

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

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Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.47.090	Maintaining a Bucket Shop	C	15	3	13	7/1/1909

7/8/22 – No motion made

Recommendation: **Repeal**

Discussion:

- Possibly antiquated
- Duplicative as behavior would fall under Securities and Investments Title RCW 21

Conviction Year	County	Sent Total
2000	Spokane	22
2000	Spokane	12
2018	Grant	3

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

Discussion:

- No consensus on committee to repeal

RCW [9.47.090](#)

Maintaining bucket shop—Penalty.

Every person, whether in his or her own behalf, or as agent, servant or employee of another person, within or outside of this state, who shall open, conduct or carry on any bucket shop, or make or offer to make any contract described in RCW [9.47.080](#), or with intent to make such a contract, or assist therein, shall receive, exhibit, or display any statement of market prices of any commodities, securities, or property, is guilty of a class C felony and shall be punished by imprisonment in a state correctional facility for not more than five years.

[[2003 c 53 § 36](#); [1992 c 7 § 13](#); [1909 c 249 § 224](#); RRS § 2476.]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.94.041(1)	Possession of Controlled Substance by Prisoner (State Facility)	C	603*	0	0	3/26/1979

*CFC data does not distinguish between 9.94.041(1) and (2).

RCW 9.94.041(2) – Local facility = 11/12/21 vote to repeal as no convictions in 20 yrs (358 cases; 413 charges)

Recommendation: **Reduce to Misdemeanor**

Discussion:

- Possession is a misdemeanor now
- There are institutional tools to deal with this.

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

Discussion:

- Applies to person in possession of item, not person who brought it in.
- Can effect safety of other people incarcerated.

Date	Sent Total
1999 - 2020	0 (21 cases)
	Less than 1 mo (98 cases)
	1 – 3.9 mos (263 cases)
	4 – 6.9 mos (66 cases)
	7 – 9.9 mos (17 cases)
	10 – 12.0 mos (55 cases)
	12.03 - 36 mos (9 cases)

RCW [9.94.041](#)

Narcotic drugs, controlled substances, alcohol, cannabis, other intoxicant, cell phone, or other form of electronic telecommunications device—Possession, etc., by prisoners—Penalty.

(1) Every person serving a sentence in any state correctional institution who, without legal authorization, while in the institution or while being conveyed to or from the institution, or while under the custody or supervision of institution officials, officers, or employees, or while on any premises subject to the control of the institution, knowingly possesses or carries upon his or her person or has under his or her control any narcotic drug or controlled substance, as defined in chapter [69.50](#) RCW, alcohol, cannabis, or other intoxicant, or a cell phone or other form of an electronic telecommunications device, is guilty of a class C felony.

(2) Every person confined in a county or local correctional institution who, without legal authorization, while in the institution or while being conveyed to or from the institution, or while under the custody or supervision of institution officials, officers, or employees, or while on any premises subject to the control of the institution, knowingly possesses or has under his or her control any narcotic drug or controlled substance, as defined in chapter [69.50](#) RCW, alcohol, cannabis, or other intoxicant, or a cell phone or other form of an electronic telecommunications device, is guilty of a class C felony.

(3) The sentence imposed under this section shall be in addition to any sentence being served.

(4) For the purposes of this section, "cannabis" has the meaning provided in RCW [69.50.101](#).

[[2022 c 16 § 3](#); [2016 c 199 § 1](#); [1995 c 314 § 5](#); [1979 c 121 § 2](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9A.36.060	Promoting a Suicide Attempt	C	8	12	13	6/27/1975

Recommendation: **Should be a ranked felony**

Discussion:

- Offense is not duplicative
- Could be related to social media
- Consider updating language
- Created before Death With Dignity Act

Conviction Year	County	Sent Total
2004	Spokane	0.5
2007	Clark	3.2
2011	Spokane	6
2013	Skagit	1
2018	Thurston	1.1
2019	Skamania	6
2020	Garfield	0.3

RCW [9A.36.060](#)

Promoting a suicide attempt.

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

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

[[2011 c 336 § 360](#); [1975 1st ex.s. c 260 § 9A.36.060](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9A.36.090	Threats Against Governor or Family	C	11	20	26	4/1/1982

Recommendation: **Should be a ranked at seriousness level 4**

Discussion:

- Offense is not duplicative but similar to harassment crimes (SL 3) and misdemeanor.
- Difference is specifically threats against governor, elect, or lieutenant governor.
- Nature of offense justifies increase in sentence length.
- There is a reduction in the top end at a 0 score, though the presumption would be some custody sanction, which there isn't if it is unranked.
- Threaten to kill another can lead to ranked felony.

Conviction Year	County	Sent Total
2001	Snohomish	9
2002	Thurston	12
2005	Pierce	8.8
2010	Pierce	2
2011	Pierce	12
2011	Grant	3
2012	Snohomish	1
2013	Thurston	4
2013	Cowlitz	1
2020	Pierce	0.07

RCW [9A.36.090](#)

Threats against governor or family.

(1) Whoever knowingly and willfully deposits for conveyance in the mail or for a delivery from any post office or by any letter carrier any letter, paper, writing, print, missive, or document containing any threat to take the life of or to inflict bodily harm upon the governor of the state or his or her immediate family, the governor-elect, the lieutenant governor, other officer next in the order of succession to the office of governor of the state, or the lieutenant governor-elect, or knowingly and willfully otherwise makes any such threat against the governor, governor-elect, lieutenant governor, other officer next in the order of succession to the office of governor, or lieutenant governor-elect, shall be guilty of a class C felony.

(2) As used in this section, the term "governor-elect" and "lieutenant governor-elect" means such persons as are the successful candidates for the offices of governor and lieutenant governor, respectively, as ascertained from the results of the general election. As used in this section, the phrase "other officer next in the order of succession to the office of governor" means the person other than the lieutenant governor next in order of succession to the office of governor under Article 3, section 10 of the state Constitution.

(3) The Washington state patrol may investigate for violations of this section.

[[2011 c 336 § 362](#); [1982 c 185 § 1](#).]

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Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9A.40.060	Custodial Interference 1	C	228	538 adu 5 juv	795 adu 6 juv	3/2/1984

Recommendation: **Should be a ranked felony**

Discussion:

- Offense not duplicative.
- Think it should be ranked but unsure at what level.
- Lower rank would result in presumptive sentence being lower than Custodial Interference 2 for lower CHS scores but would result in high for higher scores.
- Odd to have them both (CI1 and CI2) classified at C

RCW [9A.40.060](#)

Custodial interference in the first degree.

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

- (a) Intends to hold the child or incompetent person permanently or for a protracted period; or
- (b) Exposes the child or incompetent person to a substantial risk of illness or physical injury; or
- (c) Causes the child or incompetent person to be removed from the state of usual residence; or
- (d) Retains, detains, or conceals the child or incompetent person in another state after expiration of any authorized visitation period with intent to intimidate or harass a parent, guardian, institution, agency, or other person having lawful right to physical custody or to prevent a parent, guardian, institution, agency, or other person with lawful right to physical custody from regaining custody.

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

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

Date	Sent Total
1999 - 2020	0 (8 cases)
	Less than 1 mo (32 cases)
	1 – 3.9 mos (91 cases)
	4 – 6.9 mos (33 cases)
	7 – 9.9 mos (8 cases)
	10 – 12.0 mos (12 cases)
	12.03 - 36 mos (1 cases)

Additional: 2 w/Deadly
Weapon and 1 w/Sex Mot

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- (a) Intends to hold the child permanently or for a protracted period; or
 - (b) Exposes the child to a substantial risk of illness or physical injury; or
 - (c) Causes the child to be removed from the state of usual residence.
- (3) A parent or other person acting under the directions of the parent is guilty of custodial interference in the first degree if the parent or other person intentionally takes, entices, retains, or conceals a child, under the age of eighteen years and for whom no lawful custody order or order making residential provisions for the child has been entered by a court of competent jurisdiction, from the other parent with intent to deprive the other parent from access to the child permanently or for a protracted period.
- (4) Custodial interference in the first degree is a class C felony.

[[2015 c 38 § 2](#); [1998 c 55 § 1](#); [1994 c 162 § 1](#); [1984 c 95 § 1](#).]

Cases = number of cases filed;

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9A.40.110	Coercion of Involuntary Servitude	C	1	1	1	6/12/2014

Recommendation: **Should be ranked at seriousness level 5**

Conviction Year	County	Sent Total
2019	Lewis	12.03

Discussion:

- Offense not duplicative.
- In the families of Trafficking (SL 12/14), Unlawful Imprisonment (SL 3), Kidnapping (SL 5/10).
- Similar in so far that all crimes involve a restraint on someone's liberty, coercive or otherwise.
- Different in that the crimes pertain to different ways of effectuating that restraint.
- Different aspects of what the person is subjected to while restrained.
- Crime involved immigration documents (taking/threats of taking) explicitly, which is not a component of the other crimes.
- Nature of conduct merits ranking to bring into alignment with other similar offenses.
- Eligible for FTOW?

RCW [9A.40.110](#)

Coercion of involuntary servitude.

(1) A person is guilty of coercion of involuntary servitude if he or she coerces, as defined in RCW [9A.36.070](#), another person to perform labor or services by:

(a) Withholding or threatening to withhold or destroy documents relating to a person's immigration status; or

(b) Threatening to notify law enforcement officials that a person is present in the United States in violation of federal immigration laws.

(2) Coercion does not include reports to law enforcement that a person is present in the United States in violation of federal immigration laws.

(3) A person may commit coercion of involuntary servitude regardless of whether the person provides any sort of compensation or benefits to the person who is coerced.

(4) Coercion of involuntary servitude is a class C felony.

