

# Initiative Measure No. 994

Filed

JAN 18 2008

SECRETARY OF STATE

1 AN ACT Relating to assault; amending RCW 9A.36.011, 9A.36.021, and  
2 9A.36.130; reenacting and amending RCW 9.94A.515; and prescribing  
3 penalties.

4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 9A.36.011 and 1997 c 196 s 1 are each amended to read  
6 as follows:

7 (1) A person is guilty of assault in the first degree if he or she,  
8 with intent to inflict great bodily harm:

9 (a) Assaults another with a firearm or any deadly weapon or by any  
10 force or means likely to produce great bodily harm or death; or

11 (b) Administers, exposes, or transmits to or causes to be taken by  
12 another, poison, the human immunodeficiency virus as defined in chapter  
13 70.24 RCW, or any other destructive or noxious substance; or

14 (c) Assaults another and inflicts great bodily harm which by design  
15 causes such pain or agony as to be the equivalent of that produced by  
16 torture.

17 (2) Assault in the first degree is a class A felony.

1       **Sec. 2.** RCW 9A.36.021 and 2007 c 79 s 2 are each amended to read  
2 as follows:

3       (1) A person is guilty of assault in the second degree if he or  
4 she, under circumstances not amounting to assault in the first degree:

5       (a) Intentionally assaults another and thereby recklessly inflicts  
6 substantial bodily harm; or

7       (b) Intentionally and unlawfully causes substantial bodily harm to  
8 an unborn quick child by intentionally and unlawfully inflicting any  
9 injury upon the mother of such child; or

10       (c) Assaults another with a deadly weapon; or

11       (d) With intent to inflict bodily harm, administers to or causes to  
12 be taken by another, poison or any other destructive or noxious  
13 substance; or

14       (e) With intent to commit a felony, assaults another; or

15       (f) ~~((Knowingly inflicts bodily harm which by design causes such  
16 pain or agony as to be the equivalent of that produced by torture; or~~

17 ~~(g)) Assaults another by strangulation.~~

18       (2) (a) Except as provided in (b) of this subsection, assault in the  
19 second degree is a class B felony.

20       (b) Assault in the second degree with a finding of sexual  
21 motivation under RCW 9.94A.835 or 13.40.135 is a class A felony.

22       **Sec. 3.** RCW 9A.36.130 and 1992 c 145 s 2 are each amended to read  
23 as follows:

24       (1) A person eighteen years of age or older is guilty of the crime  
25 of assault of a child in the second degree if the child is under the  
26 age of thirteen and the person:

27       (a) Commits the crime of assault in the second degree, as defined  
28 in RCW 9A.36.021, against a child; or

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

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

1           **Sec. 4.** RCW 9.94A.515 and 2007 c 368 s 14 and 2007 c 199 s 10 are  
2 each reenacted and amended to read as follows:  
3

TABLE 2	
CRIMES INCLUDED WITHIN	
EACH SERIOUSNESS LEVEL	
XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	<u>Assault 1 (RCW 9A.36.011)</u> <u>Assault of a Child 1 (RCW 9A.36.120)</u> Homicide by abuse (RCW 9A.32.055) Malicious explosion 1 (RCW 70.74.280(1)) Murder 1 (RCW 9A.32.030)
XIV	Murder 2 (RCW 9A.32.050) Trafficking 1 (RCW 9A.40.100(1))
XIII	Malicious explosion 2 (RCW 70.74.280(2)) Malicious placement of an explosive 1 (RCW 70.74.270(1))
XII	<del>((Assault 1 (RCW 9A.36.011)</del> <del>Assault of a Child 1 (RCW</del> <del>9A.36.120)))</del> Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a)) Rape 1 (RCW 9A.44.040) Rape of a Child 1 (RCW 9A.44.073) Trafficking 2 (RCW 9A.40.100(2))
XI	Manslaughter 1 (RCW 9A.32.060) Rape 2 (RCW 9A.44.050) Rape of a Child 2 (RCW 9A.44.076)
X	Child Molestation 1 (RCW 9A.44.083) Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a)) Kidnapping 1 (RCW 9A.40.020)

