
BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: AMH-5046.1/00

ATTY/TYPIST: KT:rmh

BRIEF DESCRIPTION:

2 **E2SSB 6400** - H COMM AMD
3 By Committee on Appropriations

ADOPTED AS AMENDED 3/3/00

4
5 Strike everything after the enacting clause and insert the
6 following:

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 26.50 RCW
8 to read as follows:

9 The department of social and health services, in its discretion,
10 may seek the relief provided in this chapter on behalf of and with the
11 consent of any vulnerable adult as those persons are defined in RCW
12 74.34.020. Neither the department nor the state of Washington shall be
13 liable for failure to seek relief on behalf of any persons under this
14 section.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.34 RCW
16 to read as follows:

17 (1) An order for protection of a vulnerable adult issued under this
18 chapter which restrains the respondent or another person from
19 committing acts of abuse, prohibits contact with the petitioner,
20 excludes the person from any specified location, or prohibits the
21 person from coming within a specified distance from a location, shall
22 prominently bear on the front page of the order the legend: VIOLATION
23 OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE
24 UNDER CHAPTER 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

25 (2) Whenever an order for protection of a vulnerable adult is
26 issued under this chapter, and the respondent or person to be
27 restrained knows of the order, a violation of a provision restraining
28 the person from committing acts of abuse, prohibiting contact with the
29 petitioner, excluding the person from any specified location, or
30 prohibiting the person from coming within a specified distance of a
31 location, shall be punishable under RCW 26.50.110, regardless of
32 whether the person is a family or household member as defined in RCW
33 26.50.010.

1 **Sec. 3.** RCW 9.94A.220 and 1994 c 271 s 901 are each amended to
2 read as follows:

3 (1) When an offender has completed the requirements of the
4 sentence, the secretary of the department or the secretary's designee
5 shall notify the sentencing court, which shall discharge the offender
6 and provide the offender with a certificate of discharge.

7 (2) An offender who is not convicted of a violent offense or a sex
8 offense and is sentenced to a term involving community supervision may
9 be considered for a discharge of sentence by the sentencing court prior
10 to the completion of community supervision, provided that the offender
11 has completed at least one-half of the term of community supervision
12 and has met all other sentence requirements.

13 (3) Except as provided in subsection (4) of this section, the
14 discharge shall have the effect of restoring all civil rights lost by
15 operation of law upon conviction, and the certificate of discharge
16 shall so state. Nothing in this section prohibits the use of an
17 offender's prior record for purposes of determining sentences for later
18 offenses as provided in this chapter. Nothing in this section affects
19 or prevents use of the offender's prior conviction in a later criminal
20 prosecution either as an element of an offense or for impeachment
21 purposes. A certificate of discharge is not based on a finding of
22 rehabilitation.

23 (4) Unless otherwise ordered by the sentencing court, a certificate
24 of discharge shall not terminate the offender's obligation to comply
25 with an order issued under chapter 10.99 RCW that excludes or prohibits
26 the offender from having contact with a specified person or coming
27 within a set distance of any specified location that was contained in
28 the judgment and sentence. An offender who violates such an order
29 after a certificate of discharge has been issued shall be subject to
30 prosecution according to the chapter under which the order was
31 originally issued.

32 (5) Upon release from custody, the offender may apply to the
33 department for counseling and help in adjusting to the community. This
34 voluntary help may be provided for up to one year following the release
35 from custody.

36 **Sec. 4.** RCW 10.31.100 and 1999 c 184 s 14 are each amended to read
37 as follows:

1 A police officer having probable cause to believe that a person has
2 committed or is committing a felony shall have the authority to arrest
3 the person without a warrant. A police officer may arrest a person
4 without a warrant for committing a misdemeanor or gross misdemeanor
5 only when the offense is committed in the presence of the officer,
6 except as provided in subsections (1) through (10) of this section.

7 (1) Any police officer having probable cause to believe that a
8 person has committed or is committing a misdemeanor or gross
9 misdemeanor, involving physical harm or threats of harm to any person
10 or property or the unlawful taking of property or involving the use or
11 possession of cannabis, or involving the acquisition, possession, or
12 consumption of alcohol by a person under the age of twenty-one years
13 under RCW 66.44.270, or involving criminal trespass under RCW 9A.52.070
14 or 9A.52.080, shall have the authority to arrest the person.

15 (2) A police officer shall arrest and take into custody, pending
16 release on bail, personal recognizance, or court order, a person
17 without a warrant when the officer has probable cause to believe that:

18 (a) An order has been issued of which the person has knowledge
19 under RCW (~~10.99.040(2), 10.99.050, 26.09.050, 26.09.060, 26.10.040,~~
20 ~~26.10.115,~~) 26.44.063, or chapter 10.99, 26.09, 26.10, 26.26 (~~(RCW, or~~
21 ~~chapter)~~), 26.50, or 74.34 RCW restraining the person and the person
22 has violated the terms of the order restraining the person from acts or
23 threats of violence, or restraining the person from going onto the
24 grounds of or entering a residence, workplace, school, or day care, or
25 prohibiting the person from knowingly coming within, or knowingly
26 remaining within, a specified distance of a location or, in the case of
27 an order issued under RCW 26.44.063, imposing any other restrictions or
28 conditions upon the person; or

29 (b) A foreign protection order, as defined in RCW 26.52.010, has
30 been issued of which the person under restraint has knowledge and the
31 person under restraint has violated a provision of the foreign
32 protection order prohibiting the person under restraint from contacting
33 or communicating with another person, or (~~of a provision~~) excluding
34 the person under restraint from a residence, workplace, school, or day
35 care, or prohibiting the person from knowingly coming within, or
36 knowingly remaining within, a specified distance of a location, or a
37 violation of any provision for which the foreign protection order
38 specifically indicates that a violation will be a crime; or

1 (c) The person is sixteen years or older and within the preceding
2 four hours has assaulted a family or household member as defined in RCW
3 10.99.020 and the officer believes: (i) A felonious assault has
4 occurred; (ii) an assault has occurred which has resulted in bodily
5 injury to the victim, whether the injury is observable by the
6 responding officer or not; or (iii) that any physical action has
7 occurred which was intended to cause another person reasonably to fear
8 imminent serious bodily injury or death. Bodily injury means physical
9 pain, illness, or an impairment of physical condition. When the
10 officer has probable cause to believe that family or household members
11 have assaulted each other, the officer is not required to arrest both
12 persons. The officer shall arrest the person whom the officer believes
13 to be the primary physical aggressor. In making this determination,
14 the officer shall make every reasonable effort to consider: (i) The
15 intent to protect victims of domestic violence under RCW 10.99.010;
16 (ii) the comparative extent of injuries inflicted or serious threats
17 creating fear of physical injury; and (iii) the history of domestic
18 violence between the persons involved.