[[2014 c 52 § 1.](#)]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9A.40.090	Luring of a Child or Developmentally Disabled Person	C	270	0	0	7/25/1993

Recommendation: **Should be ranked at seriousness level 4**

Discussion:

- Offense not duplicative but in Kidnapping family; difference is luring does not contemplate an abduction.
- Nature of conduct merits ranking to bring into alignment with other similar offenses.

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

Discussion:

- Used for plea bargain
- Middle ground for defense/prosecution

RCW [9A.40.090](#)

Luring.

(1) A person commits the crime of luring if the person, with the intent to harm the health, safety, or welfare of the minor or person with a developmental disability or with the intent to facilitate the commission of any crime:

- (a) Orders, lures, or attempts to lure a minor or a person with a developmental disability into any area or structure that is obscured from or inaccessible to the public, or away from any area or structure constituting a bus terminal, airport terminal, or other transportation terminal, or into a motor vehicle;
- (b) Does not have the consent of the minor's parent or guardian or of the guardian of the person with a developmental disability; and
- (c) Is unknown to the child or developmentally disabled person.

(2) For purposes of this section:

- (a) "Minor" means a person under the age of sixteen;
- (b) "Person with a developmental disability" means a person with a developmental disability as defined in RCW [71A.10.020](#).

(3) Luring is a class C felony.

[[2016 c 11 § 1](#); [2012 c 145 § 1](#); [1995 c 156 § 1](#); [1993 c 509 § 1](#).]

Cases = number of cases filed;
Charges = number of charges filed; can have multiple charges per case

Date	Sent Total
1999 - 2020	0 (11 cases)
	Less than 1 mo (9 cases)
	1 – 3.9 mos (71 cases)
	4 – 6.9 mos (44 cases)
	7 – 9.9 mos (13 cases)
	10 – 12.0 mos (15 cases)
	12.03 - 36 mos (3 cases)

Additional: 19 w/Sex Mot ranging from 1.48 – 96 mos

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9A.76.023(2)(a)	Disarming a Law Enforcement or Corrections Officer	C	55*	87 adu 3 juv	114 adu 7 juv	6/11/1998

*CFC data does not distinguish between (2)(a) and (2)(b)

RCW 9A.76.023(2)(b) – 11/12/21 vote to repeal as no convictions in 20 yrs (cases 5; charges 5)

Recommendation: **Should be a ranked felony**

Discussion:

- Very serious behavior

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

Discussion:

- Office may be duplicative of Assault 3 – LEO or other employee of LE agency (RCW 9A.36.031(g)) (class C unranked), Obstructing a Law Enforcement Officer (gross misdemeanor), and Resisting Arrest (misdemeanor).
- Is a 'safety valve' offense

Date	Sent Total
2001 - 2020	0 (1 cases)
	Less than 1 mo (7 cases)
	1 – 3.9 mos (11 cases)
	4 – 6.9 mos (4 cases)
	7 – 9.9 mos (0 cases)
	10 – 12.0 mos (3 cases)
	12.03 - 36 mos (2 cases)

RCW [9A.76.023](#)

Disarming a law enforcement or corrections officer.

(1) A person is guilty of disarming a law enforcement officer if with intent to interfere with the performance of the officer's duties the person knowingly removes a firearm or weapon from the person of a law enforcement officer or corrections officer or deprives a law enforcement officer or corrections officer of the use of a firearm or weapon, when the officer is acting within the scope of the officer's duties, does not consent to the removal, and the person has reasonable cause to know or knows that the individual is a law enforcement or corrections officer.

(2)(a) Except as provided in (b) of this subsection, disarming a law enforcement or corrections officer is a class C felony.

(b) Disarming a law enforcement or corrections officer is a class B felony if the firearm involved is discharged when the person removes the firearm.

[[2003 c 53 § 82](#); [1998 c 252 § 1](#).]

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9A.61.030	Defrauding a Public Utility 1	B	40	92	137	4/20/1989

Recommendation: **Repeal**

Discussion:

- May be covered under Theft 1 (RCW 9A.56.030)

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

Discussion: ?

Date	Sent Total
2000 - 2020	0 (7 cases)
	Less than 1 mo (4 cases)
	1 – 3.9 mos (10 cases)
	4 – 6.9 mos (4 cases)
	7 – 9.9 mos (0 cases)
	10 – 12.0 mos (1 cases)
	12.03 - 36 mos (3 cases)

RCW [9A.61.030](#)

Defrauding a public utility in the first degree.

(1) A person is guilty of defrauding a public utility in the first degree if:

- (a) The utility service diverted or used exceeds one thousand five hundred dollars in value; or
- (b) Tampering has occurred in furtherance of other criminal activity.

(2) Defrauding a public utility in the first degree is a class B felony.

[[1989 c 109 § 3.](#)]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9A.61.040	Defrauding a Public Utility 2	C	16	29	34	4/20/1989

Recommendation: **Repeal**

Discussion:

- May be covered under Theft 2 (RCW 9A.56.040)
- Limited use

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

Discussion: ?

Conviction Year	County	Sent Total
2007	Mason	6
2008	Pierce	3
2008	Cowlitz	0.33
2011	Clark	9
2011	Clark	9
2011	Wahkiakum	0.66
2011	Spokane	0.03
2012	Wahkiakum	0.66
2013	Snohomish	0.82
2018	Spokane	0.04
2020	Pierce	2.7

RCW [9A.61.040](#)

Defrauding a public utility in the second degree.

(1) A person is guilty of defrauding a public utility in the second degree if the utility service diverted or used exceeds five hundred dollars in value.

(2) Defrauding a public utility in the second degree is a class C felony.

[[1989 c 109 § 4.](#)]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9A.76.177	Amber Alert – Making False Statements to a Public Servant	C	0	0	0	6/12/2008

Recommendation: **Repeal**

Discussion:

- Covered under Making a False Statement to Public Servant (RCW 9A.76.170 – misdemeanor)

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

Discussion:

- May be more serious than lying to police officer or other public servant in that it can undermine public confidence in the Amber Alert system.
- May work as a deterrent.
- Related to custodial interference cases.

RCW [9A.76.177](#)

Amber alert—Making a false or misleading statement to a public servant.

(1) A person who, with the intent of causing an activation of the voluntary broadcast notification system commonly known as the "Amber alert," or as the same system may otherwise be known, which is used to notify the public of abducted children, knowingly makes a false or misleading material statement to a public servant that a child has been abducted and which statement causes an activation, is guilty of a class C felony.

(2) "Material statement" means a written or oral statement reasonably likely to be relied upon by a public servant in the discharge of his or her official powers or duties.

[[2008 c 91 § 1.](#)]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
46.12.750(3)	Unlawful Sale of Vehicle Certificate of Ownership	C	0	8	8	7/1/2011

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

Discussion:

- Not used since effective date

RCW [46.12.750](#)

Penalty for false statements, illegal transfers, alterations, or forgeries—Exception.

(1) A person is guilty of a class B felony if the person:

- (a) Knowingly makes any false statement of a material fact, either on an application for a certificate of title or in any transfer of a certificate of title;
- (b) Intentionally acquires or passes ownership of a vehicle which that person knows or has reason to believe has been stolen;
- (c) Receives or transfers possession of a stolen vehicle from or to another person;
- (d) Possesses any vehicle which that person knows or has reason to believe has been stolen;
- (e) Alters or forges or causes the alteration or forgery of:
 - (i) A certificate of title or registration certificate issued by the department;
 - (ii) An assignment of a certificate of title or registration certificate; or
 - (iii) A release or notice of release of an encumbrance referred to on a certificate of title or registration certificate; or
- (f) Holds or uses a certificate of title, registration certificate, assignment, release, or notice of release, knowing that it has been altered or forged.

(2) A person convicted of violating subsection (1) of this section must be punished by a fine of not more than five thousand dollars or by imprisonment for not more than ten years, or both such fine and imprisonment. This subsection does not exclude any other offenses or penalties prescribed by any existing or future law for the larceny or unauthorized taking of a vehicle.

(3) It is a class C felony for a person to sell or convey a vehicle certificate of title except in conjunction with the sale or transfer of the vehicle for which the certificate was originally issued.

(4) This section does not apply to an officer of the law engaged at the time in the performance of official authorized law enforcement activities.

[[2010 c 161 § 319](#); [2003 c 53 § 236](#); [1961 c 12 § 46.12.210](#). Prior: [1937 c 188 § 12](#); RRS § 6312-12. Formerly RCW [46.12.210](#).]

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
51.48.020(1)	Evading Industrial Insurance Premiums	C	44	0	0	7/1/1961

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

Discussion:

- Offense not duplicative
- Seems necessary for a very specific series of actions.

Date	Sent Total
2000 - 2018	0 (3 cases)
	Less than 1 mo (3 cases)
	1 – 3.9 mos (10 cases)
	4 – 6.9 mos (5 cases)
	7 – 9.9 mos (0 cases)
	10 – 12.0 mos (4 cases)
	12.03 - 36 mos (0 cases)

RCW [51.48.020](#)

Employer's false reporting or failure to secure payment of compensation—False information by claimants—Unlawful actions—Penalties.

(1)(a) Any employer, who knowingly misrepresents to the department the amount of his or her payroll or employee hours upon which the premium under this title is based, shall be liable to the state for up to ten times the amount of the difference in premiums paid and the amount the employer should have paid and for the reasonable expenses of auditing his or her books and collecting such sums. Such liability may be enforced in the name of the department.

(b) An employer is guilty of a class C felony, if:

(i) The employer, with intent to evade determination and payment of the correct amount of the premiums, knowingly makes misrepresentations regarding payroll or employee hours; or

(ii) The employer engages in employment covered under this title and, with intent to evade determination and payment of the correct amount of the premiums, knowingly fails to secure payment of compensation under this title or knowingly fails to report the payroll or employee hours related to that employment.