1 Leading Organized Crime (RCW  
2 9A.82.060(1)(a))  
3 Malicious explosion 3 (RCW  
4 70.74.280(3))  
5 Sexually Violent Predator Escape  
6 (RCW 9A.76.115)  
7 IX Abandonment of Dependent Person 1  
8 (RCW 9A.42.060)  
9 Assault of a Child 2 (RCW 9A.36.130)  
10 Criminal Mistreatment 1 (RCW  
11 9A.42.020)  
12 Explosive devices prohibited (RCW  
13 70.74.180)  
14 Hit and Run--Death (RCW  
15 46.52.020(4)(a))  
16 Homicide by Watercraft, by being  
17 under the influence of intoxicating  
18 liquor or any drug (RCW  
19 79A.60.050)  
20 Inciting Criminal Profiteering (RCW  
21 9A.82.060(1)(b))  
22 Malicious placement of an explosive 2  
23 (RCW 70.74.270(2))  
24 Robbery 1 (RCW 9A.56.200)  
25 Sexual Exploitation (RCW 9.68A.040)  
26 Vehicular Homicide, by being under  
27 the influence of intoxicating liquor  
28 or any drug (RCW 46.61.520)  
29 VIII Arson 1 (RCW 9A.48.020)  
30 Homicide by Watercraft, by the  
31 operation of any vessel in a  
32 reckless manner (RCW  
33 79A.60.050)  
34 Manslaughter 2 (RCW 9A.32.070)  
35 Promoting Commercial Sexual Abuse  
36 of a Minor (RCW 9.68A.101)

1 Promoting Prostitution 1 (RCW  
2 9A.88.070)  
3 Theft of Ammonia (RCW 69.55.010)  
4 Vehicular Homicide, by the operation  
5 of any vehicle in a reckless manner  
6 (RCW 46.61.520)  
7 VII Burglary 1 (RCW 9A.52.020)  
8 Child Molestation 2 (RCW 9A.44.086)  
9 Civil Disorder Training (RCW  
10 9A.48.120)  
11 Dealing in depictions of minor engaged  
12 in sexually explicit conduct (RCW  
13 9.68A.050)  
14 Drive-by Shooting (RCW 9A.36.045)  
15 Homicide by Watercraft, by disregard  
16 for the safety of others (RCW  
17 79A.60.050)  
18 Indecent Liberties (without forcible  
19 compulsion) (RCW 9A.44.100(1)  
20 (b) and (c))  
21 Introducing Contraband 1 (RCW  
22 9A.76.140)  
23 Malicious placement of an explosive 3  
24 (RCW 70.74.270(3))  
25 Negligently Causing Death By Use of a  
26 Signal Preemption Device (RCW  
27 46.37.675)  
28 Sending, bringing into state depictions  
29 of minor engaged in sexually  
30 explicit conduct (RCW 9.68A.060)  
31 Unlawful Possession of a Firearm in  
32 the first degree (RCW 9.41.040(1))  
33 Use of a Machine Gun in Commission  
34 of a Felony (RCW 9.41.225)  
35 Vehicular Homicide, by disregard for  
36 the safety of others (RCW  
37 46.61.520)

- 1 VI Bail Jumping with Murder 1 (RCW  
2 9A.76.170(3)(a))  
3 Bribery (RCW 9A.68.010)  
4 Incest 1 (RCW 9A.64.020(1))  
5 Intimidating a Judge (RCW 9A.72.160)  
6 Intimidating a Juror/Witness (RCW  
7 9A.72.110, 9A.72.130)  
8 Malicious placement of an imitation  
9 device 2 (RCW 70.74.272(1)(b))  
10 Possession of Depictions of a Minor  
11 Engaged in Sexually Explicit  
12 Conduct (RCW 9.68A.070)  
13 Rape of a Child 3 (RCW 9A.44.079)  
14 Theft of a Firearm (RCW 9A.56.300)  
15 Unlawful Storage of Ammonia (RCW  
16 69.55.020)
- 17 V Abandonment of Dependent Person 2  
18 (RCW 9A.42.070)  
19 Advancing money or property for  
20 extortionate extension of credit  
21 (RCW 9A.82.030)  
22 Bail Jumping with class A Felony  
23 (RCW 9A.76.170(3)(b))  
24 Child Molestation 3 (RCW 9A.44.089)  
25 Criminal Mistreatment 2 (RCW  
26 9A.42.030)  
27 Custodial Sexual Misconduct 1 (RCW  
28 9A.44.160)  
29 Domestic Violence Court Order  
30 Violation (RCW 10.99.040,  
31 10.99.050, 26.09.300, 26.10.220,  
32 26.26.138, 26.50.110, 26.52.070,  
33 or 74.34.145)  
34 Driving While Under the Influence  
35 (RCW 46.61.502(6))  
36 Extortion 1 (RCW 9A.56.120)