19 (3) Any police officer having probable cause to believe that a
20 person has committed or is committing a violation of any of the
21 following traffic laws shall have the authority to arrest the person:

22 (a) RCW 46.52.010, relating to duty on striking an unattended car
23 or other property;

24 (b) RCW 46.52.020, relating to duty in case of injury to or death
25 of a person or damage to an attended vehicle;

26 (c) RCW 46.61.500 or 46.61.530, relating to reckless driving or
27 racing of vehicles;

28 (d) RCW 46.61.502 or 46.61.504, relating to persons under the
29 influence of intoxicating liquor or drugs;

30 (e) RCW 46.20.342, relating to driving a motor vehicle while
31 operator's license is suspended or revoked;

32 (f) RCW 46.61.5249, relating to operating a motor vehicle in a
33 negligent manner.

34 (4) A law enforcement officer investigating at the scene of a motor
35 vehicle accident may arrest the driver of a motor vehicle involved in
36 the accident if the officer has probable cause to believe that the
37 driver has committed in connection with the accident a violation of any
38 traffic law or regulation.

1 (5) Any police officer having probable cause to believe that a
2 person has committed or is committing a violation of RCW ((88.12.025))
3 79A.60.040 shall have the authority to arrest the person.

4 (6) An officer may act upon the request of a law enforcement
5 officer in whose presence a traffic infraction was committed, to stop,
6 detain, arrest, or issue a notice of traffic infraction to the driver
7 who is believed to have committed the infraction. The request by the
8 witnessing officer shall give an officer the authority to take
9 appropriate action under the laws of the state of Washington.

10 (7) Any police officer having probable cause to believe that a
11 person has committed or is committing any act of indecent exposure, as
12 defined in RCW 9A.88.010, may arrest the person.

13 (8) A police officer may arrest and take into custody, pending
14 release on bail, personal recognizance, or court order, a person
15 without a warrant when the officer has probable cause to believe that
16 an order has been issued of which the person has knowledge under
17 chapter 10.14 RCW and the person has violated the terms of that order.

18 (9) Any police officer having probable cause to believe that a
19 person has, within twenty-four hours of the alleged violation,
20 committed a violation of RCW 9A.50.020 may arrest such person.

21 (10) A police officer having probable cause to believe that a
22 person illegally possesses or illegally has possessed a firearm or
23 other dangerous weapon on private or public elementary or secondary
24 school premises shall have the authority to arrest the person.

25 For purposes of this subsection, the term "firearm" has the meaning
26 defined in RCW 9.41.010 and the term "dangerous weapon" has the meaning
27 defined in RCW 9.41.250 and 9.41.280(1) (c) through (e).

28 (11) Except as specifically provided in subsections (2), (3), (4),
29 and (6) of this section, nothing in this section extends or otherwise
30 affects the powers of arrest prescribed in Title 46 RCW.

31 (12) No police officer may be held criminally or civilly liable for
32 making an arrest pursuant to RCW 10.31.100 (2) or (8) if the police
33 officer acts in good faith and without malice.

34 **Sec. 5.** RCW 10.99.020 and 1997 c 338 s 53 are each amended to read
35 as follows:

36 Unless the context clearly requires otherwise, the definitions in
37 this section apply throughout this chapter.

1 (1) "Family or household members" means spouses, former spouses,
2 persons who have a child in common regardless of whether they have been
3 married or have lived together at any time, adult persons related by
4 blood or marriage, adult persons who are presently residing together or
5 who have resided together in the past, persons sixteen years of age or
6 older who are presently residing together or who have resided together
7 in the past and who have or have had a dating relationship, persons
8 sixteen years of age or older with whom a person sixteen years of age
9 or older has or has had a dating relationship, and persons who have a
10 biological or legal parent-child relationship, including stepparents
11 and stepchildren and grandparents and grandchildren.

12 (2) "Dating relationship" has the same meaning as in RCW 26.50.010.

13 (3) "Domestic violence" includes but is not limited to any of the
14 following crimes when committed by one family or household member
15 against another:

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

17 (b) Assault in the second degree (RCW 9A.36.021);

18 (c) Assault in the third degree (RCW 9A.36.031);

19 (d) Assault in the fourth degree (RCW 9A.36.041);

20 (e) Drive-by shooting (RCW 9A.36.045);

21 (f) Reckless endangerment (RCW 9A.36.050);

22 (g) Coercion (RCW 9A.36.070);

23 (h) Burglary in the first degree (RCW 9A.52.020);

24 (i) Burglary in the second degree (RCW 9A.52.030);

25 (j) Criminal trespass in the first degree (RCW 9A.52.070);

26 (k) Criminal trespass in the second degree (RCW 9A.52.080);

27 (l) Malicious mischief in the first degree (RCW 9A.48.070);

28 (m) Malicious mischief in the second degree (RCW 9A.48.080);

29 (n) Malicious mischief in the third degree (RCW 9A.48.090);

30 (o) Kidnapping in the first degree (RCW 9A.40.020);

31 (p) Kidnapping in the second degree (RCW 9A.40.030);

32 (q) Unlawful imprisonment (RCW 9A.40.040);

33 (r) Violation of the provisions of a restraining order, no-contact
34 order, or protection order restraining or enjoining the person or
35 restraining the person from going onto the grounds of or entering a
36 residence, workplace, school, or day care, or prohibiting the person
37 from knowingly coming within, or knowingly remaining within, a
38 specified distance of a location (RCW 10.99.040, 10.99.050, 26.09.300,

1 26.10.220, ~~((or))~~ 26.26.138, 26.44.063, 26.44.150, 26.50.060,
2 26.50.070, 26.50.130, 26.52.070, or section 2 of this act);

3 ~~(s) ((Violation of the provisions of a protection order or no-~~
4 ~~contact order restraining the person or restraining the person from~~
5 ~~going onto the grounds of or entering a residence, workplace, school,~~
6 ~~or day care (RCW 26.50.060, 26.50.070, 26.50.130, 10.99.040, or~~
7 ~~10.99.050));~~

8 ~~(t))~~ Rape in the first degree (RCW 9A.44.040);

9 ~~((u))~~ (t) Rape in the second degree (RCW 9A.44.050);

10 ~~((v))~~ (u) Residential burglary (RCW 9A.52.025);

11 ~~((w))~~ (v) Stalking (RCW 9A.46.110); and

12 ~~((x))~~ (w) Interference with the reporting of domestic violence
13 (RCW 9A.36.150).

14 (4) "Victim" means a family or household member who has been
15 subjected to domestic violence.