(c) Upon conviction under (b) of this subsection, the employer shall be ordered by the court to pay the premium due and owing, a penalty in the amount of one hundred percent of the premium due and owing, and interest on the premium and penalty from the time the premium was due until the date of payment. The court shall:

(i) Collect the premium and interest and transmit it to the department of labor and industries; and

(ii) Collect the penalty and disburse it pro rata as follows: One-third to the investigative agencies involved; one-third to the prosecuting authority; and one-third to the general fund of the county in which the matter was prosecuted.

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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

Payments collected under this subsection must be applied until satisfaction of the obligation in the following order: Premium payments; penalty; and interest.

(d) An employer found to have violated this subsection shall, in addition to any other penalties, be subject to the penalties in RCW [39.12.055](#).

(2) Any person claiming benefits under this title, who knowingly gives false information required in any claim or application under this title shall be guilty of a felony, or gross misdemeanor in accordance with the theft and anticipatory provisions of Title [9A](#) RCW.

[[2008 c 120 § 9](#); [1997 c 324 § 1](#); [1995 c 160 § 4](#); [1987 c 221 § 1](#); [1977 ex.s. c 323 § 22](#); [1971 ex.s. c 289 § 63](#); [1961 c 23 § 51.48.020](#). Prior: 1947 c 247 § 1(4d), part; Rem. Supp. 1947 § 7676d, part.]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
51.48.103(2)	Engaging in Business after Certificate of Coverage Revocation	C	6	12	13	3/7/1986

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

Discussion:

- Offense not duplicative
- Specific to industrial insurance.
- Offense bumps original act from gross misdemeanor to class C felony behavior after revocation.

Conviction Year	County	Sent Total
2015	Clark	1
2015	Kitsap	0.33
2005	Spokane	0.03
2008	Jefferson	0
2013	Pierce	0

RCW [51.48.103](#)

Engaging in business without certificate of coverage—Unlawful actions—Penalties.

(1) It is a gross misdemeanor:

- (a) For any employer to engage in business subject to this title without having obtained a certificate of coverage as provided for in this title;
- (b) For the president, vice president, secretary, treasurer, or other officer of any company to cause or permit the company to engage in business subject to this title without having obtained a certificate of coverage as provided for in this title.

(2) It is a class C felony punishable according to chapter [9A.20](#) RCW:

- (a) For any employer to engage in business subject to this title after the employer's certificate of coverage has been revoked by order of the department;
- (b) For the president, vice president, secretary, treasurer, or other officer of any company to cause or permit the company to engage in business subject to this title after revocation of a certificate of coverage.

(3) An employer found to have violated this section shall, in addition to any other penalties, be subject to the penalties in RCW [39.12.055](#).

[[2008 c 120 § 8](#); [2003 c 53 § 283](#); [1986 c 9 § 12](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
51.48.270	False Statement or Concealing Information by Employee	C	2	23	127	4/1/1986

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

Discussion:

- Offense not duplicative
- Specific to industrial insurance.

Conviction Year	County	Sent Total
2009	Pierce	3
2011	Thurston	0

RCW [51.48.270](#)

Criminal liability of persons making false statements or concealing information.

Any person, firm, corporation, partnership, association, agency, institution, or other legal entity, but not including an injured worker or beneficiary, 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 this title; 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](#).

[[1987 c 470 § 2](#); [1986 c 200 § 5](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
69.25.155(2)	Interference with Person Performing Official Duties with a Deadly Weapon	B	0	26	26	7/1/2004

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

Discussion:

- Assault 3 and Obstruction are similar and possibly duplicative.
- This could be used as a middle ground due to the deadly weapon element.
- Keep to further plea negotiations if not interested in pursuing DW enhancement.
- General description to catch official duties not specifically included in Assault 3.

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.](#)]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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

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

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

Conviction Year	County	Sent Total
2012	Grant	3

Discussion:

- Related to Physician-Assisted Death Initiative 1000.
- Measure allows mentally competent, terminally, ill adults to request and self-administer a lethal overdose of medication.
- Coercing another to take medication to end one’s life – a 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).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
82.24.570(2)	Manufacture, Sell or Possess Counterfeit Cigarettes	C	0	0	0	7/27/2003

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

Discussion:

- Created to collect on tobacco products sold, used, consumed, handled, or distributed within WA, and collect taxes from the distributor.
- They were requested by cigarette manufacturers because there was a huge increase in counterfeit cigarettes, which were difficult to tell from the real thing.
- The offenses provided enforcement tools and protected a tax revenue.

RCW [82.24.570](#)

Counterfeit cigarette offenses—Penalties.

(1) It is unlawful for any person to knowingly manufacture, sell, or possess counterfeit cigarettes. A cigarette is "counterfeit" if:

(a) The cigarette or its packaging bears any reproduction or copy of a trademark, service mark, trade name, label, term, design, or work adopted or used by a manufacturer to identify its own cigarettes; and

(b) The cigarette is not manufactured by the owner or holder of that trademark, service mark, trade name, label, term, design, or work, or by any authorized licensee of that person.

(2) Any person who violates the provisions of this section is guilty of a class C felony which is punishable by up to five years in prison and a fine of up to ten thousand dollars.

(3) Any person who is convicted of a second or subsequent violation of the provisions of this section is guilty of a class B felony which is punishable by up to ten years in prison and a fine of up to twenty thousand dollars.

[[2003 c 114 § 6.](#)]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
82.24.570(3)	Manufacture, Sell or Possess Counterfeit Cigarettes (Subsequent Violation)	B	0	0	0	7/27/2003

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

Discussion:

- Created to collect on tobacco products sold, used, consumed, handled, or distributed within WA, and collect taxes from the distributor.
- They were requested by cigarette manufacturers because there was a huge increase in counterfeit cigarettes, which were difficult to tell from the real thing.
- The offenses provided enforcement tools and protected a tax revenue.

RCW [82.24.570](#)

Counterfeit cigarette offenses—Penalties.

(1) It is unlawful for any person to knowingly manufacture, sell, or possess counterfeit cigarettes. A cigarette is "counterfeit" if:

(a) The cigarette or its packaging bears any reproduction or copy of a trademark, service mark, trade name, label, term, design, or work adopted or used by a manufacturer to identify its own cigarettes; and

(b) The cigarette is not manufactured by the owner or holder of that trademark, service mark, trade name, label, term, design, or work, or by any authorized licensee of that person.

(2) Any person who violates the provisions of this section is guilty of a class C felony which is punishable by up to five years in prison and a fine of up to ten thousand dollars.

(3) Any person who is convicted of a second or subsequent violation of the provisions of this section is guilty of a class B felony which is punishable by up to ten years in prison and a fine of up to twenty thousand dollars.

[[2003 c 114 § 6.](#)]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.46.037	Unlawful Wagers of a Sporting Event, Athletic Event, or Competition	C	0	0	0	3/25/2020

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

Discussion:

- Possibly accomplice to Theft but may be hard to prove.
- Law prohibits bribery or accepting bribes to influence the outcome of a sporting event.

RCW [9.46.037](#)

Sports wagering—Prohibited activities—Penalty.

(1) No person shall offer, promise, give, or attempt to give any thing of value to any person for the purpose of influencing the outcome of a sporting event, athletic event, or competition upon which a wager may be made.

(2) No person shall place, increase, or decrease a wager after acquiring knowledge, not available to the general public, that anyone has been offered, promised, or given any thing of value for the purpose of influencing the outcome of a sporting event, athletic event, or competition upon which the wager is placed, increased, or decreased.

(3) No person shall offer, promise, give, or attempt to give any thing of value to obtain confidential or insider information not available to the public with intent to use the information to gain a wagering advantage on a sporting event, athletic event, or competition.

(4) No person shall accept or agree to accept, any thing of value for the purpose of wrongfully influencing his or her play, action, decision making, or conduct in any sporting event, athletic event, or competition upon which a wager may be made.

(5) Any person who violates this section shall be guilty of a class C felony subject to the penalty set forth in RCW [9A.20.021](#).

[[2020 c 127 § 5](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.46.160	Gambling without License	B	1	6	10	4/26/1973

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

Conviction Year	County	Sent Total
2013	Thurston	3

Discussion:

- Offense is not duplicative.
- Are all gambling offenses unranked? Yes, with the exception of Cheating 1 (class C; SL 4)

RCW [9.46.160](#)

Conducting activity without license.

Any person who conducts any activity for which a license is required by this chapter, or by rule of the commission, without the required license issued by the commission shall be guilty of a class B felony. If any corporation conducts any activity for which a license is required by this chapter, or by rule of the commission, without the required license issued by the commission, it may be punished by forfeiture of its corporate charter, in addition to the other penalties set forth in this section.

[[1991 c 261 § 3](#); [1975 1st ex.s. c 166 § 9](#); [1973 1st ex.s. c 218 § 16](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.46.215	Ownership or Interest in Gambling Device	C	5	6	6	4/1/1994

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

Discussion:

- Offense is not duplicative.
- Is this a malum prohibitum crime that criminalizes conduct voluntarily engaged in that is permitted under many circumstances?
- Is it possible to impose up to \$100,00 fine for class C felony?

Conviction Year	County	Sent Total
2003	King	0
2003	King	0
2004	Pierce	0.03
2005	Clark	0.66
2013	Clallam	0.23

RCW [9.46.215](#)

Ownership or interest in gambling device—Penalty—Exceptions.

