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HOUSE BILL 1884

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State of Washington                      52nd Legislature                      1991 Regular Session

By Representatives Ebersole, Forner, Belcher, Locke, Spanel, Peery, Phillips, H. Myers, Riley, R. Johnson, Paris, Wineberry, Ogden, Ludwig, Edmondson, Zellinsky, Brough, Jacobsen, Nelson, Miller, Holland, Winsley, Roland, Hine, Brekke, Rasmussen, Fraser, Mitchell and Orr.

Read first time February 13, 1991.                      Referred to Committee on Judiciary\Appropriations.

1            AN ACT Relating to domestic violence; amending RCW 7.68.070,  
2 9A.36.031, 9A.36.045, 10.99.020, 10.99.040, 10.99.050, 26.50.110,  
3 26.50.010, 26.50.020, and 82.14.340; adding new sections to chapter  
4 70.123 RCW; adding a new chapter to Title 18 RCW; creating new  
5 sections; repealing RCW 70.123.020; prescribing penalties; and making  
6 an appropriation.

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

8            NEW SECTION.    **Sec. 1.**            The legislature finds that:

9            The collective costs to the community for domestic violence include  
10 the systematic destruction of individuals and their families, lost  
11 lives, lost productivity, and increased health care, criminal justice,  
12 and social service costs.

13            Despite publicity that focuses on attacks by strangers, the most  
14 common cause of women's injuries is abuse at home, occurring more often  
15 than auto accidents, muggings, and rapes combined.

1 Children growing up in violent homes are deeply affected by the  
2 violence as it happens and could be the next generation of batterers  
3 and victims.

4 Many communities have made headway in addressing the effects of  
5 domestic violence and have devoted energy and resources to stopping  
6 this violence. However, the process for breaking the cycle of abuse is  
7 lengthy. No single system intervention is enough in itself.

8 An integrated system has not been adequately funded and structured  
9 to assure access to a wide range of services, including those of the  
10 law/safety/justice system, human service system, and health care  
11 system. These services need to be coordinated and multidisciplinary in  
12 approach and address the needs of victims, batterers, and children from  
13 violent homes.

14 Given the lethal nature of domestic violence and its effect on all  
15 within its range, the community has a vested interest in the methods  
16 used to stop and prevent future violence. Clear standards of quality  
17 are needed so that perpetrator treatment programs receiving public  
18 funds or court-ordered referrals can be required to comply with these  
19 standards.

20 Incidents of domestic violence increase in severity and number when  
21 perpetrators of domestic violence abuse alcohol and illegal substances.

22 There is a need for consistent training of professionals who deal  
23 frequently with domestic violence or are in a position to identify  
24 domestic violence and provide support and information.

25 Much has been learned about effective interventions in domestic  
26 violence situations; however, much is not yet known and further study  
27 is required to know how to best stop this violence.

28 **Sec. 2.** RCW 7.68.070 and 1990 c 3 s 502 are each amended to read  
29 as follows:

1       The right to benefits under this chapter and the amount thereof  
2 will be governed insofar as is applicable by the provisions contained  
3 in chapter 51.32 RCW as now or hereafter amended except as provided in  
4 this section:

5       (1) The provisions contained in RCW 51.32.015, 51.32.030,  
6 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 as now or  
7 hereafter amended are not applicable to this chapter.

8       (2) Each victim injured as a result of a criminal act, including  
9 criminal acts committed between July 1, 1981, and January 1, 1983, or  
10 the victim's family or dependents in case of death of the victim, are  
11 entitled to benefits in accordance with this chapter, subject to the  
12 limitations under RCW 7.68.015. The rights, duties, responsibilities,  
13 limitations, and procedures applicable to a worker as contained in RCW  
14 51.32.010 as now or hereafter amended are applicable to this chapter.

15       (3) The limitations contained in RCW 51.32.020 as now or hereafter  
16 amended are applicable to claims under this chapter. In addition  
17 thereto, no person or spouse, child, or dependent of such person is  
18 entitled to benefits under this chapter when the injury for which  
19 benefits are sought, was:

20       (a) The result of consent, provocation, or incitement by the  
21 victim, as determined by a reasonable review of the police report and  
22 any findings by the court, and taking into consideration the known  
23 dynamics of intrafamily violence such as domestic violence;

24       (b) Sustained while the crime victim was engaged in the attempt to  
25 commit, or the commission of, a felony; or

26       (c) Sustained while the victim was confined in any county or city  
27 jail, federal jail or prison or in any other federal institution, or  
28 any state correctional institution maintained and operated by the  
29 department of social and health services or the department of  
30 corrections, prior to release from lawful custody; or confined or

1 living in any other institution maintained and operated by the  
2 department of social and health services or the department of  
3 corrections.