16 **Sec. 6.** RCW 26.09.050 and 1995 c 93 s 2 are each amended to read
17 as follows:

18 (1) In entering a decree of dissolution of marriage, legal
19 separation, or declaration of invalidity, the court shall determine the
20 marital status of the parties, make provision for a parenting plan for
21 any minor child of the marriage, make provision for the support of any
22 child of the marriage entitled to support, consider or approve
23 provision for the maintenance of either spouse, make provision for the
24 disposition of property and liabilities of the parties, make provision
25 for the allocation of the children as federal tax exemptions, make
26 provision for any necessary continuing restraining orders including the
27 provisions contained in RCW 9.41.800, make provision for the issuance
28 within this action of the restraint provisions of a domestic violence
29 protection order under chapter 26.50 RCW or an antiharassment
30 protection order under chapter 10.14 RCW, and make provision for the
31 change of name of any party.

32 (2) Restraining orders issued under this section restraining or
33 enjoining the person from molesting or disturbing another party, or
34 from going onto the grounds of or entering the home, workplace, or
35 school of the other party or the day care or school of any child, or
36 prohibiting the person from knowingly coming within, or knowingly
37 remaining within, a specified distance of a location, shall prominently
38 bear on the front page of the order the legend: VIOLATION OF THIS

1 ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER
2 CHAPTER ((26.09)) 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

3 (3) The court shall order that any restraining order bearing a
4 criminal offense legend, any domestic violence protection order, or any
5 antiharassment protection order granted under this section, in addition
6 to the law enforcement information sheet or proof of service of the
7 order, be forwarded by the clerk of the court on or before the next
8 judicial day to the appropriate law enforcement agency specified in the
9 order. Upon receipt of the order, the law enforcement agency shall
10 ((~~forthwith~~)) enter the order into any computer-based criminal
11 intelligence information system available in this state used by law
12 enforcement agencies to list outstanding warrants. The order is fully
13 enforceable in any county in the state.

14 (4) If a restraining order issued pursuant to this section is
15 modified or terminated, the clerk of the court shall notify the law
16 enforcement agency specified in the order on or before the next
17 judicial day. Upon receipt of notice that an order has been
18 terminated, the law enforcement agency shall remove the order from any
19 computer-based criminal intelligence system.

20 **Sec. 7.** RCW 26.09.060 and 1995 c 246 s 26 are each amended to read
21 as follows:

22 (1) In a proceeding for:

23 (a) Dissolution of marriage, legal separation, or a declaration of
24 invalidity; or

25 (b) Disposition of property or liabilities, maintenance, or support
26 following dissolution of the marriage by a court which lacked personal
27 jurisdiction over the absent spouse; either party may move for
28 temporary maintenance or for temporary support of children entitled to
29 support. The motion shall be accompanied by an affidavit setting forth
30 the factual basis for the motion and the amounts requested.

31 (2) As a part of a motion for temporary maintenance or support or
32 by independent motion accompanied by affidavit, either party may
33 request the court to issue a temporary restraining order or preliminary
34 injunction, providing relief proper in the circumstances, and
35 restraining or enjoining any person from:

36 (a) Transferring, removing, encumbering, concealing, or in any way
37 disposing of any property except in the usual course of business or for
38 the necessities of life, and, if so restrained or enjoined, requiring

1 him or her to notify the moving party of any proposed extraordinary
2 expenditures made after the order is issued;

3 (b) Molesting or disturbing the peace of the other party or of any
4 child;

5 (c) Going onto the grounds of or entering the home, workplace, or
6 school of the other party or the day care or school of any child upon
7 a showing of the necessity therefor;

8 (d) Knowingly coming within, or knowingly remaining within, a
9 specified distance from a specified location; and

10 (e) Removing a child from the jurisdiction of the court.

11 (3) Either party may request a domestic violence protection order
12 under chapter 26.50 RCW or an antiharassment protection order under
13 chapter 10.14 RCW on a temporary basis. The court may grant any of the
14 relief provided in RCW 26.50.060 except relief pertaining to
15 residential provisions for the children which provisions shall be
16 provided for under this chapter, and any of the relief provided in RCW
17 10.14.080. Ex parte orders issued under this subsection shall be
18 effective for a fixed period not to exceed fourteen days, or upon court
19 order, not to exceed twenty-four days if necessary to ensure that all
20 temporary motions in the case can be heard at the same time.

21 (4) In issuing the order, the court shall consider the provisions
22 of RCW 9.41.800.

23 (5) The court may issue a temporary restraining order without
24 requiring notice to the other party only if it finds on the basis of
25 the moving affidavit or other evidence that irreparable injury could
26 result if an order is not issued until the time for responding has
27 elapsed.

28 (6) The court may issue a temporary restraining order or
29 preliminary injunction and an order for temporary maintenance or
30 support in such amounts and on such terms as are just and proper in the
31 circumstances. The court may in its discretion waive the filing of the
32 bond or the posting of security.

33 (7) Restraining orders issued under this section restraining the
34 person from molesting or disturbing another party, or from going onto
35 the grounds of or entering the home, workplace, or school of the other
36 party or the day care or school of any child, or prohibiting the person
37 from knowingly coming within, or knowingly remaining within, a
38 specified distance of a location, shall prominently bear on the front
39 page of the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL

1 NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER ((26-09)) 26.50
2 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

3 (8) The court shall order that any temporary restraining order
4 bearing a criminal offense legend, any domestic violence protection
5 order, or any antiharassment protection order granted under this
6 section be forwarded by the clerk of the court on or before the next
7 judicial day to the appropriate law enforcement agency specified in the
8 order. Upon receipt of the order, the law enforcement agency shall
9 ((~~forthwith~~)) enter the order into any computer-based criminal
10 intelligence information system available in this state used by law
11 enforcement agencies to list outstanding warrants. Entry into the
12 ((~~law enforcement~~)) computer-based criminal intelligence information
13 system constitutes notice to all law enforcement agencies of the
14 existence of the order. The order is fully enforceable in any county
15 in the state.

16 (9) If a restraining order issued pursuant to this section is
17 modified or terminated, the clerk of the court shall notify the law
18 enforcement agency specified in the order on or before the next
19 judicial day. Upon receipt of notice that an order has been
20 terminated, the law enforcement agency shall remove the order from any
21 computer-based criminal intelligence system.

22 (10) A temporary order, temporary restraining order, or preliminary
23 injunction:

24 (a) Does not prejudice the rights of a party or any child which are
25 to be adjudicated at subsequent hearings in the proceeding;

26 (b) May be revoked or modified;

27 (c) Terminates when the final decree is entered, except as provided
28 under subsection ((~~+10~~)) (11) of this section, or when the petition
29 for dissolution, legal separation, or declaration of invalidity is
30 dismissed;

31 (d) May be entered in a proceeding for the modification of an
32 existing decree.