(1) Whoever knowingly owns, manufactures, possesses, buys, sells, rents, leases, finances, holds a security interest in, stores, repairs, or transports any gambling device or offers or solicits any interest therein, whether through an agent or employee or otherwise, is guilty of a class C felony and shall be fined not more than one hundred thousand dollars or imprisoned not more than five years or both.

(2) This section does not apply to persons licensed by the commission, or who are otherwise authorized by this chapter, or by commission rule, to conduct gambling activities without a license, respecting devices that are to be used, or are being used, solely in that activity for which the license was issued, or for which the person has been otherwise authorized if:

- (a) The person is acting in conformance with this chapter and the rules adopted under this chapter; and
- (b) The devices are a type and kind traditionally and usually employed in connection with the particular activity.

(3) This section also does not apply to any act or acts by the persons in furtherance of the activity for which the license was issued, or for which the person is authorized, when the activity is conducted in compliance with this chapter and in accordance with the rules adopted under this chapter.

(4) In the enforcement of this section direct possession of any such a gambling device is presumed to be knowing possession thereof.

[[2003 c 53 § 35](#); [1994 c 218 § 9](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.46.220	Professional Gambling 1	B	14	48	75	7/28/1991

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

Discussion:

- Offense is not duplicative.
- Is this a malum prohibitum crime that criminalizes conduct voluntarily engaged in that is permitted under many circumstances?

Conviction Year	County	Sent Total
2000	King	0
2000	Spokane	0.59
2001	King	0.07
2005	Pierce	0.03
2007	Cowlitz	2.3
2007	Pierce	1
2007	Klickitat	1
2010	Pierce	1
2012	King	0.07
2020	Chelan	6

RCW [9.46.220](#)

Professional gambling in the first degree.

(1) A person is guilty of professional gambling in the first degree if he or she engages in, or knowingly causes, aids, abets, or conspires with another to engage in professional gambling as defined in this chapter, and:

- (a) Acts in concert with or conspires with five or more people;
- (b) Personally accepts wagers exceeding five thousand dollars during any thirty-day period on future contingent events;
- (c) The operation for whom the person works, or with which the person is involved, accepts wagers exceeding five thousand dollars during any thirty-day period on future contingent events;
- (d) Operates, manages, or profits from the operation of a premises or location where persons are charged a fee to participate in card games, lotteries, or other gambling activities that are not authorized by this chapter or licensed by the commission; or
- (e) Engages in bookmaking as defined in RCW [9.46.0213](#).

(2) However, this section shall not apply to those activities enumerated in RCW [9.46.0305](#) through [9.46.0361](#) or to any act or acts in furtherance of such activities when conducted in compliance with the provisions of this chapter and in accordance with the rules adopted pursuant to this chapter.

(3) Professional gambling in the first degree is a class B felony subject to the penalty set forth in RCW [9A.20.021](#).

[[2020 c 127 § 8](#); [1997 c 78 § 2](#); [1994 c 218 § 11](#); [1991 c 261 § 10](#); [1987 c 4 § 42](#); [1973 1st ex.s. c 218 § 22](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.46.221	Professional Gambling 2	C	26	44	65	7/28/1991

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

Discussion:

- Offense is not duplicative.
- Is this a malum prohibitum crime that criminalizes conduct voluntarily engaged in that is permitted under many circumstances?

Conviction Year	County	Sent Total
2004	Pierce	0.03
2005	Kittitas	0.07
2011	King	0
2011	King	0
2012	Snohomish	1.48
2012	Snohomish	1
2014	Clark	23.98
2015	Thurston	1
2019	Pierce	0.0329

RCW [9.46.221](#)

Professional gambling in the second degree.

(1) A person is guilty of professional gambling in the second degree if he or she engages in or knowingly causes, aids, abets, or conspires with another to engage in professional gambling as defined in this chapter, and:

- (a) Acts in concert with or conspires with less than five people; or
- (b) Accepts wagers exceeding two thousand dollars during any thirty-day period on future contingent events; or
- (c) The operation for whom the person works, or with which the person is involved, accepts wagers exceeding two thousand dollars during any thirty-day period on future contingent events; or
- (d) Maintains a "gambling premises" as defined in this chapter; or
- (e) Maintains gambling records as defined in RCW [9.46.0253](#).

(2) However, this section shall not apply to those activities enumerated in RCW [9.46.0305](#) through [9.46.0361](#) or to any act or acts in furtherance of such activities when conducted in compliance with the provisions of this chapter and in accordance with the rules adopted pursuant to this chapter.

(3) Professional gambling in the second degree is a class C felony subject to the penalty set forth in RCW [9A.20.021](#).

[[1997 c 78 § 3](#); [1994 c 218 § 12](#); [1991 c 261 § 11](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.46.240	Transmission or Receiving Gambling Information by Internet	C	2	8	9	4/26/1973

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

Conviction Year	County	Sent Total
2010	Pierce	0
2012	King	0

Discussion:

- Offense is not duplicative.
- Is this a malum prohibitum crime that criminalizes conduct voluntarily engaged in that is permitted under many circumstances?

RCW [9.46.240](#)

Gambling information, transmitting or receiving.

(1) Whoever knowingly transmits or receives gambling information by telephone, telegraph, radio, semaphore, the internet, a telecommunications transmission system, or similar means, or knowingly installs or maintains equipment for the transmission or receipt of gambling information shall be guilty of a class C felony subject to the penalty set forth in RCW [9A.20.021](#).

(2) This section shall not apply to such information transmitted or received or equipment or devices installed or maintained relating to activities authorized by this chapter including, but not limited to, sports wagering authorized under RCW [9.46.0364](#) and [9.46.0368](#), or to any act or acts in furtherance thereof when conducted in compliance with the provisions of this chapter and in accordance with the rules adopted under this chapter and conducted in accordance with tribal-state compacts.

[[2020 c 127 § 10](#); [2006 c 290 § 2](#); [1991 c 261 § 9](#); [1987 c 4 § 44](#); [1973 1st ex.s. c 218 § 24](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.68A.053(2)	Minor Dealing in Depictions of Another Minor 12 Years or Younger Engaged in Sexually Explicit Conduct 1	B	0	7 juv	10 juv	7/28/2019

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

Discussion:

- May be duplicated under Sexual Exploitation of Minor and Accomplish Liability thereto.
- Statute is overbroad in that it criminalizes dumb but common conduct of teenagers taking sexually suggestive pictures of themselves or others and sharing them online.
- It is extremely harsh in that each picture is a separate offense.

RCW [9.68A.053](#)

Sexually explicit images—Crimes by minors—Penalties.

(1)(a)(i) A person under the age of eighteen commits the crime of a minor dealing in depictions of another minor thirteen years of age or older engaged in sexually explicit conduct in the first degree when he or she knowingly distributes, publishes, transfers, disseminates, or exchanges a visual or printed matter that depicts another minor thirteen years of age or older engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (a) through (e).

(ii) Minor dealing in depictions of another minor thirteen years of age or older engaged in sexually explicit conduct in the first degree is a gross misdemeanor.

(b)(i) A person under the age of eighteen commits the crime of a minor dealing in depictions of another minor thirteen years of age or older engaged in sexually explicit conduct in the second degree when he or she knowingly distributes, publishes, transfers, disseminates, or exchanges a visual or printed matter that depicts another minor thirteen years of age or older engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (f) or (g).

(ii) Minor dealing in depictions of another minor thirteen years of age or older engaged in sexually explicit conduct in the second degree is a misdemeanor.

(2)(a) A person under age eighteen commits the crime of minor dealing in depictions of another minor twelve years of age or younger engaged in sexually explicit conduct in the first degree when he or she:

(i) Knowingly develops, duplicates, publishes, prints, disseminates, exchanges, finances, attempts to finance, or sells a visual or printed matter that depicts another minor twelve years of age or younger engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (a) through (e); or

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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(ii) Possesses with intent to develop, duplicate, publish, print, disseminate, exchange, or sell any visual or printed matter that depicts another minor twelve years of age or younger engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (a) through (e).

(b) Minor dealing in depictions of another minor twelve years of age or younger engaged in sexually explicit conduct in the first degree is a class B felony punishable under chapter [9A.20](#) RCW.

(3)(a) A person under age eighteen commits the crime of minor dealing in depictions of another minor twelve years of age or younger engaged in sexually explicit conduct in the second degree when he or she:

(i) Knowingly develops, duplicates, publishes, prints, disseminates, exchanges, finances, attempts to finance, or sells any visual or printed matter that depicts another minor twelve years of age or younger engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (f) or (g); or

(ii) Possesses with intent to develop, duplicate, publish, print, disseminate, exchange, or sell any visual or printed matter that depicts another minor twelve years of age or younger engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (f) or (g).

(b) Minor dealing in depictions of a minor twelve years of age or younger engaged in sexually explicit conduct in the second degree is a class B felony punishable under chapter [9A.20](#) RCW.

(4)(a) Any person under the age of eighteen commits the crime of minor financing or selling depictions of another minor engaged in sexually explicit conduct when he or she finances, attempts to finance, or sells a visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (a) through (g).

(b) Minor financing or selling depictions of another minor engaged in sexually explicit conduct is a class B felony punishable under chapter [9A.20](#) RCW.

(5)(a) A person under the age of eighteen commits the crime of minor selling depictions of himself or herself engaged in sexually explicit conduct when he or she sells a visual or printed matter that depicts himself or herself engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (a) through (g).

(b) Minor selling depictions of himself or herself engaged in sexually explicit conduct is a misdemeanor.

(6) This section does not apply to a person under eighteen years of age who finances, attempts to finance, develops, duplicates, publishes, prints, disseminates, exchanges, or possesses a visual or printed matter that depicts himself or herself engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4).