1 Extortionate Extension of Credit (RCW  
2 9A.82.020)  
3 Extortionate Means to Collect  
4 Extensions of Credit (RCW  
5 9A.82.040)  
6 Incest 2 (RCW 9A.64.020(2))  
7 Kidnapping 2 (RCW 9A.40.030)  
8 Perjury 1 (RCW 9A.72.020)  
9 Persistent prison misbehavior (RCW  
10 9.94.070)  
11 Physical Control of a Vehicle While  
12 Under the Influence (RCW  
13 46.61.504(6))  
14 Possession of a Stolen Firearm (RCW  
15 9A.56.310)  
16 Rape 3 (RCW 9A.44.060)  
17 Rendering Criminal Assistance 1  
18 (RCW 9A.76.070)  
19 Sexual Misconduct with a Minor 1  
20 (RCW 9A.44.093)  
21 Sexually Violating Human Remains  
22 (RCW 9A.44.105)  
23 Stalking (RCW 9A.46.110)  
24 Taking Motor Vehicle Without  
25 Permission 1 (RCW 9A.56.070)  
26 IV Arson 2 (RCW 9A.48.030)  
27 Assault 2 (RCW 9A.36.021)  
28 Assault 3 (of a Peace Officer with a  
29 Projectile Stun Gun) (RCW  
30 9A.36.031(1)(h))  
31 Assault by Watercraft (RCW  
32 79A.60.060)  
33 Bribing a Witness/Bribe Received by  
34 Witness (RCW 9A.72.090,  
35 9A.72.100)  
36 Cheating 1 (RCW 9.46.1961)  
37 Commercial Bribery (RCW 9A.68.060)

1 Counterfeiting (RCW 9.16.035(4))  
2 Endangerment with a Controlled  
3 Substance (RCW 9A.42.100)  
4 Escape 1 (RCW 9A.76.110)  
5 Hit and Run--Injury (RCW  
6 46.52.020(4)(b))  
7 Hit and Run with Vessel--Injury  
8 Accident (RCW 79A.60.200(3))  
9 Identity Theft 1 (RCW 9.35.020(2))  
10 Indecent Exposure to Person Under  
11 Age Fourteen (subsequent sex  
12 offense) (RCW 9A.88.010)  
13 Influencing Outcome of Sporting Event  
14 (RCW 9A.82.070)  
15 Malicious Harassment (RCW  
16 9A.36.080)  
17 Residential Burglary (RCW  
18 9A.52.025)  
19 Robbery 2 (RCW 9A.56.210)  
20 Theft of Livestock 1 (RCW 9A.56.080)  
21 Threats to Bomb (RCW 9.61.160)  
22 Trafficking in Stolen Property 1 (RCW  
23 9A.82.050)  
24 Unlawful factoring of a credit card or  
25 payment card transaction (RCW  
26 9A.56.290(4)(b))  
27 Unlawful transaction of health  
28 coverage as a health care service  
29 contractor (RCW 48.44.016(3))  
30 Unlawful transaction of health  
31 coverage as a health maintenance  
32 organization (RCW 48.46.033(3))  
33 Unlawful transaction of insurance  
34 business (RCW 48.15.023(3))  
35 Unlicensed practice as an insurance  
36 professional (RCW 48.17.063(3))



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36

- Use of Proceeds of Criminal  
Profiteering (RCW 9A.82.080 (1)  
and (2))
- Vehicular Assault, by being under the  
influence of intoxicating liquor or  
any drug, or by the operation or  
driving of a vehicle in a reckless  
manner (RCW 46.61.522)
- Willful Failure to Return from  
Furlough (RCW 72.66.060)
- III Animal Cruelty 1 (Sexual Conduct or  
Contact) (RCW 16.52.205(3))
- Assault 3 (Except Assault 3 of a Peace  
Officer With a Projectile Stun  
Gun) (RCW 9A.36.031 except  
subsection (1)(h))
- Assault of a Child 3 (RCW 9A.36.140)
- Bail Jumping with class B or C Felony  
(RCW 9A.76.170(3)(c))
- Burglary 2 (RCW 9A.52.030)
- Commercial Sexual Abuse of a Minor  
(RCW 9.68A.100)
- Communication with a Minor for  
Immoral Purposes (RCW  
9.68A.090)
- Criminal Gang Intimidation (RCW  
9A.46.120)
- Custodial Assault (RCW 9A.36.100)
- Cyberstalking (subsequent conviction  
or threat of death) (RCW  
9.61.260(3))
- Escape 2 (RCW 9A.76.120)
- Extortion 2 (RCW 9A.56.130)
- Harassment (RCW 9A.46.020)
- Intimidating a Public Servant (RCW  
9A.76.180)