33 ((~~+10~~)) (11) Delinquent support payments accrued under an order
34 for temporary support remain collectible and are not extinguished when
35 a final decree is entered unless the decree contains specific language
36 to the contrary. A support debt under a temporary order owed to the
37 state for public assistance expenditures shall not be extinguished by
38 the final decree if:

1 (a) The obligor was given notice of the state's interest under
2 chapter 74.20A RCW; or

3 (b) The temporary order directs the obligor to make support
4 payments to the office of support enforcement or the Washington state
5 support registry.

6 **Sec. 8.** RCW 26.10.040 and 1995 c 93 s 3 are each amended to read
7 as follows:

8 (1) In entering an order under this chapter, the court shall
9 consider, approve, or make provision for:

10 ((+1)) (a) Child custody, visitation, and the support of any child
11 entitled to support;

12 ((+2)) (b) The allocation of the children as a federal tax
13 exemption;

14 ((+3)) (c) Any necessary continuing restraining orders, including
15 the provisions contained in RCW 9.41.800;

16 ((+4)) (d) A domestic violence protection order under chapter
17 26.50 RCW or an antiharassment protection order under chapter 10.14
18 RCW. The court may grant any of the relief provided in RCW 26.50.060
19 except relief pertaining to residential provisions for the children
20 which provisions shall be provided for under this chapter, and any of
21 the relief provided in RCW 10.14.080;

22 ((+5)) (e) Restraining orders issued under this section
23 restraining or enjoining the person from molesting or disturbing
24 another party, or from going onto the grounds of or entering the home,
25 workplace, or school of the other party or the day care or school of
26 any child, or prohibiting the person from knowingly coming within, or
27 knowingly remaining within, a specified distance of a location, shall
28 prominently bear on the front page of the order the legend: VIOLATION
29 OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE
30 UNDER CHAPTER ((26.10)) 26.50 RCW AND WILL SUBJECT A VIOLATOR TO
31 ARREST((+)).

32 ((+6)) (2) The court shall order that any restraining order
33 bearing a criminal offense legend, any domestic violence protection
34 order, or any antiharassment protection order granted under this
35 section, in addition to the law enforcement information sheet or proof
36 of service of the order, be forwarded by the clerk of the court on or
37 before the next judicial day to the appropriate law enforcement agency
38 specified in the order. Upon receipt of the order, the law enforcement

1 agency shall (~~forthwith~~) enter the order into any computer-based
2 criminal intelligence information system available in this state used
3 by law enforcement agencies to list outstanding warrants. The order is
4 fully enforceable in any county in the state.

5 (3) If a restraining order issued pursuant to this section is
6 modified or terminated, the clerk of the court shall notify the law
7 enforcement agency specified in the order on or before the next
8 judicial day. Upon receipt of notice that an order has been
9 terminated, the law enforcement agency shall remove the order from any
10 computer-based criminal intelligence system.

11 **Sec. 9.** RCW 26.10.115 and 1995 c 246 s 29 are each amended to read
12 as follows:

13 (1) In a proceeding under this chapter either party may file a
14 motion for temporary support of children entitled to support. The
15 motion shall be accompanied by an affidavit setting forth the factual
16 basis for the motion and the amount requested.

17 (2) In a proceeding under this chapter either party may file a
18 motion for a temporary restraining order or preliminary injunction,
19 providing relief proper in the circumstances, and restraining or
20 enjoining any person from:

21 (a) Molesting or disturbing the peace of the other party or of any
22 child;

23 (b) Entering the family home or the home of the other party upon a
24 showing of the necessity therefor;

25 (c) Knowingly coming within, or knowingly remaining within, a
26 specified distance from a specified location; and

27 (d) Removing a child from the jurisdiction of the court.

28 (3) Either party may request a domestic violence protection order
29 under chapter 26.50 RCW or an antiharassment protection order under
30 chapter 10.14 RCW on a temporary basis. The court may grant any of the
31 relief provided in RCW 26.50.060 except relief pertaining to
32 residential provisions for the children which provisions shall be
33 provided for under this chapter, and any of the relief provided in RCW
34 10.14.080. Ex parte orders issued under this subsection shall be
35 effective for a fixed period not to exceed fourteen days, or upon court
36 order, not to exceed twenty-four days if necessary to ensure that all
37 temporary motions in the case can be heard at the same time.

1 (4) In issuing the order, the court shall consider the provisions
2 of RCW 9.41.800.

3 (5) The court may issue a temporary restraining order without
4 requiring notice to the other party only if it finds on the basis of
5 the moving affidavit or other evidence that irreparable injury could
6 result if an order is not issued until the time for responding has
7 elapsed.

8 (6) The court may issue a temporary restraining order or
9 preliminary injunction and an order for temporary support in such
10 amounts and on such terms as are just and proper in the circumstances.

11 (7) Restraining orders issued under this section restraining or
12 enjoining the person from molesting or disturbing another party, or
13 from going onto the grounds of or entering the home, workplace, or
14 school of the other party or the day care or school of any child, or
15 prohibiting the person from knowingly coming within, or knowingly
16 remaining within, a specified distance of a location, shall prominently
17 bear on the front page of the order the legend: VIOLATION OF THIS
18 ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER
19 CHAPTER ((~~26.10~~)) 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

20 (8) The court shall order that any temporary restraining order
21 bearing a criminal offense legend, any domestic violence protection
22 order, or any antiharassment protection order granted under this
23 section be forwarded by the clerk of the court on or before the next
24 judicial day to the appropriate law enforcement agency specified in the
25 order. Upon receipt of the order, the law enforcement agency shall
26 ((~~forthwith~~)) enter the order into any computer-based criminal
27 intelligence information system available in this state used by law
28 enforcement agencies to list outstanding warrants. Entry into the
29 ((~~law enforcement~~)) computer-based criminal intelligence information
30 system constitutes notice to all law enforcement agencies of the
31 existence of the order. The order is fully enforceable in any county
32 in the state.

33 (9) If a restraining order issued pursuant to this section is
34 modified or terminated, the clerk of the court shall notify the law
35 enforcement agency specified in the order on or before the next
36 judicial day. Upon receipt of notice that an order has been
37 terminated, the law enforcement agency shall remove the order from any
38 computer-based criminal intelligence system.

1 (10) A temporary order, temporary restraining order, or preliminary
2 injunction:

3 (a) Does not prejudice the rights of a party or any child which are
4 to be adjudicated at subsequent hearings in the proceeding;

5 (b) May be revoked or modified;

6 (c) Terminates when the final order is entered or when the motion
7 is dismissed;

8 (d) May be entered in a proceeding for the modification of an
9 existing order.