(7) For the purposes of determining the unit of prosecution under this section, each depiction or image of visual or printed matter constitutes a separate offense.

[[2019 c 128 § 4.](#)]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.68A.053(3)	Minor Dealing in Depictions of Another Minor 12 Years or Younger Engaged in Sexually Explicit Conduct 2	B	0	1 juv	2 juv	7/28/2019

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

Discussion:

- May be duplicated under Sexual Exploitation of Minor and Accomplish Liability thereto.
- Statute is overbroad in that it criminalizes dumb but common conduct of teenagers taking sexually suggestive pictures of themselves or others and sharing them online.
- It is extremely harsh in that each picture is a separate offense.

RCW [9.68A.053](#)

Sexually explicit images—Crimes by minors—Penalties.

(1)(a)(i) A person under the age of eighteen commits the crime of a minor dealing in depictions of another minor thirteen years of age or older engaged in sexually explicit conduct in the first degree when he or she knowingly distributes, publishes, transfers, disseminates, or exchanges a visual or printed matter that depicts another minor thirteen years of age or older engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (a) through (e).

(ii) Minor dealing in depictions of another minor thirteen years of age or older engaged in sexually explicit conduct in the first degree is a gross misdemeanor.

(b)(i) A person under the age of eighteen commits the crime of a minor dealing in depictions of another minor thirteen years of age or older engaged in sexually explicit conduct in the second degree when he or she knowingly distributes, publishes, transfers, disseminates, or exchanges a visual or printed matter that depicts another minor thirteen years of age or older engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (f) or (g).

(ii) Minor dealing in depictions of another minor thirteen years of age or older engaged in sexually explicit conduct in the second degree is a misdemeanor.

(2)(a) A person under age eighteen commits the crime of minor dealing in depictions of another minor twelve years of age or younger engaged in sexually explicit conduct in the first degree when he or she:

(i) Knowingly develops, duplicates, publishes, prints, disseminates, exchanges, finances, attempts to finance, or sells a visual or printed matter that depicts another minor twelve years of age or younger engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (a) through (e); or

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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(ii) Possesses with intent to develop, duplicate, publish, print, disseminate, exchange, or sell any visual or printed matter that depicts another minor twelve years of age or younger engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (a) through (e).

(b) Minor dealing in depictions of another minor twelve years of age or younger engaged in sexually explicit conduct in the first degree is a class B felony punishable under chapter [9A.20](#) RCW.

(3)(a) A person under age eighteen commits the crime of minor dealing in depictions of another minor twelve years of age or younger engaged in sexually explicit conduct in the second degree when he or she:

(i) Knowingly develops, duplicates, publishes, prints, disseminates, exchanges, finances, attempts to finance, or sells any visual or printed matter that depicts another minor twelve years of age or younger engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (f) or (g); or

(ii) Possesses with intent to develop, duplicate, publish, print, disseminate, exchange, or sell any visual or printed matter that depicts another minor twelve years of age or younger engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (f) or (g).

(b) Minor dealing in depictions of a minor twelve years of age or younger engaged in sexually explicit conduct in the second degree is a class B felony punishable under chapter [9A.20](#) RCW.

(4)(a) Any person under the age of eighteen commits the crime of minor financing or selling depictions of another minor engaged in sexually explicit conduct when he or she finances, attempts to finance, or sells a visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (a) through (g).

(b) Minor financing or selling depictions of another minor engaged in sexually explicit conduct is a class B felony punishable under chapter [9A.20](#) RCW.

(5)(a) A person under the age of eighteen commits the crime of minor selling depictions of himself or herself engaged in sexually explicit conduct when he or she sells a visual or printed matter that depicts himself or herself engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (a) through (g).

(b) Minor selling depictions of himself or herself engaged in sexually explicit conduct is a misdemeanor.

(6) This section does not apply to a person under eighteen years of age who finances, attempts to finance, develops, duplicates, publishes, prints, disseminates, exchanges, or possesses a visual or printed matter that depicts himself or herself engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4).

(7) For the purposes of determining the unit of prosecution under this section, each depiction or image of visual or printed matter constitutes a separate offense.

[[2019 c 128 § 4.](#)]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.68A.053(4)	Minor Financing or Selling Depictions of Another Minor Engaged in Sexually Explicit Conduct	B	0	1	1	7/28/2019

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

Discussion:

- May be duplicated under Sexual Exploitation of Minor and Accomplish Liability thereto.
- Statute is overbroad in that it criminalizes dumb but common conduct of teenagers taking sexually suggestive pictures of themselves or others and sharing them online.
- It is extremely harsh in that each picture is a separate offense.

RCW [9.68A.053](#)

Sexually explicit images—Crimes by minors—Penalties.

(1)(a)(i) A person under the age of eighteen commits the crime of a minor dealing in depictions of another minor thirteen years of age or older engaged in sexually explicit conduct in the first degree when he or she knowingly distributes, publishes, transfers, disseminates, or exchanges a visual or printed matter that depicts another minor thirteen years of age or older engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (a) through (e).

(ii) Minor dealing in depictions of another minor thirteen years of age or older engaged in sexually explicit conduct in the first degree is a gross misdemeanor.

(b)(i) A person under the age of eighteen commits the crime of a minor dealing in depictions of another minor thirteen years of age or older engaged in sexually explicit conduct in the second degree when he or she knowingly distributes, publishes, transfers, disseminates, or exchanges a visual or printed matter that depicts another minor thirteen years of age or older engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (f) or (g).

(ii) Minor dealing in depictions of another minor thirteen years of age or older engaged in sexually explicit conduct in the second degree is a misdemeanor.

(2)(a) A person under age eighteen commits the crime of minor dealing in depictions of another minor twelve years of age or younger engaged in sexually explicit conduct in the first degree when he or she:

(i) Knowingly develops, duplicates, publishes, prints, disseminates, exchanges, finances, attempts to finance, or sells a visual or printed matter that depicts another minor twelve years of age or younger engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (a) through (e); or

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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(ii) Possesses with intent to develop, duplicate, publish, print, disseminate, exchange, or sell any visual or printed matter that depicts another minor twelve years of age or younger engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (a) through (e).

(b) Minor dealing in depictions of another minor twelve years of age or younger engaged in sexually explicit conduct in the first degree is a class B felony punishable under chapter [9A.20](#) RCW.

(3)(a) A person under age eighteen commits the crime of minor dealing in depictions of another minor twelve years of age or younger engaged in sexually explicit conduct in the second degree when he or she:

(i) Knowingly develops, duplicates, publishes, prints, disseminates, exchanges, finances, attempts to finance, or sells any visual or printed matter that depicts another minor twelve years of age or younger engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (f) or (g); or

(ii) Possesses with intent to develop, duplicate, publish, print, disseminate, exchange, or sell any visual or printed matter that depicts another minor twelve years of age or younger engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (f) or (g).

(b) Minor dealing in depictions of a minor twelve years of age or younger engaged in sexually explicit conduct in the second degree is a class B felony punishable under chapter [9A.20](#) RCW.

(4)(a) Any person under the age of eighteen commits the crime of minor financing or selling depictions of another minor engaged in sexually explicit conduct when he or she finances, attempts to finance, or sells a visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (a) through (g).

(b) Minor financing or selling depictions of another minor engaged in sexually explicit conduct is a class B felony punishable under chapter [9A.20](#) RCW.

(5)(a) A person under the age of eighteen commits the crime of minor selling depictions of himself or herself engaged in sexually explicit conduct when he or she sells a visual or printed matter that depicts himself or herself engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (a) through (g).

(b) Minor selling depictions of himself or herself engaged in sexually explicit conduct is a misdemeanor.

(6) This section does not apply to a person under eighteen years of age who finances, attempts to finance, develops, duplicates, publishes, prints, disseminates, exchanges, or possesses a visual or printed matter that depicts himself or herself engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4).

(7) For the purposes of determining the unit of prosecution under this section, each depiction or image of visual or printed matter constitutes a separate offense.

[[2019 c 128 § 4.](#)]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.68A.075(2)	Viewing Depictions of Minor Engaged in Sexually Explicit Conduct 2 (Eff 6/10/10)	C	67	162 adu 8 juv	222 adu 13 juv	6/10/2010

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

Discussion:

- Unless people believe that viewing these pictures contributed to the exploitation of minors, then it could be charged as one or more of the alternate offenses.
- If there is a particularly egregious example of this crime, it is a class B and can be subject to an exceptional sentence up to 10 years.

RCW [9.68A.075](#)

Viewing depictions of a minor engaged in sexually explicit conduct.

(1) Except as provided in subsections (5) and (6) of this section, a person who intentionally views over the internet visual or printed matter depicting a minor engaged in sexually explicit conduct as defined in

RCW [9.68A.011](#)(4) (a) through (e) is guilty of viewing depictions of a minor engaged in sexually explicit conduct in the first degree, a class B felony punishable under chapter [9A.20](#) RCW.

(2) Except as provided in subsections (5) and (6) of this section, a person who intentionally views over the internet visual or printed matter depicting a minor engaged in sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (f) or (g) is guilty of viewing depictions of a minor engaged in sexually explicit conduct in the second degree, a class C felony punishable under chapter [9A.20](#) RCW.

(3) For the purposes of determining whether a person intentionally viewed over the internet a visual or printed matter depicting a minor engaged in sexually explicit conduct in subsection (1) or (2) of this section, the trier of fact shall consider the title, text, and content of the visual or printed matter, as well as the internet history, search terms, thumbnail images, downloading activity, expert computer forensic testimony, number of visual or printed matter depicting minors engaged in sexually explicit conduct, defendant's access to and control over the electronic device and its contents upon which the visual or printed matter was found, or any other relevant evidence. The state must prove beyond a reasonable doubt that the viewing was initiated by the user of the computer where the viewing occurred.

