

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

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RCW	Offense Title	Class	FY00-20 Count	Effective Date
9A.64.030(3)(b)	Child Buying	E	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.]

This particular case: Young mother, desperate for funds. Conviction is for attempted selling from the father figure, attempting buying for the other party. Suspended sentences, community service and a couple years of supervision.

In 2018, SB 6037 changed the surrogacy laws so that “Surrogacy agreements may provide for payment of consideration and reasonable expenses. An agreement may include reimbursement for specific expenses if the agreement is terminated.”

Federal statute: 18 U.S. Code § 2251A - Selling or buying of children

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RCW	Offense Title	Class	FY00-20 Count	Effective Date
16.52.117(2)(a)	Animal Fighting	C	25	3/31/1982

Recommendation: **Rank at Seriousness Level 3**

Discussion:

- SL 3 ranking would mandate 1-3 months of jail time with a criminal history score of 0.

RCW 16.52.117

Animal fighting—Prohibited behavior—Penalty—Exceptions.

(1) A person commits the crime of animal fighting if the person knowingly does any of the following or causes a minor to do any of the following:

(a) Owns, possesses, keeps, breeds, trains, buys, sells, or advertises or offers for sale any animal with the intent that the animal shall be engaged in an exhibition of fighting with another animal;

(b) Promotes, organizes, conducts, participates in, is a spectator of, advertises, prepares, or performs any service in the furtherance of, an exhibition of animal fighting, transports spectators to an animal fight, or provides or serves as a stakeholder for any money wagered on an animal fight;

(c) Keeps or uses any place for the purpose of animal fighting, or manages or accepts payment of admission to any place kept or used for the purpose of animal fighting;

(d) Suffers or permits any place over which the person has possession or control to be occupied, kept, or used for the purpose of an exhibition of animal fighting;

(e) Steals, takes, leads away, possesses, confines, sells, transfers, or receives an animal with the intent of using the animal for animal fighting, or for training or baiting for the purpose of animal fighting; or

(f) Owns, possesses, buys, sells, transfers, or manufactures animal fighting paraphernalia for the purpose of engaging in, promoting, or facilitating animal fighting, or for baiting a live animal for the purpose of animal fighting.

(2)(a) Except as provided in (b) of this subsection, a person who violates this section is guilty of a class C felony punishable under RCW 9A.20.021;

(b) A person who intentionally mutilates an animal in furtherance of an animal fighting offense as described in subsection (1) of this section is guilty of a class B felony punishable under RCW 9A.20.021.

(3) Nothing in this section prohibits the following:

(a) The use of dogs in the management of livestock, as defined by chapter 16.57 RCW, by the owner of the livestock or the owner's employees or agents or other persons in lawful custody of the livestock;

(b) The use of dogs in hunting as permitted by law; or

Conviction Date County Sent Tot

2006	Adams	4
2009	Benton	2.17
2010	Yakima	12
2010	Franklin	5
2010	Yakima	2
2010	Whatcom	0.66
2010	Whatcom	0.66
2010	Whatcom	0.66
2010	Whatcom	0.66
2010	Whatcom	0.66
2011	Snohomish	2
2011	Benton	2
2011	Benton	1.25
2011	Douglas	1
2014	Snohomish	1.15
2015	Douglas	0.49
2015	Douglas	0.16
2017	King	0

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(c) The training of animals or the use of equipment in the training of animals for any purpose not prohibited by law.

(4) For the purposes of this section, "animal fighting paraphernalia" includes equipment, products, implements, or materials of any kind that are used, intended for use, or designed for use in the training, preparation, conditioning, or furtherance of animal fighting, and includes, but is not limited to: Cat mills; fighting pits; springpoles; unprescribed veterinary medicine; treatment supplies; and gaffs, slashers, heels, and any other sharp implement designed to be attached in place of the natural spur of a cock or game fowl.

[[2019 c 174 § 1](#); [2015 c 235 § 3](#); [2006 c 287 § 1](#); [2005 c 481 § 3](#); [1994 c 261 § 11](#); [1982 c 114 § 9](#).]

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RCW	Offense Title	Class	FY00-20 Count	Effective Date
16.52.205(1), (2)	Animal Cruelty 1	C	455	6/9/1994

Recommendation: **Rank at Seriousness Level 3**

Discussion:

- Behavior can be precursor to worse behavior that could impact issues related to community safety.
- Animal Cruelty 2 is a gross misdemeanor.

RCW 16.52.205

Animal cruelty in the first degree.