10 (~~(10)~~) (11) A support debt owed to the state for public
11 assistance expenditures which has been charged against a party pursuant
12 to RCW 74.20A.040 and/or 74.20A.055 shall not be merged in, or
13 otherwise extinguished by, the final decree or order, unless the office
14 of support enforcement has been given notice of the final proceeding
15 and an opportunity to present its claim for the support debt to the
16 court and has failed to file an affidavit as provided in this
17 subsection. Notice of the proceeding shall be served upon the office
18 of support enforcement personally, or by certified mail, and shall be
19 given no fewer than thirty days prior to the date of the final
20 proceeding. An original copy of the notice shall be filed with the
21 court either before service or within a reasonable time thereafter.
22 The office of support enforcement may present its claim, and thereby
23 preserve the support debt, by filing an affidavit setting forth the
24 amount of the debt with the court, and by mailing a copy of the
25 affidavit to the parties or their attorney prior to the date of the
26 final proceeding.

27 **Sec. 10.** RCW 26.26.130 and 1997 c 58 s 947 are each amended to
28 read as follows:

29 (1) The judgment and order of the court determining the existence
30 or nonexistence of the parent and child relationship shall be
31 determinative for all purposes.

32 (2) If the judgment and order of the court is at variance with the
33 child's birth certificate, the court shall order that an amended birth
34 certificate be issued.

35 (3) The judgment and order shall contain other appropriate
36 provisions directed to the appropriate parties to the proceeding,
37 concerning the duty of current and future support, the extent of any
38 liability for past support furnished to the child if that issue is

1 before the court, the furnishing of bond or other security for the
2 payment of the judgment, or any other matter in the best interest of
3 the child. The judgment and order may direct the father to pay the
4 reasonable expenses of the mother's pregnancy and confinement. The
5 judgment and order may include a continuing restraining order or
6 injunction. In issuing the order, the court shall consider the
7 provisions of RCW 9.41.800.

8 (4) The judgment and order shall contain the social security
9 numbers of all parties to the order.

10 (5) Support judgment and orders shall be for periodic payments
11 which may vary in amount. The court may limit the father's liability
12 for the past support to the child to the proportion of the expenses
13 already incurred as the court deems just. The court shall not limit or
14 affect in any manner the right of nonparties including the state of
15 Washington to seek reimbursement for support and other services
16 previously furnished to the child.

17 (6) After considering all relevant factors, the court shall order
18 either or both parents to pay an amount determined pursuant to the
19 schedule and standards contained in chapter 26.19 RCW.

20 (7) On the same basis as provided in chapter 26.09 RCW, the court
21 shall make residential provisions with regard to minor children of the
22 parties, except that a parenting plan shall not be required unless
23 requested by a party.

24 (8) In any dispute between the natural parents of a child and a
25 person or persons who have (a) commenced adoption proceedings or who
26 have been granted an order of adoption, and (b) pursuant to a court
27 order, or placement by the department of social and health services or
28 by a licensed agency, have had actual custody of the child for a period
29 of one year or more before court action is commenced by the natural
30 parent or parents, the court shall consider the best welfare and
31 interests of the child, including the child's need for situation
32 stability, in determining the matter of custody, and the parent or
33 person who is more fit shall have the superior right to custody.

34 (9) In entering an order under this chapter, the court may issue
35 any necessary continuing restraining orders, including the restraint
36 provisions of domestic violence protection orders under chapter 26.50
37 RCW or antiharassment protection orders under chapter 10.14 RCW.

38 (10) Restraining orders issued under this section restraining or
39 enjoining the person from molesting or disturbing another party ((or)),

1 from going onto the grounds of or entering the home, workplace, or
2 school of the other party or the day care or school of any child, or
3 prohibiting the person from knowingly coming within, or knowingly
4 remaining within, a specified distance of a location, shall prominently
5 bear on the front page of the order the legend: VIOLATION OF THIS
6 ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER
7 CHAPTER ((26.26)) 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

8 (11) The court shall order that any restraining order bearing a
9 criminal offense legend, any domestic violence protection order, or any
10 antiharassment protection order granted under this section be forwarded
11 by the clerk of the court on or before the next judicial day to the
12 appropriate law enforcement agency specified in the order. Upon
13 receipt of the order, the law enforcement agency shall forthwith enter
14 the order into any computer-based criminal intelligence information
15 system available in this state used by law enforcement agencies to list
16 outstanding warrants. The order is fully enforceable in any county in
17 the state.

18 (12) If a restraining order issued pursuant to this section is
19 modified or terminated, the clerk of the court shall notify the law
20 enforcement agency specified in the order on or before the next
21 judicial day. Upon receipt of notice that an order has been
22 terminated, the law enforcement agency shall remove the order from any
23 computer-based criminal intelligence system.

24 **Sec. 11.** RCW 26.26.137 and 1995 c 246 s 32 are each amended to
25 read as follows:

26 (1) If the court has made a finding as to the paternity of a child,
27 or if a party's acknowledgment of paternity has been filed with the
28 court, or a party alleges he is the father of the child, any party may
29 move for temporary support for the child prior to the date of entry of
30 the final order. The motion shall be accompanied by an affidavit
31 setting forth the factual basis for the motion and the amounts
32 requested.

33 (2) Any party may request the court to issue a temporary
34 restraining order or preliminary injunction, providing relief proper in
35 the circumstances, and restraining or enjoining any party from:

36 (a) Molesting or disturbing the peace of another party;

37 (b) Going onto the grounds of or entering the home, workplace, or
38 school of another party or the day care or school of any child; ((or))

1 (c) Knowingly coming within, or knowingly remaining within, a
2 specified distance from a specified location; and

3 (d) Removing a child from the jurisdiction of the court.

4 (3) Either party may request a domestic violence protection order
5 under chapter 26.50 RCW or an antiharassment protection order under
6 chapter 10.14 RCW on a temporary basis. The court may grant any of the
7 relief provided in RCW 26.50.060 except relief pertaining to
8 residential provisions for the children which provisions shall be
9 provided for under this chapter, and any of the relief provided in RCW
10 10.14.080. Ex parte orders issued under this subsection shall be
11 effective for a fixed period not to exceed fourteen days, or upon court
12 order, not to exceed twenty-four days if necessary to ensure that all
13 temporary motions in the case can be heard at the same time.

14 (4) Restraining orders issued under this section restraining or
15 enjoining the person from molesting or disturbing another party, or
16 from going onto the grounds of or entering the home, workplace, or
17 school of the other party or the day care or school of any child, or
18 prohibiting the person from knowingly coming within, or knowingly
19 remaining within, a specified distance of a location, shall prominently
20 bear on the front page of the order the legend: VIOLATION OF THIS
21 ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER
22 CHAPTER ((26.26)) 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

23 (5) The court shall order that any temporary restraining order
24 bearing a criminal offense legend, any domestic violence protection
25 order, or any antiharassment protection order granted under this
26 section be forwarded by the clerk of the court on or before the next
27 judicial day to the appropriate law enforcement agency specified in the
28 order. Upon receipt of the order, the law enforcement agency shall
29 ((~~forthwith~~)) enter the order into any computer-based criminal
30 intelligence information system available in this state used by law
31 enforcement agencies to list outstanding warrants. The order is fully
32 enforceable in any county in the state.