1 Introducing Contraband 2 (RCW  
2 9A.76.150)  
3 Malicious Injury to Railroad Property  
4 (RCW 81.60.070)  
5 Negligently Causing Substantial Bodily  
6 Harm By Use of a Signal  
7 Preemption Device (RCW  
8 46.37.674)  
9 Organized Retail Theft 1 (RCW  
10 9A.56.350(2))  
11 Perjury 2 (RCW 9A.72.030)  
12 Possession of Incendiary Device (RCW  
13 9.40.120)  
14 Possession of Machine Gun or Short-  
15 Barreled Shotgun or Rifle (RCW  
16 9.41.190)  
17 Promoting Prostitution 2 (RCW  
18 9A.88.080)  
19 Retail Theft with Extenuating  
20 Circumstances 1 (RCW  
21 9A.56.360(2))  
22 Securities Act violation (RCW  
23 21.20.400)  
24 Tampering with a Witness (RCW  
25 9A.72.120)  
26 Telephone Harassment (subsequent  
27 conviction or threat of death)  
28 (RCW 9.61.230(2))  
29 Theft of Livestock 2 (RCW 9A.56.083)  
30 Theft with the Intent to Resell 1 (RCW  
31 9A.56.340(2))  
32 Trafficking in Stolen Property 2 (RCW  
33 9A.82.055)  
34 Unlawful Imprisonment (RCW  
35 9A.40.040)  
36 Unlawful possession of firearm in the  
37 second degree (RCW 9.41.040(2))

1 Vehicular Assault, by the operation or  
2 driving of a vehicle with disregard  
3 for the safety of others (RCW  
4 46.61.522)  
5 Willful Failure to Return from Work  
6 Release (RCW 72.65.070)  
7 II Computer Trespass 1 (RCW  
8 9A.52.110)  
9 Counterfeiting (RCW 9.16.035(3))  
10 Escape from Community Custody  
11 (RCW 72.09.310)  
12 Failure to Register as a Sex Offender  
13 (second or subsequent offense)  
14 (RCW 9A.44.130(~~((10))~~) (11)(a))  
15 Health Care False Claims (RCW  
16 48.80.030)  
17 Identity Theft 2 (RCW 9.35.020(3))  
18 Improperly Obtaining Financial  
19 Information (RCW 9.35.010)  
20 Malicious Mischief 1 (RCW  
21 9A.48.070)  
22 Organized Retail Theft 2 (RCW  
23 9A.56.350(3))  
24 Possession of Stolen Property 1 (RCW  
25 9A.56.150)  
26 Possession of a Stolen Vehicle (RCW  
27 9A.56.068)  
28 Retail Theft with Extenuating  
29 Circumstances 2 (RCW  
30 9A.56.360(3))  
31 Theft 1 (RCW 9A.56.030),  
32 Theft of a Motor Vehicle (RCW  
33 9A.56.065)  
34 Theft of Rental, Leased, or Lease-  
35 purchased Property (valued at one  
36 thousand five hundred dollars or  
37 more) (RCW 9A.56.096(5)(a))

1 Theft with the Intent to Resell 2 (RCW  
2 9A.56.340(3))  
3 Trafficking in Insurance Claims (RCW  
4 48.30A.015)  
5 Unlawful factoring of a credit card or  
6 payment card transaction (RCW  
7 9A.56.290(4)(a))  
8 Unlawful Practice of Law (RCW  
9 2.48.180)  
10 Unlicensed Practice of a Profession or  
11 Business (RCW 18.130.190(7))  
12 Voyeurism (RCW 9A.44.115)  
13 I Attempting to Elude a Pursuing Police  
14 Vehicle (RCW 46.61.024)  
15 False Verification for Welfare (RCW  
16 74.08.055)  
17 Forgery (RCW 9A.60.020)  
18 Fraudulent Creation or Revocation of a  
19 Mental Health Advance Directive  
20 (RCW 9A.60.060)  
21 Malicious Mischief 2 (RCW  
22 9A.48.080)  
23 Mineral Trespass (RCW 78.44.330)  
24 Possession of Stolen Property 2 (RCW  
25 9A.56.160)  
26 Reckless Burning 1 (RCW 9A.48.040)  
27 Taking Motor Vehicle Without  
28 Permission 2 (RCW 9A.56.075)  
29 Theft 2 (RCW 9A.56.040)  
30 Theft of Rental, Leased, or Lease-  
31 purchased Property (valued at two  
32 hundred fifty dollars or more but  
33 less than one thousand five  
34 hundred dollars) (RCW  
35 9A.56.096(5)(b))

1 Transaction of insurance business  
2 beyond the scope of licensure  
3 (RCW 48.17.063(4))  
4 Unlawful Issuance of Checks or Drafts  
5 (RCW 9A.56.060)  
6 Unlawful Possession of Fictitious  
7 Identification (RCW 9A.56.320)  
8 Unlawful Possession of Instruments of  
9 Financial Fraud (RCW 9A.56.320)  
10 Unlawful Possession of Payment  
11 Instruments (RCW 9A.56.320)  
12 Unlawful Possession of a Personal  
13 Identification Device (RCW  
14 9A.56.320)  
15 Unlawful Production of Payment  
16 Instruments (RCW 9A.56.320)  
17 Unlawful Trafficking in Food Stamps  
18 (RCW 9.91.142)  
19 Unlawful Use of Food Stamps (RCW  
20 9.91.144)  
21 Vehicle Prowl 1 (RCW 9A.52.095)

--- END ---