(1) A person is guilty of animal cruelty in the first degree when, except as authorized in law, he or she intentionally (a) inflicts substantial pain on, (b) causes physical injury to, or (c) kills an animal by a means causing undue suffering or while manifesting an extreme indifference to life, or forces a minor to inflict unnecessary pain, injury, or death on an animal.

(2)(a) A person is guilty of animal cruelty in the first degree when, except as authorized by law or as provided in (c) of this subsection, he or she, with criminal negligence, starves, dehydrates, or suffocates an animal, or exposes an animal to excessive heat or cold and as a result causes: (i) Substantial and unjustifiable physical pain that extends for a period sufficient to cause considerable suffering; or (ii) death.

(b) In determining whether an animal has experienced the condition described in (a)(i) of this subsection due to exposure to excessive heat or cold, the trier of fact shall consider any evidence as to: (i) Whether the animal's particular species and breed is physiologically adaptable to the conditions to which the animal was exposed; and (ii) the animal's age, health, medical conditions, and any other physical characteristics of the animal or factor that may affect its susceptibility to excessive heat or cold.

(c) A person is not guilty of animal cruelty in the first degree by means of exposing an animal to excessive heat or cold if the exposure is due to an unforeseen or unpreventable accident or event caused exclusively by an extraordinary force of nature.

(3) A person is guilty of animal cruelty in the first degree when he or she:

- (a) Knowingly engages in any sexual conduct or sexual contact with an animal;
- (b) Knowingly causes, aids, or abets another person to engage in any sexual conduct or sexual contact with an animal;
- (c) Knowingly permits any sexual conduct or sexual contact with an animal to be conducted on any premises under his or her charge or control;
- (d) Knowingly engages in, organizes, promotes, conducts, advertises, aids, abets, participates in as an observer, or performs any service in the furtherance of an act involving any sexual conduct or sexual contact with an animal for a commercial or recreational purpose; or
- (e) Knowingly photographs or films, for purposes of sexual gratification, a person engaged in a sexual act or sexual contact with an animal.

Conviction Date	Sent Total
2000 - 2020	0 (22 cases)
	Less than 1 mo (26 cases)
	1 – 3.9 mos (123 cases)
	4 – 6.9 mos (42 cases)
	7 – 9.9 mos (21 cases)
	10 – 12.0 mos (15 cases)
	12.03 - 18 mos (5 cases)

Additional 1 case for 18 mos w/DW
Additional 1 case for 12 mos Sex Mot

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(4) Animal cruelty in the first degree is a class C felony.

(5) In addition to the penalty imposed in subsection (4) of this section, the court must order that the convicted person not own, care for, possess, or reside in any household where an animal is present, in accordance with RCW [16.52.200](#).

(6) In addition to the penalties imposed in subsections (4) and (5) of this section, the court may order that the convicted person:

(a) Participate in appropriate counseling at the defendant's expense;

(b) Reimburse the animal shelter or humane society for any reasonable costs incurred for the care and maintenance of any animals taken to the animal shelter or humane society as a result of conduct proscribed in this section.

(7) Nothing in this section prohibits accepted animal husbandry practices or prohibits a licensed veterinarian or certified veterinary technician from performing procedures on an animal that are accepted veterinary medical practices.

(8) If the court has reasonable grounds to believe that a violation of this section has occurred, the court may order the seizure of all animals involved in the alleged violation as a condition of bond of a person charged with a violation.

(9) For purposes of this section:

(a) "Animal" means every creature, either alive or dead, other than a human being.

(b) "Sexual conduct" means any touching by a person of, fondling by a person of, transfer of saliva by a person to, or use of a foreign object by a person on, the sex organs or anus of an animal, either directly or through clothing, or any transfer or transmission of semen by the person upon any part of the animal.

(c) "Sexual contact" means: (i) Any contact, however slight, between the mouth, sex organ, or anus of a person and the sex organ or anus of an animal, or between the sex organ or anus of a person and the mouth of an animal; or (ii) any intrusion, however slight, of any part of the body of the person or foreign object into the sex organ or anus of an animal.

(d) "Photographs" or "films" means the making of a photograph, motion picture film, videotape, digital image, or any other recording, sale, or transmission of the image.

[[2020 c 158 § 6](#); [2015 c 235 § 6](#); [2006 c 191 § 1](#); [2005 c 481 § 1](#); [1994 c 261 § 8](#).]

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RCW	Offense Title	Class	FY00-20 Count	Effective Date
16.52.320	Kill or Cause Substantial Harm with Malice to Livestock	C	3	7/22/2011

Recommendation: **Repeal**

Conviction Date County Sent Tot

Discussion:

2014	Lewis	2
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- Offense is duplicative.
- Could be charged as Animal Cruelty 1 (causing harm) or Malicious Mischief (non-distressful death).