33 (6) If a restraining order issued pursuant to this section is
34 modified or terminated, the clerk of the court shall notify the law
35 enforcement agency specified in the order on or before the next
36 judicial day. Upon receipt of notice that an order has been
37 terminated, the law enforcement agency shall remove the order from any
38 computer-based criminal intelligence system.

1 (7) The court may issue a temporary restraining order without
2 requiring notice to the other party only if it finds on the basis of
3 the moving affidavit or other evidence that irreparable injury could
4 result if an order is not issued until the time for responding has
5 elapsed.

6 (~~(7)~~) (8) The court may issue a temporary restraining order or
7 preliminary injunction and an order for temporary support in such
8 amounts and on such terms as are just and proper in the circumstances.
9 In issuing the order, the court shall consider the provisions of RCW
10 9.41.800.

11 (~~(8)~~) (9) A temporary order, temporary restraining order, or
12 preliminary injunction:

13 (a) Does not prejudice the rights of a party or any child which are
14 to be adjudicated at subsequent hearings in the proceeding;

15 (b) May be revoked or modified;

16 (c) Terminates when the final order is entered or when the petition
17 is dismissed; and

18 (d) May be entered in a proceeding for the modification of an
19 existing order.

20 (~~(9)~~) (10) A support debt owed to the state for public assistance
21 expenditures which has been charged against a party pursuant to RCW
22 74.20A.040 and/or 74.20A.055 shall not be merged in, or otherwise
23 extinguished by, the final decree or order, unless the office of
24 support enforcement has been given notice of the final proceeding and
25 an opportunity to present its claim for the support debt to the court
26 and has failed to file an affidavit as provided in this subsection.
27 Notice of the proceeding shall be served upon the office of support
28 enforcement personally, or by certified mail, and shall be given no
29 fewer than thirty days prior to the date of the final proceeding. An
30 original copy of the notice shall be filed with the court either before
31 service or within a reasonable time thereafter. The office of support
32 enforcement may present its claim, and thereby preserve the support
33 debt, by filing an affidavit setting forth the amount of the debt with
34 the court, and by mailing a copy of the affidavit to the parties or
35 their attorney prior to the date of the final proceeding.

36 **Sec. 12.** RCW 26.44.063 and 1993 c 412 s 15 are each amended to
37 read as follows:

1 (1) It is the intent of the legislature to minimize trauma to a
2 child involved in an allegation of sexual or physical abuse. The
3 legislature declares that removing the child from the home often has
4 the effect of further traumatizing the child. It is, therefore, the
5 legislature's intent that the alleged offender, rather than the child,
6 shall be removed from the home and that this should be done at the
7 earliest possible point of intervention in accordance with RCW
8 10.31.100, 13.34.130, this section, and RCW 26.44.130.

9 (2) In any judicial proceeding in which it is alleged that a child
10 has been subjected to sexual or physical abuse, if the court finds
11 reasonable grounds to believe that an incident of sexual or physical
12 abuse has occurred, the court may, on its own motion, or the motion of
13 the guardian ad litem or other parties, issue a temporary restraining
14 order or preliminary injunction restraining or enjoining the person
15 accused of committing the abuse from:

16 (a) Molesting or disturbing the peace of the alleged victim;

17 (b) Entering the family home of the alleged victim except as
18 specifically authorized by the court; (~~(or)~~)

19 (c) Having any contact with the alleged victim, except as
20 specifically authorized by the court;

21 (d) Knowingly coming within, or knowingly remaining within, a
22 specified distance of a specified location.

23 (3) In issuing a temporary restraining order or preliminary
24 injunction, the court may impose any additional restrictions that the
25 court in its discretion determines are necessary to protect the child
26 from further abuse or emotional trauma pending final resolution of the
27 abuse allegations.

28 (4) The court shall issue a temporary restraining order prohibiting
29 a person from entering the family home if the court finds that the
30 order would eliminate the need for an out-of-home placement to protect
31 the child's right to nurturance, health, and safety and is sufficient
32 to protect the child from further sexual or physical abuse or coercion.

33 (5) The court may issue a temporary restraining order without
34 requiring notice to the party to be restrained or other parties only if
35 it finds on the basis of the moving affidavit or other evidence that
36 irreparable injury could result if an order is not issued until the
37 time for responding has elapsed.

38 (6) A temporary restraining order or preliminary injunction:

1 (a) Does not prejudice the rights of a party or any child which are
2 to be adjudicated at subsequent hearings in the proceeding; and

3 (b) May be revoked or modified.

4 (7) The person having physical custody of the child shall have an
5 affirmative duty to assist in the enforcement of the restraining order
6 including but not limited to a duty to notify the court as soon as
7 practicable of any violation of the order, a duty to request the
8 assistance of law enforcement officers to enforce the order, and a duty
9 to notify the department of social and health services of any violation
10 of the order as soon as practicable if the department is a party to the
11 action. Failure by the custodial party to discharge these affirmative
12 duties shall be subject to contempt proceedings.

13 (8) Willful violation of a court order entered under this section
14 is a misdemeanor. A written order shall contain the court's directive
15 and shall bear the legend: "Violation of this order with actual notice
16 of its terms is a criminal offense under chapter 26.44 RCW, is also
17 subject to contempt proceedings, and will subject a violator to
18 arrest."

19 (9) If a restraining order issued under this section is modified or
20 terminated, the clerk of the court shall notify the law enforcement
21 agency specified in the order on or before the next judicial day. Upon
22 receipt of notice that an order has been terminated, the law
23 enforcement agency shall remove the order from any computer-based
24 criminal intelligence system.

25 **Sec. 13.** RCW 26.44.067 and 1993 c 412 s 16 are each amended to
26 read as follows:

27 (1) Any person having had actual notice of the existence of a
28 restraining order issued by a court of competent jurisdiction pursuant
29 to RCW 26.44.063 who refuses to comply with the provisions of such
30 order shall be guilty of a misdemeanor.

31 (2) The notice requirements of subsection (1) of this section may
32 be satisfied by the peace officer giving oral or written evidence to
33 the person subject to the order by reading from or handing to that
34 person a copy certified by a notary public or the clerk of the court to
35 be an accurate copy of the original court order which is on file. The
36 copy may be supplied by the court or any party.

37 (3) The remedies provided in this section shall not apply unless
38 restraining orders subject to this section (~~shall~~) bear this legend:

1 VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL
2 OFFENSE UNDER CHAPTER 26.44 RCW AND IS ALSO SUBJECT TO CONTEMPT
3 PROCEEDINGS.

4 (4) It is a defense to prosecution under subsection (1) of this
5 section that the court order was issued contrary to law or court rule.
6 No right of action shall accrue against any peace officer acting upon
7 a properly certified copy of a court order lawful on its face if such
8 officer employs otherwise lawful means to effect the arrest.