4 (4) The benefits established upon the death of a worker and  
5 contained in RCW 51.32.050 as now or hereafter amended shall be the  
6 benefits obtainable under this chapter and provisions relating to  
7 payment contained in that section shall equally apply under this  
8 chapter: PROVIDED, That benefits for burial expenses shall not exceed  
9 the maximum cost used by the department of social and health services  
10 for the funeral and burial of a deceased indigent person under chapter  
11 74.08 RCW in any claim: PROVIDED FURTHER, That if the criminal act  
12 results in the death of a victim who was not gainfully employed at the  
13 time of the criminal act, and who was not so employed for at least  
14 three consecutive months of the twelve months immediately preceding the  
15 criminal act;

16 (a) Benefits payable to an eligible surviving spouse, where there  
17 are no children of the victim at the time of the criminal act who have  
18 survived the victim or where such spouse has legal custody of all of  
19 his or her children, shall be limited to burial expenses and a lump sum  
20 payment of seven thousand five hundred dollars without reference to  
21 number of children, if any;

22 (b) Where any such spouse has legal custody of one or more but not  
23 all of such children, then such burial expenses shall be paid, and such  
24 spouse shall receive a lump sum payment of three thousand seven hundred  
25 fifty dollars and any such child or children not in the legal custody  
26 of such spouse shall receive a lump sum of three thousand seven hundred  
27 fifty dollars to be divided equally among such child or children;

28 (c) If any such spouse does not have legal custody of any of the  
29 children, the burial expenses shall be paid and the spouse shall  
30 receive a lump sum payment of up to three thousand seven hundred fifty

1 dollars and any such child or children not in the legal custody of the  
2 spouse shall receive a lump sum payment of up to three thousand seven  
3 hundred fifty dollars to be divided equally among the child or  
4 children;

5 (d) If no such spouse survives, then such burial expenses shall be  
6 paid, and each surviving child of the victim at the time of the  
7 criminal act shall receive a lump sum payment of three thousand seven  
8 hundred fifty dollars up to a total of two such children and where  
9 there are more than two such children the sum of seven thousand five  
10 hundred dollars shall be divided equally among such children.

11 No other benefits may be paid or payable under these circumstances.

12 (5) The benefits established in RCW 51.32.060 as now or hereafter  
13 amended for permanent total disability proximately caused by the  
14 criminal act shall be the benefits obtainable under this chapter, and  
15 provisions relating to payment contained in that section apply under  
16 this chapter: PROVIDED, That if a victim becomes permanently and  
17 totally disabled as a proximate result of the criminal act and was not  
18 gainfully employed at the time of the criminal act, the victim shall  
19 receive monthly during the period of the disability the following  
20 percentages, where applicable, of the average monthly wage determined  
21 as of the date of the criminal act pursuant to RCW 51.08.018 as now or  
22 hereafter amended:

23 (a) If married at the time of the criminal act, twenty-nine percent  
24 of the average monthly wage.

25 (b) If married with one child at the time of the criminal act,  
26 thirty-four percent of the average monthly wage.

27 (c) If married with two children at the time of the criminal act,  
28 thirty-eight percent of the average monthly wage.

29 (d) If married with three children at the time of the criminal act,  
30 forty-one percent of the average monthly wage.

1 (e) If married with four children at the time of the criminal act,  
2 forty-four percent of the average monthly wage.

3 (f) If married with five or more children at the time of the  
4 criminal act, forty-seven percent of the average monthly wage.

5 (g) If unmarried at the time of the criminal act, twenty-five  
6 percent of the average monthly wage.

7 (h) If unmarried with one child at the time of the criminal act,  
8 thirty percent of the average monthly wage.

9 (i) If unmarried with two children at the time of the criminal act,  
10 thirty-four percent of the average monthly wage.

11 (j) If unmarried with three children at the time of the criminal  
12 act, thirty-seven percent of the average monthly wage.

13 (k) If unmarried with four children at the time of the criminal  
14 act, forty percent of the average monthly wage.

15 (l) If unmarried with five or more children at the time of the  
16 criminal act, forty-three percent of the average monthly wage.

17 (6) The benefits established in RCW 51.32.080 as now or hereafter  
18 amended for permanent partial disability shall be the benefits  
19 obtainable under this chapter, and provisions relating to payment  
20 contained in that section equally apply under this chapter.

21 (7) The benefits established in RCW 51.32.090 as now or hereafter  
22 amended for temporary total disability shall be the benefits obtainable  
23 under this chapter, and provisions relating to payment contained in  
24 that section apply under this chapter: PROVIDED, That no person is  
25 eligible for temporary total disability benefits under this chapter if  
26 such person was not gainfully employed at the time of the criminal act,  
27 and was not so employed for at least three consecutive months of the  
28 twelve months immediately preceding the criminal act.

29 (8) The benefits established in RCW 51.32.095 as now or hereafter  
30 amended for continuation of benefits during vocational rehabilitation

1 shall be benefits obtainable under this chapter, and provisions  
2 relating to payment contained in that section apply under this chapter:  
3 PROVIDED, That benefits shall not exceed five thousand dollars for any  
4 single injury.

5 (9) The provisions for lump sum payment of benefits upon death or  
6 permanent total disability as contained in RCW 51.32.130 as now or  
7 hereafter amended apply under this chapter.

8 (10) The provisions relating to payment of benefits to, for or on  
9 behalf of workers contained in RCW 51.32.040, 51.32.055, 51.32.100,  
10 51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and  
11 51.32.210 as now or hereafter amended are applicable to payment of  
12 benefits to, for or on behalf of victims under this chapter.

13 (11) No person or spouse, child, or dependent of such person is  
14 entitled to benefits under this chapter where the person making a claim  
15 for such benefits has refused to give reasonable cooperation to state  
16 or local law enforcement agencies in their efforts to apprehend and  
17 convict the perpetrator(s) of the criminal act which gave rise to the  
18 claim.

19 (12) In addition to other benefits provided under this chapter,  
20 victims of sexual assault are entitled to receive appropriate  
21 counseling. Fees for such counseling shall be determined by the  
22 department in accordance with RCW 51.04.030, subject to the limitations  
23 of RCW 7.68.080. Counseling services may include, if determined  
24 appropriate by the department, counseling of members of the victim's  
25 immediate family, other than the perpetrator of the assault.