RCW 16.52.320

Maliciously killing or causing substantial bodily harm to livestock belonging to another—Penalty.

(1) It is unlawful for a person to, with malice, kill or cause substantial bodily harm to livestock belonging to another person.

(2) A violation of this section constitutes a class C felony.

[[2015 c 235 § 4](#); [2011 c 67 § 1](#).]

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RCW	Offense Title	Class	FY00-20 Count	Effective Date
19.48.110(1)(b)	Defrauding an Innkeeper (value of \$75 or more)	B	67	2/14/1974

Recommendation: **Repeal**

Discussion:

- Duplicative of Theft 3
- Class B felony is too severe for \$75 or more of food, money, lodging, and ski area facility use.

RCW 19.48.110

Obtaining hotel, restaurant, lodging house, ski area, etc., accommodations by fraud—Penalty.

(1)(a) Any person who willfully obtains food, money, credit, use of ski area facilities, lodging or accommodation at any hotel, inn, restaurant, commercial ski area, boarding house or lodging house, without paying therefor, with intent to defraud the proprietor, owner, operator or keeper thereof; or who obtains food, money, credit, use of ski area facilities, lodging or accommodation at such hotel, inn, restaurant, commercial ski area, boarding house or lodging house, by the use of any false pretense; or who, after obtaining food, money, credit, use of ski area facilities, lodging, or accommodation at such hotel, inn, restaurant, commercial ski area, boarding house, or lodging house, removes or causes to be removed from such hotel, inn, restaurant, commercial ski area, boarding house or lodging house, his or her baggage, without the permission or consent of the proprietor, manager or authorized employee thereof, before paying for such food, money, credit, use of ski area facilities, lodging or accommodation, is guilty of a gross misdemeanor, except as provided in (b) of this subsection.

(b) If the aggregate amount of food, money, use of ski area facilities, lodging or accommodation, or credit so obtained is seventy-five dollars or more such person is guilty of a class B felony punishable according to chapter 9A.20 RCW.

(2) Proof that food, money, credit, use of ski area facilities, lodging or accommodation were obtained by false pretense or by false or fictitious show or pretense of any baggage or other property, or that the person refused or neglected to pay for such food, money, credit, use of ski area facilities, lodging or accommodation on demand, or that he or she gave in payment for such food, money, credit, use of ski area facilities, lodging or accommodation, negotiable paper on which payment was refused, or that he or she absconded, or departed from, or left, the premises without paying for such food, money, credit, use of ski area facilities, lodging or accommodation, or that he or she removed, or attempted to remove, or caused to be removed, or caused to be attempted to be removed his or her property or baggage, shall be prima facie evidence of the fraudulent intent hereinbefore mentioned.

[2003 c 53 § 146; 1985 c 129 § 2; 1974 ex.s. c 21 § 1; 1929 c 216 § 6; 1915 c 190 § 7; 1890 p 96 § 2; RRS § 6866. Formerly RCW 19.48.110, 19.48.120.]

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RCW	Offense Title	Class	FY00-20 Count	Effective Date
26.20.030	Family Abandonment	C	6	3/28/1984

Recommendation: **Repeal**

Discussion:

- Philosophical question about how to help parents – other help can be offered instead of criminalizing this. Encompassed in state civil dependency system.
- Dependency system needs a lot of work. This is likely not applied equitably. Other laws deal with harm of children.

Conviction Date	County	Sent Tot
2007	Yakima	6
2013	Grant	1.77
201	Pierce	0

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

Discussion:

- Not really duplicative but has elements of Abandonment of Dependent Person 3.
- Felony status is severe enough.
- Can be used when youth are released from state or county facility and adult refuses acceptance.

RCW 26.20.030

Family abandonment—Penalty—Exception.

(1) Except as provided in subsection (2) of this section, any person who has a child dependent upon him or her for care, education or support and deserts such child in any manner whatever with intent to abandon it is guilty of the crime of family abandonment.

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

(3) The crime of family abandonment is a class C felony under chapter 9A.20 RCW.

[2002 c 331 § 6; 1984 c 260 § 26; 1973 1st ex.s. c 154 § 34; 1969 ex.s. c 207 § 2; 1955 c 249 § 1; 1953 c 255 § 1; 1943 c 158 § 1; 1913 c 28 § 1; Rem. Supp. 1943 § 6908. Prior: 1907 c 103 § 1, part.]