9 **Sec. 14.** RCW 26.50.035 and 1995 c 246 s 4 are each amended to read
10 as follows:

11 (1) (~~By July 1, 1994,~~) The administrator for the courts shall
12 develop and prepare instructions and informational brochures required
13 under RCW 26.50.030(4), standard petition and order for protection
14 forms, and a court staff handbook on domestic violence and the
15 protection order process. The standard petition and order for
16 protection forms must be used after September 1, 1994, for all
17 petitions filed and orders issued under this chapter. The
18 instructions, brochures, forms, and handbook shall be prepared in
19 consultation with interested persons, including a representative of the
20 state domestic violence coalition, judges, and law enforcement
21 personnel.

22 (a) The instructions shall be designed to assist petitioners in
23 completing the petition, and shall include a sample of standard
24 petition and order for protection forms.

25 (b) The informational brochure shall describe the use of and the
26 process for obtaining ((a)), modifying, and terminating a domestic
27 violence protection order as provided under this chapter, ((a)) an
28 anti-harassment no-contact order as provided ((by RCW 10.99.040)) under
29 chapter 9A.46 RCW, a domestic violence no-contact order as provided
30 under chapter 10.99 RCW, a restraining order as provided ((by RCW
31 26.09.060)) under chapter 26.09, 26.10, 26.26, and 26.44 RCW, ((and))
32 an antiharassment protection order as provided by chapter 10.14 RCW,
33 and a foreign protection order as defined in chapter 26.52 RCW.

34 (c) The order for protection form shall include, in a conspicuous
35 location, notice of criminal penalties resulting from violation of the
36 order, and the following statement: "You can be arrested even if the
37 person or persons who obtained the order invite or allow you to violate
38 the order's prohibitions. The respondent has the sole responsibility

1 to avoid or refrain from violating the order's provisions. Only the
2 court can change the order upon written application."

3 (d) The court staff handbook shall allow for the addition of a
4 community resource list by the court clerk.

5 (2) All court clerks shall obtain a community resource list from a
6 domestic violence program, defined in RCW 70.123.020, serving the
7 county in which the court is located. The community resource list
8 shall include the names and telephone numbers of domestic violence
9 programs serving the community in which the court is located, including
10 law enforcement agencies, domestic violence agencies, sexual assault
11 agencies, legal assistance programs, interpreters, multicultural
12 programs, and batterers' treatment programs. The court shall make the
13 community resource list available as part of or in addition to the
14 informational brochures described in subsection (1) of this section.

15 (3) The administrator for the courts shall distribute a master copy
16 of the petition and order forms, instructions, and informational
17 brochures to all court clerks and shall distribute a master copy of the
18 petition and order forms to all superior, district, and municipal
19 courts.

20 (4) For purposes of this section, "court clerks" means court
21 administrators in courts of limited jurisdiction and elected court
22 clerks.

23 (5) The administrator for the courts shall determine the
24 significant non-English-speaking or limited English-speaking
25 populations in the state. The administrator shall then arrange for
26 translation of the instructions and informational brochures required by
27 this section, which shall contain a sample of the standard petition and
28 order for protection forms, into the languages spoken by those
29 significant non-English-speaking populations and shall distribute a
30 master copy of the translated instructions and informational brochures
31 to all court clerks by January 1, 1997.

32 (6) The administrator for the courts shall update the instructions,
33 brochures, standard petition and order for protection forms, and court
34 staff handbook when changes in the law make an update necessary.

35 **Sec. 15.** RCW 26.50.060 and 1999 c 147 s 2 are each amended to read
36 as follows:

37 (1) Upon notice and after hearing, the court may provide relief as
38 follows:

1 (a) Restrain the respondent from committing acts of domestic
2 violence;

3 (b) Exclude the respondent from the dwelling (~~(which)~~) that the
4 parties share, from the residence, workplace, or school of the
5 petitioner, or from the day care or school of a child;

6 (c) Prohibit the respondent from knowingly coming within, or
7 knowingly remaining within, a specified distance from a specified
8 location;

9 (d) On the same basis as is provided in chapter 26.09 RCW, the
10 court shall make residential provision with regard to minor children of
11 the parties. However, parenting plans as specified in chapter 26.09
12 RCW shall not be required under this chapter;

13 (~~(d)~~) (e) Order the respondent to participate in a domestic
14 violence perpetrator treatment program approved under RCW 26.50.150;

15 (~~(e)~~) (f) Order other relief as it deems necessary for the
16 protection of the petitioner and other family or household members
17 sought to be protected, including orders or directives to a peace
18 officer, as allowed under this chapter;

19 (~~(f)~~) (g) Require the respondent to pay the administrative court
20 costs and service fees, as established by the county or municipality
21 incurring the expense and to reimburse the petitioner for costs
22 incurred in bringing the action, including (~~(a)~~) reasonable
23 (~~attorney's fee~~) attorneys' fees;

24 (~~(g)~~) (h) Restrain the respondent from having any contact with
25 the victim of domestic violence or the victim's children or members of
26 the victim's household;

27 (~~(h)~~) (i) Require the respondent to submit to electronic
28 monitoring. The order shall specify who shall provide the electronic
29 monitoring services and the terms under which the monitoring must be
30 performed. The order also may include a requirement that the
31 respondent pay the costs of the monitoring. The court shall consider
32 the ability of the respondent to pay for electronic monitoring;

33 (~~(i)~~) (j) Consider the provisions of RCW 9.41.800;

34 (~~(j)~~) (k) Order possession and use of essential personal effects.
35 The court shall list the essential personal effects with sufficient
36 specificity to make it clear which property is included; and

37 (~~(k)~~) (l) Order use of a vehicle.

38 (2) If a (~~restraining~~) protection order restrains the respondent
39 from contacting the respondent's minor children the restraint shall be

1 for a fixed period not to exceed one year. This limitation is not
2 applicable to orders for protection issued under chapter 26.09, 26.10,
3 or 26.26 RCW. With regard to other relief, if the petitioner has
4 petitioned for relief on his or her own behalf or on behalf of the
5 petitioner's family or household members or minor children, and the
6 court finds that the respondent is likely to resume acts of domestic
7 violence against the petitioner or the petitioner's family or household
8 members or minor children when the order expires, the court may either
9 grant relief for a fixed period or enter a permanent order of
10 protection.

11 If the petitioner has petitioned for relief on behalf of the
12 respondent's minor children, the court shall advise the petitioner that
13 if the petitioner wants to continue protection for a period beyond one
14 year the petitioner may either petition for renewal pursuant to the
15 provisions of this chapter or may seek relief pursuant to the
16 provisions of chapter 26.09 or 26.26 RCW.

