84.010](#).]

**Sentencing Guidelines Commission
Criminal Code Review Committee’s Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Effective Date
9A.64.030(3)(b)	Child Buying	C	0	3/7/1980
9A.64.030(3)(a)	Child Selling	C	1	3/7/1980

Recommendation: **Leave as unranked class C felonies**

Discussion:

Conviction Year	County	Sent Total
2003	King	3

- Related to adoption or surrogacy.

RCW 9A.64.030

Child selling—Child buying.

- (1) It is unlawful for any person to sell or purchase a minor child.
- (2) A transaction shall not be a purchase or sale under subsection (1) of this section if any of the following exists:
 - (a) The transaction is between the parents of the minor child; or
 - (b) The transaction is between a person receiving or to receive the child and an agency recognized under RCW 26.33.020; or
 - (c) The transaction is between the person receiving or to receive the child and a state agency or other governmental agency; or
 - (d) The transaction is pursuant to chapter 26.34 RCW; or
 - (e) The transaction is pursuant to court order; or
 - (f) The only consideration paid by the person receiving or to receive the child is intended to pay for the prenatal hospital or medical expenses involved in the birth of the child, or attorneys' fees and court costs involved in effectuating transfer of child custody.
- (3)(a) Child selling is a class C felony.
- (b) Child buying is a class C felony.

[2003 c 53 § 81; 1985 c 7 § 3; 1980 c 85 § 3.]

**Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Effective Date
9A.64.010	Bigamy	C	16	7/1/1976

Recommendation: **Reduce to a Misdemeanor**

Discussion:

- Should not be a felony offense

RCW 9A.64.010

Bigamy.

(1) A person is guilty of bigamy if he or she intentionally marries or purports to marry another person when either person has a living spouse.

(2) In any prosecution under this section, it is a defense that at the time of the subsequent marriage or purported marriage:

- (a) The actor reasonably believed that the prior spouse was dead; or
- (b) A court had entered a judgment purporting to terminate or annul any prior disqualifying marriage and the actor did not know that such judgment was invalid; or
- (c) The actor reasonably believed that he or she was legally eligible to marry.

(3) The limitation imposed by RCW 9A.04.080 on commencing a prosecution for bigamy does not begin to run until the death of the prior or subsequent spouse of the actor or until a court enters a judgment terminating or annulling the prior or subsequent marriage.

(4) Bigamy is a class C felony.

[2011 c 336 § 385; 1986 c 257 § 14; 1975 1st ex.s. c 260 § 9A.64.010.]

**Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Effective Date
79A.60.090	Eluding a Law Enforcement Vessel	C	14	3/28/1990

Recommendation: **Leave as unranked class C felony**

Discussion:

- Has been charged infrequently and there could be inherent differences in dangerousness compared to regular Attempt to Elude offense.

RCW 79A.60.090

Eluding a law enforcement vessel.

Any operator of a vessel who willfully fails or refuses to immediately bring the vessel to a stop and who operates the vessel in a manner indicating a wanton or willful disregard for the lives or property of others while attempting to elude a pursuing law enforcement vessel, after being given a visual or audible signal to bring the vessel to a stop, shall be guilty of a class C felony punishable under chapter **9A.20** RCW. The signal given by the law enforcement officer may be by hand, voice, emergency light, or siren. The officer giving such a signal shall be in uniform and his or her vessel shall be appropriately marked showing it to be an official law enforcement vessel.

[**1990 c 235 § 2**. Formerly RCW **88.12.045**, **88.12.120**, and **88.08.080**.]

Conviction Date County Sent Total

2015	Snohomish	1
2017	Clark	12.03
2017	Pierce	6
2017	Pierce	0.0329
2018	Pierce	12
2018	Pierce	9
2018	King	5.6181
2018	Pierce	1
2018	Pierce	0.0329
2019	Thurston	12
2019	Pierce	6
2019	Whatcom	1
2019	Thurston	0.9199
2020	Spokane	0.0986