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RCW	Offense Title	Class	FY00-20 Count	Effective Date
29A.84.230(1)	Violation by Signer – Initiative or Referendum with False Name	C	10	3/21/1913

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

Recommendation: **Repeal if covered under RCW 9A.60.020**

Discussion:

- RCW 9A.60.020 (Forgery) is also a class C felony and appears duplicative of this offense.
- Signing more than one for the same initiative or referendum is a gross misdemeanor.
- Misconduct in signing a petition where the person signs a false name on any referendum or other petition is a misdemeanor.

Conviction Year	County	Sent Total
2014	Kittitas	6
2014	Snohomish	5
2010	Spokane	0
2011	King	0

RCW 29A.84.230

Violations by signers—Initiative, referendum petitions—Penalty.

(1) Every person who signs an initiative or referendum petition with any other than his or her true name is guilty of a class C felony punishable under RCW 9A.20.021.

(2) Every person who knowingly signs more than one petition for the same initiative or referendum measure or who signs an initiative or referendum petition knowing that he or she is not a legal voter or who makes a false statement as to his or her residence on any initiative or referendum petition, is guilty of a gross misdemeanor.

[2003 c 111 § 2111; 2003 c 53 § 182; 1993 c 256 § 2; 1965 c 9 § 29.79.440. Prior: 1913 c 138 § 31; RRS § 5427. Formerly RCW 29.79.440, 29.79.450, 29.79.460, 29.79.470.]

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RCW	Offense Title	Class	FY00-20 Count	Effective Date
9.41.080	Delivery of Firearms to Ineligible Person	C	179	7/1/1935

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

Discussion:

- Statute not duplicative.
- Old effective date but recent action in statute.

RCW 9.41.080

Delivery to ineligible persons.

No person may deliver a firearm to any person whom he or she has reasonable cause to believe: (1) Is ineligible under RCW 9.41.040 to possess a firearm or (2) has signed a valid voluntary waiver of firearm rights that has not been revoked under RCW 9.41.350. Any person violating this section is guilty of a class C felony, punishable under chapter 9A.20 RCW.

[2018 c 145 § 3; 1994 sp.s. c 7 § 409; 1935 c 172 § 8; RRS § 2516-8.]

Conviction Date	Sent Total
1999 - 2020	0 (9 cases)
	Less than 1 mo (61 cases)
	1 – 3.9 mos (38 cases)
	4 – 6.9 mos (22 cases)
	7 – 9.9 mos (4 cases)
	10 – 12.0 mos (6 cases)
	12.03 - 13 mos (3 cases)

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RCW	Offense Title	Class	FY00-20 Count	Effective Date
9.41.110(8)	Delivery of Firearm by Dealer to Ineligible Person	C	20	7/1/1935

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

Discussion:

- Statute not duplicative.
- Old effective date but recent action in statute.

Conviction Year	County	Sent Total
2003	Spokane	2.73
2003	Grays Harbor	0
2004	Kittitas	3
2004	Pierce	0
2005	Spokane	0.2
2007	Clark	5
2008	King	1
2008	Stevens	0
2009	Clark	1
2013	Chelan	3
2013	Yakima	0.13
2014	Kitsap	3

RCW 9.41.110

**Dealer's licenses, by whom granted, conditions, fees—
Employees, fingerprinting and background checks—Wholesale sales excepted—Permits prohibited.**

(8)(a) No pistol or semiautomatic assault rifle may be sold: (i)

In violation of any provisions of

RCW 9.41.010 through 9.41.810; nor (ii) may a pistol or

semiautomatic assault rifle be sold under any circumstances unless the purchaser is personally known to the dealer or shall present clear evidence of his or her identity.

(b) A dealer who sells or delivers any firearm in violation of RCW 9.41.080 is guilty of a class C felony. In addition to any other penalty provided for by law, the dealer is subject to mandatory permanent revocation of his or her dealer's license and permanent ineligibility for a dealer's license.

(c) The license fee for pistols shall be one hundred twenty-five dollars. The license fee for firearms other than pistols shall be one hundred twenty-five dollars. The license fee for ammunition shall be one hundred twenty-five dollars. Any dealer who obtains any license under subsection (1), (2), or (3) of this section may also obtain the remaining licenses without payment of any fee. The fees received under this section shall be deposited in the state general fund.

[2019 c 3 § 10 (Initiative Measure No. 1639, approved November 6, 2018); 2009 c 479 § 10; 1994 sp.s. c 7 § 416; 1979 c 158 § 2; 1969 ex.s. c 227 § 4; 1963 c 163 § 1; 1961 c 124 § 8; 1935 c 172 § 11; RRS § 2516-11.]