26 (13) Except for medical benefits authorized under RCW 7.68.080, no  
27 more than thirty thousand dollars shall be granted as a result of a  
28 single injury or death, except that benefits granted as the result of  
29 total permanent disability or death shall not exceed forty thousand  
30 dollars.

1 (14) Notwithstanding other provisions of this chapter and Title 51  
2 RCW, benefits payable for total temporary disability under subsection  
3 (7) of this section, shall be limited to fifteen thousand dollars.

4 (15) Any person who is responsible for the victim's injuries, or  
5 who would otherwise be unjustly enriched as a result of the victim's  
6 injuries, shall not be a beneficiary under this chapter.

7 (16) Crime victims' compensation is not available to pay for  
8 services covered under chapter 74.09 RCW or Title XIX of the federal  
9 social security act, except to the extent that the costs for such  
10 services exceed service limits established by the department of social  
11 and health services.

12 (17) In addition to other benefits provided under this chapter,  
13 victims of domestic violence as defined in RCW 10.99.020 are entitled  
14 to receive appropriate counseling. Fees for counseling shall be  
15 determined by the department in accordance with RCW 51.04.030, subject  
16 to the limitations of RCW 7.68.080. Counseling services may be  
17 provided for members of the victim's family who were living in the home  
18 and affected by the domestic violence, even if the family member did  
19 not witness the domestic violence. Victims of domestic violence may be  
20 provided a one-time assistance award to aid in emergency relocation.  
21 Procedures for applying for a relocation award shall be determined by  
22 the department. Benefits for victims of domestic violence and family  
23 members of victims of domestic violence shall be based on the entire  
24 abusive relationship.

25 **Sec. 3.** RCW 9A.36.031 and 1990 c 236 s 1 are each amended to read  
26 as follows:

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

1 (a) With intent to prevent or resist the execution of any lawful  
2 process or mandate of any court officer or the lawful apprehension or  
3 detention of himself or another person, assaults another; or

4 (b) Assaults a person employed as a transit operator or driver by  
5 a public or private transit company while that person is operating or  
6 is in control of a vehicle that is owned or operated by the transit  
7 company and that is occupied by one or more passengers; or

8 (c) Assaults a school bus driver employed by a school district or  
9 a private company under contract for transportation services with a  
10 school district while the driver is operating or is in control of a  
11 school bus that is occupied by one or more passengers; or

12 (d) With criminal negligence, causes bodily harm to another person  
13 by means of a weapon or other instrument or thing likely to produce  
14 bodily harm; or

15 (e) Assaults a fire fighter or other employee of a fire department  
16 or fire protection district who was performing his or her official  
17 duties at the time of the assault; or

18 (f) With criminal negligence, causes bodily harm accompanied by  
19 substantial pain that extends for a period sufficient to cause  
20 considerable suffering; or

21 (g) Assaults a law enforcement officer or other employee of a law  
22 enforcement agency who was performing his or her official duties at the  
23 time of the assault; or

24 (h) Assaults a person and the assault is in violation of a court  
25 order issued pursuant to chapter 10.99 or 26.50 RCW.

26 (2) Assault in the third degree is a class C felony.

27 **Sec. 4.** RCW 9A.36.045 and 1989 c 271 s 109 are each amended to  
28 read as follows:

1 (1) A person is guilty of reckless endangerment in the first degree  
2 when he or she recklessly discharges a firearm in a manner which  
3 creates a substantial risk of death or serious physical injury to  
4 another person and the discharge is either from a motor vehicle or from  
5 the immediate area of a motor vehicle that was used to transport the  
6 shooter or the firearm to the scene of the discharge.

7 (2) A person who unlawfully discharges a firearm from a moving  
8 motor vehicle may be inferred to have engaged in reckless conduct,  
9 unless the discharge is shown by evidence satisfactory to the trier of  
10 fact to have been made without such recklessness.

11 (3) A person is guilty of reckless endangerment in the first degree  
12 when he or she recklessly engages in conduct which creates a  
13 substantial risk of death or serious physical injury to another person  
14 and the conduct is in violation of a court order issued pursuant to  
15 chapter 10.99 or 26.50 RCW.

16 (4) Reckless endangerment in the first degree is a class C felony.

17 **Sec. 5.** RCW 10.99.020 and 1986 c 257 s 8 are each amended to read  
18 as follows:

19 Unless the context clearly requires otherwise, the definitions in  
20 this section apply throughout this chapter.

21 (1) "Family or household members" means spouses, former spouses,  
22 (~~adult~~) persons related by blood or marriage, persons who are  
23 presently residing together or who have resided together in the past,  
24 and persons who have a child in common regardless of whether they have  
25 been married or have lived together at any time.