(4) For the purposes of this section, each separate internet session of intentionally viewing over the internet visual or printed matter depicting a minor engaged in sexually explicit conduct constitutes a separate offense.

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

Date	Sent Total
2011 - 2020	0 (7 cases)
	Less than 1 mo (5 cases)
	1 – 3.9 mos (12 cases)
	4 – 6.9 mos (5 cases)
	7 – 9.9 mos (2 cases)
	10 – 12.0 mos (4 cases)
	53 mos (1 cases)

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(5) This section does not apply to a minor who intentionally views over the internet visual or printed matter depicting a minor thirteen years of age or older engaged in sexually explicit conduct.

(6) This section does not apply to a person under thirteen years of age who intentionally views over the internet visual or printed matter depicting himself or herself engaged in sexually explicit conduct.

[[2019 c 128 § 7](#); [2010 c 227 § 7](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.68A.102	Promoting Travel for Commercial Sexual Abuse of a Minor	C	3	7 adu 1 juv	11 adu 1 juv	7/22/2007

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

Discussion:

Conviction Year	County	Sent Total
2008	King	3
2016	Pacific	12.03
2017	Spokane	4.3

- Could also be charged under Sexual Exploitation of a Minor (9.68A.040), Commercial Sexual Abuse of a Minor (9.68A.100), Communication with a Minor for Immoral Purposes (9.68A.090), Promoting Commercial Sexual Abuse of a Minor (9.68A.101), Permitting Commercial Sexual Abuse of a Minor (9.68A.103), and Allowing Minor on the Premises of Live Erotic Performance (9.68A.150) If there is a particularly egregious example of this crime, it is a class B and can be subject to an exceptional sentence up to 10 years.

RCW [9.68A.102](#)

Promoting travel for commercial sexual abuse of a minor—Penalty—Consent of minor does not constitute defense.

(1) A person commits the offense of promoting travel for commercial sexual abuse of a minor if he or she knowingly sells or offers to sell travel services that include or facilitate travel for the purpose of engaging in what would be commercial sexual abuse of a minor or promoting commercial sexual abuse of a minor, if occurring in this state.

(2) Promoting travel for commercial sexual abuse of a minor is a class C felony.

(3) Consent of a minor to the travel for commercial sexual abuse, or the sexually explicit act or sexual conduct itself, does not constitute a defense to any offense listed in this section.

(4) For purposes of this section, "travel services" has the same meaning as defined in RCW [19.138.021](#).

[[2013 c 302 § 4](#); [2007 c 368 § 5](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.94.010	Prison Riot	B	64	0	0	3/17/1955

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

Discussion:

- Offense not duplicative.

RCW [9.94.010](#)

Prison riot—Penalty.

(1) Whenever two or more inmates of a correctional institution assemble for any purpose, and act in such a manner as to disturb the good order of the institution and contrary to the commands of the officers of the institution, by the use of force or violence, or the threat thereof, and whether acting in concert or not, they shall be guilty of prison riot.

(2) Every inmate of a correctional institution who is guilty of prison riot or of voluntarily participating therein by being present at, or by instigating, aiding, or abetting the same, is guilty of a class B felony and shall be punished by imprisonment in a state correctional institution for not less than one year nor more than ten years, which shall be in addition to the sentence being served.

[[2003 c 53 § 53](#); [1995 c 314 § 1](#); [1955 c 241 § 1](#).]

Date	Sent Total
2002 - 2020	0 (3 cases)
	Less than 1 mo (0 cases)
	1 – 3.9 mos (9 cases)
	4 – 6.9 mos (2 cases)
	7 – 9.9 mos (1 cases)
	10 – 12.0 mos (4 cases)
	12.03 - 24 mos (23 cases)

Additional: 6 cases of Attempted; 2 cases of Conspiracy

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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Criminal Code Review Committee's Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.94.030	Holding Hostages or Interfering with Officer's Duty	B	16	17	23	3/17/1955

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

Discussion:

- Offense is similar to Unlawful Imprisonment (RCW 9A.40.040).
- Two behaviors under one statute; one is similar to Unlawful Imprisonment, but the other is not.

Conviction Year	County	Sent Total
2005	Clark	0.76
2005	Kittitas	0.56
2009	Walla Walla	12
2009	Thurston	6
2010	Clark	24
2012	Clark	4.44
2013	King	8.34
2013	Grant	3
2014	Clark	5
2015	Grant	8
2015	Cowlitz	5
2015	Grant	1.48
2015	Grant	0.66
2018	Walla Walla	12.03

RCW [9.94.030](#)

Holding person hostage—Interference with officer's duties.

Whenever any inmate of a correctional institution shall hold, or participate in holding, any person as a hostage, by force or violence, or the threat thereof, or shall prevent, or participate in preventing an officer of such institution from carrying out his or her duties, by force or violence, or the threat thereof, he or she shall be guilty of a class B felony and upon conviction shall be punished by imprisonment in a state correctional institution for not less than one year nor more than ten years.

[[2003 c 53 § 54](#); [1995 c 314 § 3](#); [1992 c 7 § 20](#); [1957 c 112 § 1](#); [1955 c 241 § 3](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.94.040(1)	Possession of Weapons by Prisoners (State Facility)	B	108	10 adu 3 juv	11 adu 3 juv	3/17/1955

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

Discussion:

- Offense is similar to RCW 9.94.040(2).
- Bring into alignment to same class
- Prison = more serious offense, person has higher CHS so keep at class B.

RCW [9.94.040](#)

Weapons—Possession, etc., by prisoner prohibited—Penalty.

(1) Every person serving a sentence in any state correctional institution who, without legal authorization, while in the institution or while being conveyed to or from the institution, or while under the custody or supervision of institution officials, officers, or employees, or while on any premises subject to the control of the institution, knowingly possesses or carries upon his or her person or has under his or her control any weapon, firearm, or any instrument which, if used, could produce serious bodily injury to the person of another, is guilty of a class B felony.

(2) Every person confined in a county or local correctional institution who, without legal authorization, while in the institution or while being conveyed to or from the institution, or while under the custody or supervision of institution officials, officers, or employees, or while on any premises subject to the control of the institution, knowingly possesses or has under his or her control any weapon, firearm, or any instrument that, if used, could produce serious bodily injury to the person of another, is guilty of a class C felony.

(3) The sentence imposed under this section shall be in addition to any sentence being served.

[[2005 c 361 § 1](#); [1995 c 314 § 4](#); [1979 c 121 § 1](#); [1977 ex.s. c 43 § 1](#); 1975-'76 2nd ex.s. c 38 § 18. Prior: [1955 c 241 § 4](#).]

Date	Sent Total
2000 - 2020	0 (3 cases)
	Less than 1 mo (12 cases)
	1 – 3.9 mos (43 cases)
	4 – 6.9 mos (17 cases)
	7 – 9.9 mos (2 cases)
	10 – 12.0 mos (17 cases)
	12.03 – 12.05 mos (4 cases)

Additional: 1 case w/DW not FA

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.94.040(2)	Possession of Weapons by Prisoners (County or Local Facility)	C	16	524 adu 10 juv	607 adu 10 juv	7/23/1995

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

Discussion:

- Offense is similar to RCW 9.94.040(1).
- Bring into alignment to same class

RCW [9.94.040](#)

Weapons—Possession, etc., by prisoner prohibited—Penalty.

(1) Every person serving a sentence in any state correctional institution who, without legal authorization, while in the institution or while being conveyed to or from the institution, or while under the custody or supervision of institution officials, officers, or employees, or while on any premises subject to the control of the institution, knowingly possesses or carries upon his or her person or has under his or her control any weapon, firearm, or any instrument which, if used, could produce serious bodily injury to the person of another, is guilty of a class B felony.

(2) Every person confined in a county or local correctional institution who, without legal authorization, while in the institution or while being conveyed to or from the institution, or while under the custody or supervision of institution officials, officers, or employees, or while on any premises subject to the control of the institution, knowingly possesses or has under his or her control any weapon, firearm, or any instrument that, if used, could produce serious bodily injury to the person of another, is guilty of a class C felony.

(3) The sentence imposed under this section shall be in addition to any sentence being served.

[[2005 c 361 § 1](#); [1995 c 314 § 4](#); [1979 c 121 § 1](#); [1977 ex.s. c 43 § 1](#); 1975-'76 2nd ex.s. c 38 § 18. Prior: [1955 c 241 § 4](#).]

Conviction Year	County	Sent Total
2008	Stevens	6
2009	King	3
2009	Pierce	2.79
2009	Okanogan	1
2009	Mason	0.03
2010	Jefferson	1.74
2010	Mason	1
2010	King	1
2011	Okanogan	12
2011	Spokane	0.36
2016	Whatcom	4.5
2017	Okanogan	12
2017	Franklin	1
2020	Walla Walla	3
2020	Spokane	0.7

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.94.043	Possession of Weapons in Prison by Non-prisoner	B	1	2	3	3/26/1979

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

Discussion:

- Offense is not duplicative.

RCW [9.94.043](#)

Deadly weapons—Possession on premises by person not a prisoner—Penalty.

A person, other than a person serving a sentence in a penal institution of this state, is guilty of possession of contraband on the premises of a state correctional institution in the first degree if, without authorization to do so, the person knowingly possesses or has under his or her control a deadly weapon on or in the buildings or adjacent grounds subject to the care, control, or supervision of a state correctional institution. Deadly weapon is used as defined in

RCW [9A.04.110](#): PROVIDED, That such correctional buildings, grounds, or property are properly posted pursuant to RCW [9.94.047](#), and such person has knowingly entered thereon: PROVIDED FURTHER, That the provisions of this section do not apply to a person licensed pursuant to RCW [9.41.070](#) who, upon entering the correctional institution premises, proceeds directly along an access road to the administration building and promptly checks his or her firearm(s) with the appropriate authorities. The person may reclaim his or her firearm(s) upon leaving, but he or she must immediately and directly depart from the premises.