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RCW	Offense Title	Class	FY00-20 Count	Effective Date
9.41.171	Alien Possession of a Firearm	C	883	7/26/2009

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

Discussion:

- Statute not duplicative.
- May be used as an alternative to a ranked offense.

RCW 9.41.171

Alien possession of firearms—Requirements—Penalty.

It is a class C felony for any person who is not a citizen of the United States to carry or possess any firearm, unless the person: (1) Is a lawful permanent resident; (2) has obtained a valid alien firearm license pursuant to RCW 9.41.173; or (3) meets the requirements of RCW 9.41.175.

[2009 c 216 § 2.]

Conviction Date Sent Total

1999 - 2020	0 (15 cases)
	Less than 1 mo (124 cases)
	1 – 3.9 mos (386 cases)
	4 – 6.9 mos (62 cases)
	7 – 9.9 mos (10 cases)
	10 – 12.0 mos (11 cases)
	12.03 - 24 mos (14 cases)

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RCW	Offense Title	Class	FY00-20 Count	Effective Date
9A.60.040	Criminal Impersonation 1	C	3,253	7/25/1993

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

Discussion:

- Similar to Making a False or Misleading Statement, Obstruction, but not duplicative
- Is not the same as ID Theft.
- Is not a lesser included offense of Attempting to Obtain Controlled Substance by Use of False Name or by Fraud, Deceit, Misrepresentation or Subterfuge.
- Keeping unranked furthers plea negotiations.

Conviction Date Sent Total

2004 - 2020	0 (77 cases)
	Less than 1 mo (601 cases)
	1 – 3.9 mos (1,107 cases)
	4 – 6.9 mos (200 cases)
	7 – 9.9 mos (39 cases)
	10 – 12.0 mos (118 cases)
	12.03 - 88 mos (63 cases)

RCW [9A.60.040](#)

Criminal impersonation in the first degree.

(1) A person is guilty of criminal impersonation in the first degree if the person:

- (a) Assumes a false identity and does an act in his or her assumed character with intent to defraud another or for any other unlawful purpose; or
- (b) Pretends to be a representative of some person or organization or a public servant and does an act in his or her pretended capacity with intent to defraud another or for any other unlawful purpose.

(2) Criminal impersonation in the first degree is a class C felony.

[[2004 c 11 § 1](#); [2003 c 53 § 78](#); [1993 c 457 § 1](#); [1975 1st ex.s. c 260 § 9A.60.040](#).]

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RCW	Offense Title	Class	FY00-20 Count	Effective Date
9A.60.030	Obtaining Signature by Deception or Duress	C	98	7/25/1993

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

Conviction Date Sent Total

Discussion:

- This offense is in the False Pretenses chapter and likely comes up in financial crimes, so possibly similar to a theft of some sort but elements would be very different.
- Offense is included in statutes related to Criminal Profiteering, Leading Organized Crime, and Forgery.
- Might be a middle ground between a theft or forgery.

1999 - 2020	0 (3 cases)
	Less than 1 mo (13 cases)
	1 – 3.9 mos (22 cases)
	4 – 6.9 mos (7 cases)
	7 – 9.9 mos (2 cases)
	10 – 12.0 mos (8 cases)
	18 mos (1 case)

RCW 9A.60.030

Obtaining a signature by deception or duress.

(1) A person is guilty of obtaining a signature by deception or duress if by deception or duress and with intent to defraud or deprive he or she causes another person to sign or execute a written instrument.

(2) Obtaining a signature by deception or duress is a class C felony.

[2011 c 336 § 383; 1975-'76 2nd ex.s. c 38 § 14; 1975 1st ex.s. c 260 § 9A.60.030.]

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RCW	Offense Title	Class	FY00-20 Count	Effective Date
9A.83.020	Money Laundering	B	1,599	6/11/1992

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

RCW 9A.83.020

Money laundering.

(1) A person is guilty of money laundering when that person conducts or attempts to conduct a financial transaction involving the proceeds of specified unlawful activity and:

- (a) Knows the property is proceeds of specified unlawful activity; or
- (b) Knows that the transaction is designed in whole or in part to conceal or disguise the nature, location, source, ownership, or control of the proceeds, and acts recklessly as to whether the property is proceeds of specified unlawful activity; or
- (c) Knows that the transaction is designed in whole or in part to avoid a transaction reporting requirement under federal law.