26 (2) "Domestic violence" includes but is not limited to any of the  
27 following crimes when committed by one family or household member  
28 against another:

29 (a) Assault in the first degree (RCW 9A.36.011);

1 (b) Assault in the second degree (RCW 9A.36.021);  
2 (c) Assault in the third degree (RCW 9A.36.031);  
3 (d) Assault in the fourth degree (RCW 9A.36.041);  
4 (e) Reckless endangerment in the first degree (RCW 9A.36.045);  
5 (f) Reckless endangerment (~~(in the second degree)~~) in the second  
6 degree (RCW 9A.36.050);  
7 ~~((f))~~ (g) Coercion (RCW 9A.36.070);  
8 ~~((g))~~ (h) Burglary in the first degree (RCW 9A.52.020);  
9 ~~((h))~~ (i) Burglary in the second degree (RCW 9A.52.030);  
10 ~~((i))~~ (j) Criminal trespass in the first degree (RCW 9A.52.070);  
11 ~~((j))~~ (k) Criminal trespass in the second degree (RCW 9A.52.080);  
12 ~~((k))~~ (l) Malicious mischief in the first degree (RCW 9A.48.070);  
13 ~~((l))~~ (m) Malicious mischief in the second degree (RCW  
14 9A.48.080);  
15 ~~((m))~~ (n) Malicious mischief in the third degree (RCW 9A.48.090);  
16 ~~((n))~~ (o) Kidnapping in the first degree (RCW 9A.40.020);  
17 ~~((o))~~ (p) Kidnapping in the second degree (RCW 9A.40.030);  
18 ~~((p))~~ (q) Unlawful imprisonment (RCW 9A.40.040);  
19 ~~((q))~~ (r) Violation of the provisions of a restraining order  
20 restraining the person or excluding the person from a residence (RCW  
21 26.09.300);  
22 ~~((r))~~ (s) Violation of the provisions of a protection order  
23 restraining the person or excluding the person from a residence (RCW  
24 26.50.060, 26.50.070, or 26.50.130);  
25 ~~((s))~~ (t) Rape in the first degree (RCW 9A.44.040); and  
26 ~~((t))~~ (u) Rape in the second degree (RCW 9A.44.050).  
27 (3) "Victim" means a family or household member who has been  
28 subjected to domestic violence.

1       **Sec. 6.** RCW 10.99.040 and 1985 c 303 s 10 are each amended to read  
2 as follows:

3       (1) Because of the serious nature of domestic violence, the court  
4 in domestic violence actions:

5       (a) Shall not dismiss any charge or delay disposition because of  
6 concurrent dissolution or other civil proceedings;

7       (b) Shall not require proof that either party is seeking a  
8 dissolution of marriage prior to instigation of criminal proceedings;

9       (c) Shall waive any requirement that the victim's location be  
10 disclosed to any person, other than the attorney of a criminal  
11 defendant, upon a showing that there is a possibility of further  
12 violence: PROVIDED, That the court may order a criminal defense  
13 attorney not to disclose to his client the victim's location; and

14       (d) Shall identify by any reasonable means on docket sheets those  
15 criminal actions arising from acts of domestic violence.

16       (2) Because of the likelihood of repeated violence directed at  
17 those who have been victims of domestic violence in the past, when any  
18 person charged with or arrested for a crime involving domestic violence  
19 is released from custody before arraignment or trial on bail or  
20 personal recognizance, the court authorizing the release may prohibit  
21 that person from having any contact with the victim. The jurisdiction  
22 authorizing the release shall determine whether that person should be  
23 prohibited from having any contact with the victim. If there is no  
24 outstanding restraining or protective order prohibiting that person  
25 from having contact with the victim, the court authorizing release may  
26 issue, by telephone, a no-contact order prohibiting the person charged  
27 or arrested from having contact with the victim. The no-contact order  
28 shall also be issued in writing as soon as possible. If the court has  
29 probable cause to believe that the person charged or arrested is likely  
30 to use or display or threaten to use a deadly weapon as defined in RCW

1 9A.04.110 in any further acts of violence, the court may also require  
2 that person to surrender any deadly weapon in that person's immediate  
3 possession or control, or subject to that person's immediate possession  
4 or control, to the sheriff of the county or chief of police of the  
5 municipality in which that person resides or to the defendant's counsel  
6 for safekeeping.

7 (3) At the time of arraignment the court shall determine whether a  
8 no-contact order shall be issued or extended.

9 (4) Willful violation of a court order issued under subsection (2)  
10 or (3) of this section is a misdemeanor. The written order releasing  
11 the person charged or arrested shall contain the court's directives and  
12 shall bear the legend: Violation of this order is a criminal offense  
13 under chapter 10.99 RCW and will subject a violator to arrest; any  
14 assault that is a violation of this order is a felony under RCW  
15 9A.36.031; and reckless endangerment that is a violation of this order  
16 is a felony under RCW 9A.36.045. A certified copy of the order shall  
17 be provided to the victim. If a no-contact order has been issued prior  
18 to charging, that order shall expire at arraignment or within seventy-  
19 two hours if charges are not filed. Such orders need not be entered  
20 into the computer information system in this state which is used by law  
21 enforcement agencies to list outstanding warrants.

22 (5) Whenever an order prohibiting contact is issued, modified, or  
23 terminated under subsection (2) or (3) of this section, the clerk of  
24 the court shall forward a copy of the order on or before the next  
25 judicial day to the appropriate law enforcement agency specified in the  
26 order. Upon receipt of the copy of the order the law enforcement  
27 agency shall forthwith enter the order for one year or until the  
28 expiration date specified on the order into any computer information  
29 system available in this state used by law enforcement agencies to list  
30 outstanding warrants. Entry into the law enforcement information

1 system constitutes notice to all law enforcement agencies of the  
2 existence of the order. The order is fully enforceable in any  
3 jurisdiction in the state.

4 **Sec. 7.** RCW 10.99.050 and 1985 c 303 s 12 are each amended to read  
5 as follows:

6 (1) When a defendant is found guilty of a crime and a condition of  
7 the sentence restricts the defendant's ability to have contact with the  
8 victim, such condition shall be recorded and a written certified copy  
9 of that order shall be provided to the victim.