Possession of contraband on the premises of a state correctional institution in the first degree is a class B felony.

[[1979 c 121 § 3.](#)]

Conviction Year	County	Sent Total
2008	Stevens	6
2009	King	3
2009	Pierce	2.79
2009	Okanogan	1
2009	Mason	0.03
2010	Jefferson	1.74
2010	Mason	1
2010	King	1
2011	Okanogan	12
2011	Spokane	0.36
2016	Whatcom	4.5
2017	Okanogan	12
2017	Franklin	1
2020	Walla Walla	3
2020	Spokane	0.7

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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Criminal Code Review Committee’s Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.94.045	Possession of Controlled Substance in Prison by Non-prisoner	C	9	61	75	3/26/1979

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

Discussion:

- Offense is similar to RCW 69.50.4013
- Possession should be handled the same way.
- Needed to maintain safety and security in institutions.
- Being brought in for a reason – not personal use.

Conviction Year	County	Sent Total
2000	Snohomish	3
2000	Franklin	1
2002	Grays Harbor	3
2003	Walla Walla	1
2006	Grays Harbor	1.48
2007	Grays Harbor	0.1
2011	Mason	1.48
2012	Grays Harbor	6

RCW [9.94.045](#)

Narcotic drugs or controlled substances—Possession by person not a prisoner—Penalty.

A person, other than a person serving a sentence in a penal institution of this state, is guilty of possession of contraband on the premises of a state correctional institution in the second degree if, without authorization to do so, the person knowingly possesses or has under his or her control any narcotic drug or controlled substance, as defined in chapter [69.50](#) RCW, on or in the buildings, grounds, or any other real property subject to the care, control, or supervision of a state correctional institution.

Possession of contraband on the premises of a state correctional institution in the second degree is a class C felony.

[[1979 c 121 § 4.](#)]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9A.40.070	Custodial Interference 2 (Subsequent Offense)	C	2	50 adu 2 juv	58 adu 2 juv	3/2/1984

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

Conviction Year	County	Sent Total
2012	Grant	11.4

Discussion:

- Offense is not duplicative.

RCW [9A.40.070](#)

Custodial interference in the second degree.

(1) A relative of a person is guilty of custodial interference in the second degree if, with the intent to deny access to such person by a parent, guardian, institution, agency, or other person having a lawful right to physical custody of such person, the relative takes, entices, retains, detains, or conceals the person from a parent, guardian, institution, agency, or other person having a lawful right to physical custody of such person. This subsection shall not apply to a parent's noncompliance with a court order making residential provisions for the child.

(2) A parent of a child is guilty of custodial interference in the second degree if: (a) The parent takes, entices, retains, detains, or conceals the child, with the intent to deny access, from the other parent having the lawful right to time with the child pursuant to a court order making residential provisions for the child; or (b) the parent has not complied with the residential provisions of a court-ordered parenting plan after a finding of contempt under RCW [26.09.160](#)(3); or (c) if the court finds that the parent has engaged in a pattern of willful violations of a court order making residential provisions for the child.

(3) Nothing in subsection (2)(b) of this section prohibits conviction of custodial interference in the second degree under subsection (2)(a) or (c) of this section in absence of findings of contempt.

(4)(a) The first conviction of custodial interference in the second degree is a gross misdemeanor.

(b) The second or subsequent conviction of custodial interference in the second degree is a class C felony.

[[2015 c 38 § 3](#); [2003 c 53 § 66](#); [1989 c 318 § 2](#); [1984 c 95 § 2](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9A.44.100(1)(d-f)	Indecent Liberties – without Forcible Compulsion	B	42	0	0	7/25/1993

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

Discussion:

- This offense essentially applies to offenders who are health care workers, so it does not duplicate in that sense, however the same could be accomplished with Assault with Sexual Motivation, but the penalties would be different.
- Bring into alignment to same class.
- Cases such as doctor or massage therapist touching inappropriately (health care workers).

Date	Sent Total
2004 - 2019	0 (1 cases)
	Less than 1 mo (2 cases)
	1 – 3.9 mos (7 cases)
	4 – 6.9 mos (7 cases)
	7 – 9.9 mos (2 cases)
	10 – 12.0 mos (7 cases)
	12.03+ mos (0 cases)

RCW [9A.44.100](#)

Indecent liberties.

(1) A person is guilty of indecent liberties when he or she knowingly causes another person to have sexual contact with him or her or another:

(a) By forcible compulsion;

(b) When the other person is incapable of consent by reason of being mentally defective, mentally incapacitated, or physically helpless;

(c) When the victim is a person with a developmental disability and the perpetrator is a person who:

(i) Has supervisory authority over the victim; or

(ii) Was providing transportation, within the course of his or her employment, to the victim at the time of the offense;

(d) When the perpetrator is a health care provider, the victim is a client or patient, and the sexual contact occurs during a treatment session, consultation, interview, or examination. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that the client or patient consented to the sexual contact with the knowledge that the sexual contact was not for the purpose of treatment;

(e) When the victim is a resident of a facility for persons with a mental disorder or chemical dependency and the perpetrator is a person who has supervisory authority over the victim; or

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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(f) When the victim is a frail elder or vulnerable adult and the perpetrator is a person who:

(i) Has a significant relationship with the victim; or

(ii) Was providing transportation, within the course of his or her employment, to the victim at the time of the offense.

(2)(a) Except as provided in (b) of this subsection, indecent liberties is a class B felony.

(b) Indecent liberties by forcible compulsion is a class A felony.

[[2021 c 142 § 10](#); [2013 c 94 § 2](#); [2007 c 20 § 2](#); [2003 c 53 § 67](#); [2001 2nd sp.s. c 12 § 359](#); [1997 c 392 § 515](#); [1993 c 477 § 3](#); [1988 c 146 § 2](#); [1988 c 145 § 10](#); [1986 c 131 § 1](#); [1975 1st ex.s. c 260 § 9A.88.100](#). Formerly RCW [9A.88.100](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9A.44.196	Criminal Trespass Against Children	C	33	43	49	3/20/2006

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

Discussion:

- Offenses is similar to Criminal Trespass 1 & 2, except it adds the additional elements of the trespasser being a sex offender and the location of trespass need to be a place where children congregate.
- This offense targets sex offenders where it is unnecessary, in that most all sex offenders are on Community Supervision and have a condition that prohibits them from engaging in behavior that result in a conviction of this offense.
- Adding the two elements mentioned above also make this offense difficult to investigate because it requires the trespassing entity to know that the person is a sex offender, which is not always easily accessible information. This may be the reason there are so few convictions.
- Could be reduced to a misdemeanor like other two criminal trespassing offenses.

Date	Sent Total
2009 - 2020	0 (1 cases)
	Less than 1 mo (8 cases)
	1 – 3.9 mos (15 cases)
	4 – 6.9 mos (1 cases)
	7 – 9.9 mos (0 cases)
	10 – 12.0 mos (3 cases)
	12.03 - 48 mos (2 cases)

RCW [9A.44.196](#)

Criminal trespass against children.

(1) A person is guilty of the crime of criminal trespass against children if he or she:

(a) Is a covered offender as defined in RCW [9A.44.190](#); and

(b)(i) Is personally served with written notice complying with the requirements of RCW [9A.44.193](#) that excludes the covered offender from the legal premises of the covered entity and remains upon or reenters the legal premises of the covered entity; or

(ii) Is personally served with written notice complying with the requirements of RCW [9A.44.193](#) that imposes conditions of entry and use on the covered offender and violates the conditions of entry and use.

(2) Criminal trespass against children is a class C felony.

[[2006 c 126 § 6](#); [2006 c 125 § 4](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9A.49.020	Unlawful Discharge of a Laser 1	C	18	41 adu 16 juv	46 adu 20 juv	7/25/1999

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

Discussion:

- Offense is not duplicative.
- Lasers are becoming less expensive, more accessible, and being used to intimidate and harass.
- Law enforcement reasonably believe they are the target of a laser sighting device on a firearm.
- Lasers jeopardize the safety of others when pointed at someone operating a car, plane, bus, etc.
- FAA reported 6852 laser incidents in 2020, 6136 in 2019, 5663 in 2018, 6754 in 2017, and 7398 in 2016.
- Should have a state-level offense.

Conviction Year	County	Sent Total
2000	King	6
2000	King	2
2002	King	0.1
2007	Clark	12.03
2009	Kitsap	0.46
2011	Grant	7
2011	Grays Harbor	3
2012	Pacific	0
2014	Grays Harbor	3
2015	Pierce	6
2015	Chelan	0.49
2016	Clark	3
2016	Stevens	0.16
2017	Kitsap	3
2017	Spokane	1.5
2017	Spokane	0.0657
2018	Kitsap	1.3142
2018	Island	0.4928

CW [9A.49.020](#)

Unlawful discharge of a laser in the first degree.