(2) In consideration of the constitutional right to counsel afforded by the Fifth and Sixth amendments to the United States Constitution and Article 1, Section 22 of the Constitution of Washington, an additional proof requirement is imposed when a case involves a licensed attorney who accepts a fee for representing a client in an actual criminal investigation or proceeding. In these situations, the prosecution is required to prove that the attorney accepted proceeds of specified unlawful activity with intent:

- (a) To conceal or disguise the nature, location, source, ownership, or control of the proceeds, knowing the property is proceeds of specified unlawful activity; or
- (b) To avoid a transaction reporting requirement under federal law.

The proof required by this subsection is in addition to the requirements contained in subsection (1) of this section.

(3) An additional proof requirement is imposed when a case involves a financial institution and one or more of its employees. In these situations, the prosecution is required to prove that proceeds of specified unlawful activity were accepted with intent:

- (a) To conceal or disguised [disguise] the nature, location, source, ownership, or control of the proceeds, knowing the property is proceeds of specified unlawful activity; or
- (b) To avoid a transaction reporting requirement under federal law.

The proof required by this subsection is in addition to the requirements contained in subsection (1) of this section.

(4) Money laundering is a class B felony.

(5) A person who violates this section is also liable for a civil penalty of twice the value of the proceeds involved in the financial transaction and for the costs of the suit, including reasonable investigative and attorneys' fees.

Conviction Date Sent Total

1999 - 2020	0 (67 cases)
	Less than 1 mo (324 cases)
	1 – 3.9 mos (276 cases)
	4 – 6.9 mos (87 cases)
	7 – 9.9 mos (25 cases)
	10 – 12.0 mos (62 cases)
	12.03 - 128 mo (11 cases)

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(6) Proceedings under this chapter shall be in addition to any other criminal penalties, civil penalties, or forfeitures authorized under state law.

[[1992 c 210 § 2.](#)]

**Sentencing Guidelines Commission
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RCW	Offense Title	Class	FY00-20 Count	Effective Date
19.25.020(2)(a)	Reproduction of Sound Recording without Consent of Owner – Recording Fixed before 2/15/1972 (at least 1,000 recordings or subsequent conviction)	B	1	7/28/1991

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

Conviction Year	County	Sent Total
2006	Spokane	0.16

Discussion:

- Possibly duplicative of Theft or Possession of Stolen Property but this statute seems to be specific to recordings fixed before 2/15/1972.
- Appears to be aimed at sellers/distributors who mass reproduce recordings.
- Passed in 1991 and might be response to compact disc technology and ease with which copywritten recordings could be reproduced without consent.

RCW 19.25.020

Reproduction of sound without consent of owner unlawful—Fine and penalty.

(1) A person commits an offense if the person:

- (a) Knowingly reproduces for sale or causes to be transferred any recording with intent to sell it or cause it to be sold or use it or cause it to be used for commercial advantage or private financial gain without the consent of the owner;
- (b) Transports within this state, for commercial advantage or private financial gain, a recording with the knowledge that the sounds have been reproduced or transferred without the consent of the owner; or
- (c) Advertises, offers for sale, sells, or rents, or causes the sale, resale, or rental of or possesses for one or more of these purposes any recording that the person knows has been reproduced or transferred without the consent of the owner.

(2)(a) An offense under this section is a class B felony punishable by a fine of not more than two hundred fifty thousand dollars, imprisonment for not more than ten years, or both if:

(i) The offense involves at least one thousand unauthorized recordings during a one hundred eighty-day period; or

(ii) The defendant has been previously convicted under this section.

(b) An offense under this section is a class C felony punishable by a fine of not more than two hundred fifty thousand dollars, imprisonment for not more than five years, or both, if the offense involves more than one hundred but less than one thousand unauthorized recordings during a one hundred eighty-day period.

(c) Any other offense under this section is a gross misdemeanor punishable by a fine of not more than twenty-five thousand dollars, imprisonment for up to three hundred sixty-four days, or both.

(3) This section does not affect the rights and remedies of a party in private litigation.

(4) This section applies only to recordings that were initially fixed before February 15, 1972.

[[2011 c 96 § 17](#); [2003 c 53 § 143](#); [1991 c 38 § 2](#); [1974 ex.s. c 100 § 2](#).]

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

RCW	Offense Title	Class	FY00-20 Count	Effective Date
19.25.020(2)(b)	Reproduction of Sound Recording without Consent of Owner – Recording Fixed before 2/15/1972 (more than 100 but less than 1,000 recordings)	C	3	7/28/1991

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

Discussion:

- Possibly duplicative of Theft or Possession of Stolen Property but this statute seems to be specific to recordings fixed before 2/15/1972.
- Appears to be aimed at sellers/distributors who mass reproduce recordings.
- Passed in 1991 and might be response to compact disc technology and ease with which copywritten recordings could be reproduced without consent.