10 (2) Willful violation of a court order issued under this section is  
11 a misdemeanor. The written order shall contain the court's directives  
12 and shall bear the legend: Violation of this order is a criminal  
13 offense under chapter 10.99 RCW and will subject a violator to arrest;  
14 any assault that is a violation of this order is a felony under RCW  
15 9A.36.031; and reckless endangerment that is a violation of this order  
16 is a felony under RCW 9A.36.045.

17 (3) Whenever an order prohibiting contact is issued pursuant to  
18 this section, the clerk of the court shall forward a copy of the order  
19 on or before the next judicial day to the appropriate law enforcement  
20 agency specified in the order. Upon receipt of the copy of the order  
21 the law enforcement agency shall forthwith enter the order for one year  
22 into any computer-based criminal intelligence information system  
23 available in this state used by law enforcement agencies to list  
24 outstanding warrants. Entry into the law enforcement information system  
25 constitutes notice to all law enforcement agencies of the existence of  
26 the order. The order is fully enforceable in any jurisdiction in the  
27 state.

1       **Sec. 8.** RCW 26.50.110 and 1984 c 263 s 12 are each amended to read  
2 as follows:

3       (1) Whenever an order for protection is granted under this chapter  
4 and the respondent or person to be restrained knows of the order, a  
5 violation of the restraint provisions or of a provision excluding the  
6 person from a residence is a misdemeanor.

7       (2) A peace officer shall arrest without a warrant and take into  
8 custody a person whom the peace officer has probable cause to believe  
9 has violated an order issued under this chapter that restrains the  
10 person or excludes the person from a residence, if the person  
11 restrained knows of the order.

12       (3) A violation of an order for protection shall also constitute  
13 contempt of court, and is subject to the penalties prescribed by law.

14       (4) An assault that is a violation of an order for protection is a  
15 felony under RCW 9A.36.031; and reckless endangerment that is a  
16 violation of an order for protection is a felony under RCW 9A.36.045.

17       (5) Upon the filing of an affidavit by the petitioner or any peace  
18 officer alleging that the respondent has violated an order for  
19 protection granted under this chapter, the court may issue an order to  
20 the respondent, requiring the respondent to appear and show cause  
21 within fourteen days why the respondent should not be found in contempt  
22 of court and punished accordingly. The hearing may be held in the  
23 court of any county or municipality in which the petitioner or  
24 respondent temporarily or permanently resides at the time of the  
25 alleged violation.

26       NEW SECTION. **Sec. 9.** Unless the context clearly requires  
27 otherwise, the definitions in this section apply throughout this  
28 chapter:

1 (1) "Certified domestic violence perpetrator counselor" means a  
2 certified mental health counselor pursuant to RCW 18.19.120, a  
3 certified marriage and family therapist pursuant to RCW 18.19.130, a  
4 certified social worker pursuant to RCW 18.19.110, a licensed  
5 psychologist pursuant to chapter 18.83 RCW, or a licensed psychiatrist  
6 pursuant to chapter 18.71 RCW, who is certified to examine and treat  
7 domestic violence perpetrators.

8 (2) "Department" means the department of health.

9 (3) "Secretary" means the secretary of health.

10 NEW SECTION. **Sec. 10.** (1) No person shall represent himself or  
11 herself as a certified domestic violence perpetrator counselor without  
12 first applying for and receiving a certificate pursuant to this  
13 chapter.

14 (2) Only a certified domestic violence perpetrator counselor may  
15 perform or provide treatment of convicted domestic violence offenders  
16 who are sentenced and ordered into treatment.

17 NEW SECTION. **Sec. 11.** In addition to any other authority  
18 provided by law, the secretary shall have the following authority:

19 (1) To set all fees required in this chapter in accordance with RCW  
20 43.70.250;

21 (2) To establish forms necessary to administer this chapter;

22 (3) To issue a certificate to any applicant who has met the  
23 education, training, and examination requirements for certification and  
24 deny a certificate to applicants who do not meet the minimum  
25 qualifications for certification. Proceedings concerning the denial of  
26 certificates based on unprofessional conduct or impaired practice shall  
27 be governed by the uniform disciplinary act, chapter 18.130 RCW;

1 (4) To hire clerical, administrative, and investigative staff as  
2 needed to implement and administer this chapter and to hire individuals  
3 including those certified under this chapter to serve as examiners or  
4 consultants as necessary to implement and administer this chapter;

5 (5) To maintain the official department record of all applicants  
6 and certifications;

7 (6) To conduct a hearing on an appeal of a denial of a certificate  
8 on the applicant's failure to meet the minimum qualifications for  
9 certification. The hearing shall be conducted pursuant to chapter  
10 34.05 RCW;

11 (7) To issue subpoenas, statements of charges, statements of intent  
12 to deny certificates, and orders and to delegate in writing to a  
13 designee the authority to issue subpoenas, statements of charges, and  
14 statements of intent to deny certificates;

15 (8) To determine the minimum education, work experience, and  
16 training requirements for certification, including but not limited to  
17 approval of educational programs;

18 (9) To prepare and administer or approve the preparation and  
19 administration of examinations for certification;

20 (10) To establish by rule the procedure for appeal of an  
21 examination failure;

22 (11) To adopt rules implementing a continuing competency program;  
23 and

24 (12) To adopt rules in accordance with chapter 34.05 RCW as  
25 necessary to implement this chapter.