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

- (a) At a law enforcement officer or other employee of a law enforcement agency who is performing his or her official duties in uniform or exhibiting evidence of his or her authority, and in a manner that would support that officer's or employee's reasonable belief that he or she is targeted with a laser sighting device or system; or
- (b) At a law enforcement officer or other employee of a law enforcement agency who is performing his or her official duties, causing an impairment of the safety or operation of a law enforcement vehicle or causing an interruption or impairment of service rendered to the public by negatively affecting the officer or employee; or
- (c) At a pilot, causing an impairment of the safety or operation of an aircraft or causing an interruption or impairment of service rendered to the public by negatively affecting the pilot; or

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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

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

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

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

[[1999 c 180 § 3](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9A.68.030	Receiving or Granting Unlawful Compensation	C	4	3	3	7/1/1976

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

Discussion:

- Offense may fall under Fraud Chapters (9A.56, 9A.82, 9A.60).
- Is similar to criminal conflict of interest

Conviction Year	County	Sent Total
2003	King	3
2008	Grant	2
2019	Whatcom	0.5
2019	Thurston	0

RCW [9A.68.030](#)

Receiving or granting unlawful compensation.

(1) A person is guilty of receiving or granting unlawful compensation if:

- (a) Being a public servant, he or she requests, accepts, or agrees to accept compensation for advice or other assistance in preparing a bill, contract, claim, or transaction regarding which he or she knows he or she is likely to have an official discretion to exercise; or
- (b) He or she knowingly offers, pays, or agrees to pay compensation to a public servant for advice or other assistance in preparing or promoting a bill, contract, claim, or other transaction regarding which the public servant is likely to have an official discretion to exercise.

(2) Receiving or granting unlawful compensation is a class C felony.

[[2011 c 336 § 388](#); [1975 1st ex.s. c 260 § 9A.68.030](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9A.76.130(3)(b)	Escape 3 (Third or Subsequent Offense)	C	14	19 adu 6 juv	19 adu 6 juv	7/24/2015

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

Discussion:

- Could be punished as a violation of conditions of pre-trial release or probation, Obstruction of a LEO (9A.76.020), Resisting Arrest (9A.76.040), Bail Jumping (9A.76.190), and Failure to Appear or Surrender (9A.76.190).
- Turned what had been misdemeanor conduct into a felony.
- Unintended consequence of reducing charge: restricting who is eligible?
- Non-incarcerative option: program could exclude those with 2 prior Escape 3.
- Meant to add structure to EHM programs and greater accountability.
- Should individuals be restricted from programs for past behavior?

Conviction Year	County	Sent Total
2016	Clark	12.03
2017	Clark	12
2017	Clark	1.5
2017	Clark	1
2018	Clark	28
2018	Clark	7.3
2018	Clark	5
2018	Clark	1
2019	Spokane	1.3
2019	Lincoln	0.3
2020	Spokane	3
2020	Pacific	2

RCW [9A.76.130](#)

Escape in the third degree.

(1) A person is guilty of escape in the third degree if he or she:

(a) Escapes from custody; or

(b) Knowingly violates the terms of an electronic monitoring program.

(2) Escape in the third degree is a misdemeanor, except as provided in subsection (3) of this section.

(3)(a) If the person has one prior conviction for escape in the third degree, escape in the third degree is a gross misdemeanor.

(b) If the person has two or more prior convictions for escape in the third degree, escape in the third degree is a class C felony.

[[2015 c 287 § 11](#); [2011 c 336 § 403](#); [1975 1st ex.s. c 260 § 9A.76.130](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9A.76.200	Harming a Police Dog/Horse or an Accelerant Detection Dog	C	66	34 adu 1 juv	50 adu 1 juv	3/11/1982

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

Discussion:

- Offense may be duplicative. Malicious Mischief 1, 2, and 3. (RCW 9A.48.070, .080, and .090)
- MM1 Similarities - includes restitution. Differences - 1st degree is a Class B and has standard ranges from 0 to 57 months. The max fine is 20,000. Also, must show damage exceeds 5,000 and maximum penalty is 10 years.
- For MM2, Similarities - both are Class C felonies, max fine is 10,000 and includes restitution. Differences - Standard ranges are from 0 to 29 months. Must show damage amount exceeds 750.
- For MM3, Similarities - sentencing range is 0 to 12 months and no damage amount need be shown. Differences - Is a gross misdemeanor and the maximum sentence is 12 months.
- See also Animal Cruelty 1 (16.52.205) - Similarities - is also unranked unless the cruelty involves sex. Then it is a class C. Is specific to animals. Elements are similar in that they include inflicting pain, injury or killing by causing undue suffering. Differences - is easier to charge because there is no requirement for malice.
- Animal Cruelty 2 (16.52.207) - Is a gross misdemeanor. No need to show malice. Only need show knowingly, recklessly or with criminal negligence the infliction of unnecessary suffering or pain.
- If the rule requires that Harming a Police Dog always be charged instead of Malicious Mischief, then it shouldn't be repealed because doing so would allow greater penalties by the charging of MM1 or 2.

Date	Sent Total
2001 - 2019	0 (0 cases)
	Less than 1 mo (3 cases)
	1 – 3.9 mos (12 cases)
	4 – 6.9 mos (1 cases)
	7 – 9.9 mos (0 cases)
	10 – 12.0 mos (5 cases)
	14 - 50 mos (2 cases)

RCW [9A.76.200](#)

Harming a police dog, accelerant detection dog, or police horse—Penalty.

(1) A person is guilty of harming a police dog, accelerant detection dog, or police horse, if he or she maliciously injures, disables, shoots, or kills by any means any dog or horse that the person knows or has reason to know to

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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be a police dog or accelerant detection dog, as defined in RCW [4.24.410](#), or police horse, as defined in subsection (2) of this section, whether or not the dog or horse is actually engaged in police or accelerant detection work at the time of the injury.

(2) "Police horse" means any horse used or kept for use by a law enforcement officer in discharging any legal duty or power of his or her office.

(3) Harming a police dog, accelerant detection dog, or police horse is a class C felony.

(4)(a) In addition to the criminal penalty provided in this section for harming a police dog:

(i) The court may impose a civil penalty of up to five thousand dollars for harming a police dog.

(ii) The court shall impose a civil penalty of at least five thousand dollars and may increase the penalty up to a maximum of ten thousand dollars for killing a police dog.

(b) Moneys collected must be distributed to the jurisdiction that owns the police dog.

[[2012 c 94 § 2](#); [2003 c 269 § 1](#); [1993 c 180 § 2](#); [1989 c 26 § 2](#); [1982 c 22 § 2](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9A.82.045	Collection of Unlawful Debt	C	15	16	17	7/1/1985

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

Discussion:

- Original debt is not legal.
- Serious behavior.

RCW [9A.82.045](#)

Collection of unlawful debt.

It is unlawful for any person knowingly to collect any unlawful debt. A violation of this section is a class C felony.

[[2001 c 222 § 7](#). Prior: [1985 c 455 § 6](#).]

Conviction Year	County	Sent Total
2007	Snohomish	2
2009	Spokane	2
2012	Grant	1.35
2013	Grant	0.46
2014	Grant	3
2014	Grant	1
2014	Grant	0
2015	Cowlitz	8
2015	King	0
2017	Grant	2.4
2017	Pierce	1.5
2017	Grant	0
2019	Chelan	0

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9A.82.160	Criminal Profiteering Lien after Service of Notice	C	0	0	0	7/1/1985

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

Discussion:

- Offense is not duplicative.
- The conduct to which it is directed appears to be money laundering of the proceeds of certain enumerated crimes. This appears serious but has never been prosecuted. It was first enacted in 1984 - part of the war on drugs?
- Highly technical area of law. Need more information.

CW [9A.82.160](#)

Criminal profiteering lien—Trustee's failure to comply, evasion of procedures or lien.

(1) A trustee who knowingly fails to comply with RCW [9A.82.130](#)(1) is guilty of a gross misdemeanor.

(2) A trustee who conveys title to real property after service of the notice as provided in RCW [9A.82.130](#)(1) with the intent to evade the provisions of RCW [9A.82.100](#) or [9A.82.120](#) with respect to such property is guilty of a class C felony.

[[2003 c 53 § 90](#); [2001 c 222 § 20](#). Prior: [1985 c 455 § 17](#); [1984 c 270 § 16](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9A.88.085	Promoting Travel for Prostitution	C	10	18	19	6/7/2006

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

Discussion:

- Offense may be charged under Promoting Prostitution 2 (RCW 9A.88.080(1)(b) "advances prostitution")
- Seems hierarchical with Promoting Prostitution 1 and 2.

Conviction Year	County	Sent Total
2011	King	6
2011	Clark	1
2012	King	4
2016	Clark	8
2016	Clark	4
2016	Pierce	2.63
2016	Pierce	0.03
2016	Pierce	0.03
2017	King	5

RCW [9A.88.085](#)

Promoting travel for prostitution.

(1) A person commits the offense of promoting travel for prostitution if the person knowingly sells or offers to sell travel services that include or facilitate travel for the purpose of engaging in what would be patronizing a prostitute or promoting prostitution, if occurring in the state.

(2) For purposes of this section, "travel services" has the same meaning as defined in RCW [19.138.021](#).

(3) Promoting travel for prostitution is a class C felony.

[[2006 c 250 § 2.](#)]

NOTES:

Finding—2006 c 250: "The legislature finds that the sex industry has rapidly expanded over the past several decades. It involves sexual exploitation of persons, predominantly women and girls, including activities relating to prostitution, pornography, sex tourism, and other commercial sexual services. Prostitution and related activities contribute to the trafficking in persons, as does sex tourism. Therefore, discouraging sex tourism is key to reducing the demand for sex trafficking.

While prostitution is illegal in developing nations that are the primary destination of sex tourism, sex tourism is a major component of the local economy. The laws target female workers rather than the male customers, and economic opportunities for females are limited. Developed nations create the demand for sex tourism, yet often fail to criminalize the practice, or the existing laws fail to specifically target the sellers of travel who organize, facilitate, and promote sex tourism." [[2006 c 250 § 1.](#)]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case