Conviction Year	County	Sent Total
2007	Whatcom	0.49
2010	King	0
2011	King	0

RCW 19.25.020

Reproduction of sound without consent of owner unlawful—Fine and penalty.

(1) A person commits an offense if the person:

(a) Knowingly reproduces for sale or causes to be transferred any recording with intent to sell it or cause it to be sold or use it or cause it to be used for commercial advantage or private financial gain without the consent of the owner;

(b) Transports within this state, for commercial advantage or private financial gain, a recording with the knowledge that the sounds have been reproduced or transferred without the consent of the owner; or

(c) Advertises, offers for sale, sells, or rents, or causes the sale, resale, or rental of or possesses for one or more of these purposes any recording that the person knows has been reproduced or transferred without the consent of the owner.

(2)(a) An offense under this section is a class B felony punishable by a fine of not more than two hundred fifty thousand dollars, imprisonment for not more than ten years, or both if:

(i) The offense involves at least one thousand unauthorized recordings during a one hundred eighty-day period; or

(ii) The defendant has been previously convicted under this section.

(b) An offense under this section is a class C felony punishable by a fine of not more than two hundred fifty thousand dollars, imprisonment for not more than five years, or both, if the offense involves more than one hundred but less than one thousand unauthorized recordings during a one hundred eighty-day period.

(c) Any other offense under this section is a gross misdemeanor punishable by a fine of not more than twenty-five thousand dollars, imprisonment for up to three hundred sixty-four days, or both.

(3) This section does not affect the rights and remedies of a party in private litigation.

(4) This section applies only to recordings that were initially fixed before February 15, 1972.

[[2011 c 96 § 17](#); [2003 c 53 § 143](#); [1991 c 38 § 2](#); [1974 ex.s. c 100 § 2](#).]

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RCW	Offense Title	Class	FY00-20 Count	Effective Date
19.110.120	Defraud or Provide Misleading or Untrue Documents Related to a Business Opportunity Sale	B	1	5/14/1981

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

Conviction Year	County	Sent Total
2011	Cowlitz	6

Discussion:

- Offense not duplicative.
- Class B offense level is stiff enough penalty.

RCW 19.110.120

Unlawful acts.

- (1) It is unlawful for any person to:
- (a) Make any untrue or misleading statement of a material fact or to omit to state a material fact in connection with the offer, sale, or lease of any business opportunity in the state; or
 - (b) Employ any device, scheme, or artifice to defraud; or
 - (c) Engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person; or
 - (d) Knowingly file or cause to be filed with the director any document which contains any untrue or misleading information; or
 - (e) Knowingly violate any rule or order of the director.
- (2) A violation of this section is a class B felony punishable according to chapter 9A.20 RCW.

[2003 c 53 § 154; 1981 c 155 § 12.]

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RCW	Offense Title	Class	FY00-20 Count	Effective Date
19.146.050	Failure to Use a Trust Account	C	7	5/15/1987

Recommendation: **Repeal**

Discussion:

- Offense not duplicative.
- Gives mortgage broker investigator leverage.

RCW 19.146.050

Moneys for third-party provider services deemed in trust—Deposit of moneys in trust account—Use of trust account—Rules—Tax treatment.

(1) All moneys received by a mortgage broker from a borrower for payment of third-party provider services shall be deemed as held in trust immediately upon receipt by the mortgage broker. A mortgage broker shall deposit, prior to the end of the third business day following receipt of such trust funds, all such trust funds in a trust account of a federally insured financial institution located in this state. All trust account funds collected under this chapter must remain on deposit in a trust account in the state of Washington until disbursement. The trust account shall be designated and maintained for the benefit of borrowers. Moneys maintained in the trust account shall be exempt from execution, attachment, or garnishment. A mortgage broker shall not in any way encumber the corpus of the trust account or commingle any other operating funds with trust account funds. Withdrawals from the trust account shall be only for the payment of bona fide services rendered by a third-party provider or for refunds to borrowers.

(2) The director shall make rules which: (a) Direct mortgage brokers how to handle checks and other instruments that are received by the broker and that combine trust funds with other funds; and (b) permit transfer of trust funds out of the trust account for payment of other costs only when necessary and only with the prior express written permission of the borrower.

(3) Any interest earned on the trust account shall be refunded or credited to the borrowers at closing.