26 NEW SECTION. **Sec. 12.** (1) The domestic violence perpetrator  
27 counselors advisory committee is established to advise the secretary  
28 concerning the administration of this chapter.

1 (2) The secretary shall appoint the members of the advisory  
2 committee who shall consist of the following persons:

3 (a) One superior court judge;

4 (b) Three domestic violence perpetrator counselors;

5 (c) One mental health practitioner who specializes in treating  
6 victims of domestic violence;

7 (d) One defense attorney with experience representing persons  
8 charged with domestic violence offenses;

9 (e) One representative from the Washington association of  
10 prosecuting attorneys;

11 (f) The secretary of the department of social and health services  
12 or his or her designee; and

13 (g) One probation officer with experience supervising persons  
14 convicted of domestic violence.

15 The secretary shall develop and implement the certification  
16 procedures with the advice of the committee by July 1, 1992. Following  
17 implementation of these procedures by the secretary, the committee  
18 shall be a permanent body. The members shall serve staggered three-  
19 year terms, to be set by the secretary. No person other than the  
20 member representing the department of social and health services may  
21 serve more than two consecutive terms.

22 The secretary may remove any member of the advisory committee for  
23 cause as specified by rule. In a case of a vacancy, the secretary  
24 shall appoint a person to serve for the remainder of the unexpired  
25 term.

26 (3) Committee members shall be reimbursed for travel expenses in  
27 accordance with RCW 43.03.050 and 43.03.060.

28 (4) The committee shall elect officers as deemed necessary to  
29 administer its duties. A simple majority of the committee members  
30 currently serving shall constitute a quorum of the committee.

1 (5) Members of the advisory committee shall be residents of this  
2 state. The members who are domestic violence perpetrator counselors  
3 must have a minimum of five years of extensive work experience in  
4 treating domestic violence offenders to qualify for appointment to the  
5 initial committee, which shall develop and implement the certification  
6 program. After July 1, 1992, the domestic violence perpetrator  
7 counselors on the committee must be certified pursuant to this chapter.

8 (6) The committee shall meet at times as necessary to conduct  
9 committee business.

10 NEW SECTION. **Sec. 13.** The secretary, members of the committee,  
11 and individuals acting on their behalf are immune from suit in any  
12 action, civil or criminal, based on any acts performed in the course of  
13 their duties.

14 NEW SECTION. **Sec. 14.** The department shall issue a certificate  
15 to any applicant who meets the following requirements:

16 (1) Successful completion of an educational program approved by the  
17 secretary or successful completion of alternative training that meets  
18 the criteria of the secretary;

19 (2) Successful completion of any experience requirement established  
20 by the secretary;

21 (3) Successful completion of an examination administered or  
22 approved by the secretary;

23 (4) To not have engaged in unprofessional conduct, and to be able  
24 to practice with reasonable skill and safety without physical or mental  
25 impairment; and

26 (5) Other requirements established by the secretary that impact the  
27 competence of the domestic violence perpetrator counselor.

1        NEW SECTION.    **Sec. 15.**        The secretary shall establish by rule  
2 standards and procedures for approval of the following:

3        (1) Educational programs and alternative training;

4        (2) Examination procedures;

5        (3) Certifying applicants who have a comparable certification in  
6 another jurisdiction;

7        (4) Application method and forms;

8        (5) Requirements for renewals of certificates;

9        (6) Requirements of certified domestic violence perpetrator  
10 counselors who seek inactive status; and

11       (7) Other rules as appropriate to carry out the purposes of this  
12 chapter.

13       NEW SECTION.    **Sec. 16.**        The uniform disciplinary act, chapter  
14 18.130 RCW, governs unauthorized practice, the issuance and denial of  
15 certificates, and the discipline of certified domestic violence  
16 perpetrator counselors under this chapter.

17       **Sec. 17.**    RCW 26.50.010 and 1984 c 263 s 2 are each amended to read  
18 as follows:

19       As used in this chapter, the following terms shall have the  
20 meanings given them:

21       (1) "Domestic violence" means: (a) Physical harm, bodily injury,  
22 assault, or the infliction of fear of imminent physical harm, bodily  
23 injury or assault, between family or household members; or (b) sexual  
24 assault of one family or household member by another, except for child  
25 abuse as defined in RCW 26.44.020.

26       (2) "Family or household members" means spouses, former spouses,  
27 (~~adult~~) persons related by blood or marriage, persons who are  
28 presently residing together, or who have resided together in the past,

1 and persons who have a child in common regardless of whether they have  
2 been married or have lived together at any time.

3 (3) "Court" includes the superior, district, and municipal courts  
4 of the state of Washington.

5 (4) "Judicial day" does not include Saturdays, Sundays, or legal  
6 holidays.

7 **Sec. 18.** RCW 26.50.020 and 1989 c 375 s 28 are each amended to  
8 read as follows:

9 (1) Any person may seek relief under this chapter by filing a  
10 petition with a court alleging that the person has been the victim of  
11 domestic violence committed by the respondent. The person may petition  
12 for relief on behalf of himself or herself and on behalf of minor  
13 family or household members.