(4) Trust accounts that are operated in a manner consistent with this section and any rules adopted by the director, are not considered gross receipts taxable under chapter **82.04** RCW.

(5) A person violating this section is guilty of a class C felony punishable according to chapter **9A.20** RCW.

[**2003 c 53 § 158**; **1998 c 311 § 1**; **1997 c 106 § 5**; **1987 c 391 § 7**.]

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RCW	Offense Title	Class	FY00-20 Count	Effective Date
29A.84.130	Voter Violation of Registration Law	C	17	1/1/1978

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

Discussion:

- Offense not duplicative.

RCW 29A.84.130

Voter violations.

Any person who:

- (1) Knowingly provides false information on an application for voter registration under any provision of this title;
- (2) Knowingly makes or attests to a false declaration as to his or her qualifications as a voter;
- (3) Knowingly causes or permits himself or herself to be registered using the name of another person;
- (4) Knowingly causes himself or herself to be registered under two or more different names;
- (5) Knowingly causes himself or herself to be registered in two or more counties;
- (6) Offers to pay another person to assist in registering voters, where payment is based on a fixed amount of money per voter registration;
- (7) Accepts payment for assisting in registering voters, where payment is based on a fixed amount of money per voter registration; or
- (8) Knowingly causes any person to be registered or causes any registration to be transferred or canceled except as authorized under this title, is guilty of a class C felony punishable under RCW 9A.20.021.

[2003 c 111 § 2107. Prior: 1994 c 57 § 25; 1991 c 81 § 12; 1990 c 143 § 12; 1977 ex.s. c 361 § 110; 1965 c 9 § 29.85.200; prior: 1933 c 1 § 27; RRS § 5114-27; prior: 1893 c 45 § 5; 1889 p 418 § 16; RRS § 5136. Formerly RCW 29.07.410, 29.85.200.]

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RCW	Offense Title	Class	FY00-20 Count	Effective Date
29A.84.311	Provides False Information or Conceals or Destroys Candidacy Declaration or Nominating Petition	C	2	6/10/2004

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

Conviction Year	County	Sent Total
2008	Pierce	0

Discussion:

- Offense not duplicative, very specific to elections and voting fraud.
- Though only used twice in last 16 years, this statute may be needed in the near future.

RCW 29A.84.311

Candidacy declarations, nominating petitions.

Every person who:

- (1) Knowingly provides false information on his or her declaration of candidacy or petition of nomination; or
- (2) Conceals or fraudulently defaces or destroys a certificate that has been filed with an elections officer under chapter 29A.20 RCW or a declaration of candidacy or petition of nomination that has been filed with an elections officer, or any part of such a certificate, declaration, or petition, is guilty of a class C felony punishable under RCW 9A.20.021.

[2004 c 271 § 185.]

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

RCW	Offense Title	Class	FY00-20 Count	Effective Date
42.20.070	Misappropriating and Falsifying Accounts by Public Officer	B	18	3/22/1909

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

Discussion:

- Would this be covered under fraud statutes 9A.56, 9A.82 and 9A.60?
- Public official position has higher standard to uphold.

Conviction Year	County	Sent Total
2003	Benton	0
2006	Grays Harbor	0
2009	Snohomish	3
2013	Skagit	4
2014	Snohomish	8
2017	Kittitas	9

RCW 42.20.070

Misappropriation and falsification of accounts by public officer.

Every public officer, and every other person receiving money on behalf or for or on account of the people of the state or of any department of the state government or of any bureau or fund created by law in which the people are directly or indirectly interested, or for or on account of any county, city, town, or any school, diking, drainage, or irrigation district, who:

- (1) Appropriates to his or her own use or the use of any person not entitled thereto, without authority of law, any money so received by him or her as such officer or otherwise; or
- (2) Knowingly keeps any false account, or makes any false entry or erasure in any account, of or relating to any money so received by him or her; or
- (3) Fraudulently alters, falsifies, conceals, destroys, or obliterates any such account; or
- (4) Willfully omits or refuses to pay over to the state, its officer or agent authorized by law to receive the same, or to such county, city, town, or such school, diking, drainage, or irrigation district or to the proper officer or authority empowered to demand and receive the same, any money received by him or her as such officer when it is a duty imposed upon him or her by law to pay over and account for the same, is guilty of a class B felony and shall be punished by imprisonment in a state correctional facility for not more than fifteen years.

[[2003 c 53 § 219](#); [1992 c 7 § 37](#); [1909 c 249 § 317](#); RRS § 2569. Prior: Code 1881 § 890; [1873 p 202 § 92](#); [1854 p 91 § 83](#).]