14 (2) The courts defined in RCW 26.50.010(3) have jurisdiction over  
15 proceedings under this chapter including concurrent jurisdiction over  
16 juveniles who are respondents in an action involving domestic violence.  
17 The jurisdiction of district and municipal courts under this chapter  
18 shall be limited to enforcement of RCW 26.50.110(1), or the equivalent  
19 municipal ordinance, and the issuance and enforcement of temporary  
20 orders for protection provided for in RCW 26.50.070 if: (a) A superior  
21 court has exercised or is exercising jurisdiction over a proceeding  
22 under this title or chapter 13.34 RCW involving the parties; (b) the  
23 petition for relief under this chapter presents issues of residential  
24 schedule of and contact with children of the parties; or (c) the  
25 petition for relief under this chapter requests the court to exclude a  
26 party from the dwelling which the parties share. When the jurisdiction  
27 of a district or municipal court is limited to the issuance and  
28 enforcement of a temporary order, the district or municipal court shall  
29 set the full hearing provided for in RCW 26.50.050 in superior court

1 and transfer the case. If the notice and order are not served on the  
2 respondent in time for the full hearing, the issuing court shall have  
3 concurrent jurisdiction with the superior court to extend the order for  
4 protection.

5 (3) An action under this chapter shall be filed in the county or  
6 the municipality where the petitioner resides, unless the petitioner  
7 has left the residence or household to avoid abuse. In that case, the  
8 petitioner may bring an action in the county or municipality of the  
9 previous or the new household or residence.

10 (4) A person's right to petition for relief under this chapter is  
11 not affected by the person leaving the residence or household to avoid  
12 abuse.

13 NEW SECTION. **Sec. 19.** Unless the context clearly requires  
14 otherwise, the definitions in this section apply throughout this  
15 chapter.

16 (1) "Community advocate" means a person employed by a local  
17 domestic violence program to provide ongoing assistance to victims of  
18 domestic violence in assessing safety needs, documenting the incidents  
19 and the extent of violence for possible use in the legal system, making  
20 appropriate social service referrals, and developing protocols and  
21 maintaining ongoing contacts necessary for local systems coordination.

22 (2) "Department" means the department of social and health  
23 services.

24 (3) "Domestic violence" has the same meaning as in RCW 10.99.020  
25 and 26.50.010.

26 (4) "Domestic violence program" means an agency that provides  
27 shelter, advocacy, and counseling for domestic violence victims in a  
28 supportive environment.

1 (5) "Family or household member" has the same meaning as in RCW  
2 26.50.010.

3 (6) "Legal advocate" means a person employed by a domestic violence  
4 program or court system to advocate for victims of domestic violence,  
5 within the criminal and civil justice systems, by attending court  
6 proceedings, assisting in document and case preparation, and ensuring  
7 linkage with the community advocate.

8 (7) "Secretary" means the secretary of the department of social and  
9 health services or the secretary's designee.

10 (8) "Shelter" means a temporary refuge, offered on a twenty-four  
11 hour, seven day per week basis to victims of domestic violence and  
12 their children.

13 (9) "Victim" means a victim of domestic violence.

14 NEW SECTION. **Sec. 20.** Client records maintained by domestic  
15 violence programs shall not be made available unless:

16 (1) A written pretrial motion is made to a court stating that  
17 discovery is requested of the client's domestic violence records;

18 (2) The written motion is accompanied by an affidavit or affidavits  
19 setting forth specifically the reasons why discovery is requested of  
20 the domestic violence program's records;

21 (3) The court reviews the domestic violence program's records in  
22 camera to determine whether the domestic violence program's records are  
23 relevant and whether the probative value of the records is outweighed  
24 by the victim's privacy interest in the confidentiality of such  
25 records, taking into account the further trauma that may be inflicted  
26 upon the victim by the disclosure of the records; and

27 (4) The court enters an order stating whether the records or any  
28 part of the records are discoverable and setting forth the basis for  
29 the court's findings.

1        NEW SECTION.    **Sec. 21.**        The department of social and health  
2 services shall establish a technical assistance grant program to assist  
3 local communities in determining how to respond to domestic violence.  
4 The goals of the program shall be to coordinate and expand existing  
5 services to:

6            (1) Serve any individual affected by domestic violence with the  
7 primary focus being the safety of the victim;

8            (2) Assure an integrated, comprehensive, accountable community  
9 response that is adequately funded and sensitive to the diverse needs  
10 of the community;

11           (3) Create a continuum of services that range from prevention,  
12 crisis intervention, and counseling through shelter, advocacy, legal  
13 intervention, and representation to longer term support, counseling,  
14 and training; and

15           (4) Coordinate the efforts of government, the legal system, the  
16 private sector, and a range of service providers, such as doctors,  
17 nurses, social workers, teachers, and child care workers.

18        NEW SECTION.    **Sec. 22.**        (1) A county or group of counties may  
19 apply to the department for a technical assistance grant to develop a  
20 comprehensive county plan for dealing with domestic violence. The  
21 county authority may contract with a local nonprofit entity to develop  
22 the plan.

23           (2) County comprehensive plans shall be developed in consultation  
24 with the department, domestic violence programs, schools, law  
25 enforcement, and health care, legal, and social service providers that  
26 provide services to persons affected by domestic violence.

27           (3) County comprehensive plans shall be based on the following  
28 principles:

29           (a) The safety of the victim is primary;

1 (b) The community needs to be well-educated about domestic  
2 violence;

3 (c) Those who want to and who should intervene need to know how to  
4 do so effectively;

5 (d) Adequate services, both crisis and long-term support, should  
6 exist throughout all parts of the county;

7 (e) Police and courts should hold the batterer accountable for his  
8 crimes;

9 (f) Treatment for batterers should be provided by qualified  
10 counselors; and

11 (g) Coordination teams are needed to ensure that the system  
12 continues to work over the coming decades.

13 (4) County comprehensive plans shall provide for the following:

14 (a) Public education about domestic violence;

15 (b) Training for professionals on how to recognize domestic  
16 violence and assist those affected by it;

17 (c) Development of protocols among agencies so that professionals  
18 respond to domestic violence in an effective, consistent manner;

19 (d) Development of services to victims of domestic violence and  
20 their families, including shelters, safe homes, transitional housing,  
21 community and legal advocates, and children's services; and

22 (e) Local and regional teams to oversee implementation of the  
23 system, ensure that efforts continue over the years, and assist with  
24 day-to-day and system-wide coordination.

25 **Sec. 23.** RCW 82.14.340 and 1990 2nd ex.s. c 1 s 901 are each  
26 amended to read as follows:

27 The legislative authority of any county with a population of two  
28 hundred thousand or more, and any other county with a population of one  
29 hundred fifty thousand or more that has had its population increase by

1 at least twenty-four percent during the preceding nine years, as  
2 certified by the office of financial management for the first day of  
3 April of each year, may and, if requested by resolution of the  
4 governing bodies of cities in the county with an aggregate population  
5 equal to or greater than fifty percent of the total population of the  
6 county, as last determined by the office of financial management, shall  
7 submit an authorizing proposition to the voters of the county and if  
8 approved by a majority of persons voting, fix and impose a sales and  
9 use tax in accordance with the terms of this chapter.

10 The tax authorized in this section shall be in addition to any  
11 other taxes authorized by law and shall be collected from those persons  
12 who are taxable by the state pursuant to chapters 82.08 and 82.12 RCW  
13 upon the occurrence of any taxable event within such county. The rate  
14 of tax shall equal one-tenth of one percent of the selling price (in  
15 the case of a sales tax) or value of the article used (in the case of  
16 a use tax).

17 When distributing moneys collected under this section, the state  
18 treasurer shall distribute ten percent of the moneys to the county in  
19 which the tax was collected. The remainder of the moneys collected  
20 under this section shall be distributed to the county and the cities  
21 within the county ratably based on population as last determined by the  
22 office of financial management. In making the distribution based on  
23 population, the county shall receive that proportion that the  
24 unincorporated population of the county bears to the total population  
25 of the county and each city shall receive that proportion that the city  
26 incorporated population bears to the total county population.

27 Moneys received from any tax imposed under this section shall be  
28 expended exclusively for criminal justice purposes, including domestic  
29 violence community advocates as defined in section 19 of this act, and  
30 shall not be used to replace or supplant existing funding.

1 This section expires January 1, 1994.

2 NEW SECTION. **Sec. 24.** The speaker of the house of  
3 representatives and the president of the senate, shall direct the  
4 appropriate standing committees of the legislature to undertake studies  
5 of various domestic violence issues. A report shall be submitted to  
6 the legislature by December 1991, that includes:

7 (1) Recommendations for solving judicial process problems that  
8 diminish the effectiveness of legal remedies in domestic violence  
9 cases;

10 (2) Recommendations on revising the client/therapist privilege for  
11 communications between victims of domestic violence and licensed  
12 counselors;

13 (3) Recommendations, developed in consultation with associated  
14 professional organizations, on disseminating appropriate information  
15 and material about identification of and response to domestic violence  
16 for continuing education programs for doctors, nurses, attorneys,  
17 psychologists, social workers, and emergency medical services  
18 personnel;

19 (4) Recommendations, developed in consultation with persons  
20 responsible for developing curriculum within institutions of higher  
21 education, for curriculum changes in the areas of law, criminal  
22 justice, health care, and social service to address identification of  
23 and response to domestic violence;

24 (5) State and local governmental funding needs for operating  
25 domestic violence programs;

26 (6) State and local governmental funding options for providing  
27 assistance in the full operational funding of domestic violence  
28 programs;

1 (7) State and local governmental options for funding the capital  
2 needs of domestic violence programs, including provisions for shelter,  
3 transitional housing, and safe home expansion;

4 (8) Recommendations for ensuring the right to health insurance  
5 privacy for victims of domestic violence;

6 (9) Recommendations on the need for a statute that would prohibit  
7 the issuance of protection orders against any person unless the person  
8 seeking relief has filed a petition or counterclaim;

9 (10) The need and methods available for cultural education, K-12  
10 curriculum, and other means to educate the public and its leaders on  
11 the costs, problems, and threats to society in general caused by  
12 domestic violence;

13 (11) Recommendations to make liability insurance available and  
14 affordable for domestic violence programs; and

15 (12) Recommendations on the appropriate period of time for the  
16 effectiveness of temporary protection orders issued pursuant to chapter  
17 26.50 RCW.

18 NEW SECTION. **Sec. 25.** RCW 70.123.020 and 1979 ex.s. c 245 s 2  
19 are each repealed.

20 NEW SECTION. **Sec. 26.** The sum of four million dollars, or as  
21 much thereof as may be necessary, is appropriated from the general fund  
22 to the department of social and health services for the biennium ending  
23 June 30, 1993, for domestic violence programs.

24 NEW SECTION. **Sec. 27.** Sections 9 through 16 of this act shall  
25 constitute a new chapter in Title 18 RCW.

1        NEW SECTION.    **Sec. 28.**        Sections 19 through 22 of this act are  
2 each added to chapter 70.123 RCW.