17 (3) If the court grants an order for a fixed time period, the
18 petitioner may apply for renewal of the order by filing a petition for
19 renewal at any time within the three months before the order expires.
20 The petition for renewal shall state the reasons why the petitioner
21 seeks to renew the protection order. Upon receipt of the petition for
22 renewal the court shall order a hearing which shall be not later than
23 fourteen days from the date of the order. Except as provided in RCW
24 26.50.085, personal service shall be made on the respondent not less
25 than five days before the hearing. If timely service cannot be made
26 the court shall set a new hearing date and shall either require
27 additional attempts at obtaining personal service or permit service by
28 publication as provided in RCW 26.50.085 or by mail as provided in RCW
29 26.50.123. If the court permits service by publication or mail, the
30 court shall set the new hearing date not later than twenty-four days
31 from the date of the order. If the order expires because timely
32 service cannot be made the court shall grant an ex parte order of
33 protection as provided in RCW 26.50.070. The court shall grant the
34 petition for renewal unless the respondent proves by a preponderance of
35 the evidence that the respondent will not resume acts of domestic
36 violence against the petitioner or the petitioner's children or family
37 or household members when the order expires. The court may renew the
38 protection order for another fixed time period or may enter a permanent
39 order as provided in this section. The court may award court costs,

1 service fees, and reasonable attorneys' fees as provided in subsection
2 (1)(f) of this section.

3 (4) In providing relief under this chapter, the court may realign
4 the designation of the parties as "petitioner" and "respondent" where
5 the court finds that the original petitioner is the abuser and the
6 original respondent is the victim of domestic violence and may issue an
7 ex parte temporary order for protection in accordance with RCW
8 26.50.070 on behalf of the victim until the victim is able to prepare
9 a petition for an order for protection in accordance with RCW
10 26.50.030.

11 (5) Except as provided in subsection (4) of this section, no order
12 for protection shall grant relief to any party except upon notice to
13 the respondent and hearing pursuant to a petition or counter-petition
14 filed and served by the party seeking relief in accordance with RCW
15 26.50.050.

16 (6) The court order shall specify the date the order expires if
17 any. The court order shall also state whether the court issued the
18 protection order following personal service, service by publication, or
19 service by mail and whether the court has approved service by
20 publication or mail of an order issued under this section.

21 (7) If the court declines to issue an order for protection or
22 declines to renew an order for protection, the court shall state in
23 writing on the order the particular reasons for the court's denial.

24 **Sec. 16.** RCW 26.50.070 and 1996 c 248 s 14 are each amended to
25 read as follows:

26 (1) Where an application under this section alleges that
27 irreparable injury could result from domestic violence if an order is
28 not issued immediately without prior notice to the respondent, the
29 court may grant an ex parte temporary order for protection, pending a
30 full hearing, and grant relief as the court deems proper, including an
31 order:

32 (a) Restraining any party from committing acts of domestic
33 violence;

34 (b) Restraining any party from going onto the grounds of or
35 entering the dwelling that the parties share, from the residence,
36 workplace, or school of the other, or from the day care or school of a
37 child until further order of the court;

1 (c) Prohibiting any party from knowingly coming within, or
2 knowingly remaining within, a specified distance from a specified
3 location;

4 (d) Restraining any party from interfering with the other's custody
5 of the minor children or from removing the children from the
6 jurisdiction of the court;

7 (~~(d)~~) (e) Restraining any party from having any contact with the
8 victim of domestic violence or the victim's children or members of the
9 victim's household; and

10 (~~(e)~~) (f) Considering the provisions of RCW 9.41.800.

11 (2) Irreparable injury under this section includes but is not
12 limited to situations in which the respondent has recently threatened
13 petitioner with bodily injury or has engaged in acts of domestic
14 violence against the petitioner.

15 (3) The court shall hold an ex parte hearing in person or by
16 telephone on the day the petition is filed or on the following judicial
17 day.

18 (4) An ex parte temporary order for protection shall be effective
19 for a fixed period not to exceed fourteen days or twenty-four days if
20 the court has permitted service by publication under RCW 26.50.085 or
21 by mail under RCW 26.50.123. The ex parte order may be reissued. A
22 full hearing, as provided in this chapter, shall be set for not later
23 than fourteen days from the issuance of the temporary order or not
24 later than twenty-four days if service by publication or by mail is
25 permitted. Except as provided in RCW 26.50.050, 26.50.085, and
26 26.50.123, the respondent shall be personally served with a copy of the
27 ex parte order along with a copy of the petition and notice of the date
28 set for the hearing.

29 (5) Any order issued under this section shall contain the date and
30 time of issuance and the expiration date and shall be entered into a
31 state-wide judicial information system by the clerk of the court within
32 one judicial day after issuance.

33 (6) If the court declines to issue an ex parte temporary order for
34 protection the court shall state the particular reasons for the court's
35 denial. The court's denial of a motion for an ex parte order of
36 protection shall be filed with the court.

37 **Sec. 17.** RCW 9.94A.320 and 1999 c 352 s 3, 1999 c 322 s 5, and
38 1999 c 45 s 4 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

1		
2		
3	XVI	Aggravated Murder 1 (RCW 10.95.020)
4	XV	Homicide by abuse (RCW 9A.32.055)
5		Malicious explosion 1 (RCW 70.74.280(1))
6		Murder 1 (RCW 9A.32.030)
7	XIV	Murder 2 (RCW 9A.32.050)
8	XIII	Malicious explosion 2 (RCW 70.74.280(2))
9		Malicious placement of an explosive 1 (RCW
10		70.74.270(1))
11	XII	Assault 1 (RCW 9A.36.011)
12		Assault of a Child 1 (RCW 9A.36.120)
13		Malicious placement of an imitation device
14		1 (RCW 70.74.272(1)(a))
15		Rape 1 (RCW 9A.44.040)
16		Rape of a Child 1 (RCW 9A.44.073)
17	XI	Manslaughter 1 (RCW 9A.32.060)
18		Rape 2 (RCW 9A.44.050)
19		Rape of a Child 2 (RCW 9A.44.076)
20	X	Child Molestation 1 (RCW 9A.44.083)
21		Indecent Liberties (with forcible
22		compulsion) (RCW 9A.44.100(1)(a))
23		Kidnapping 1 (RCW 9A.40.020)
24		Leading Organized Crime (RCW
25		9A.82.060(1)(a))
26		Malicious explosion 3 (RCW 70.74.280(3))
27		Manufacture of methamphetamine (RCW
28		69.50.401(a)(1)(ii))
29		Over 18 and deliver heroin,
30		methamphetamine, a narcotic from
31		Schedule I or II, or flunitrazepam
32		from Schedule IV to someone under 18
33		(RCW 69.50.406)
34	IX	Assault of a Child 2 (RCW 9A.36.130)

1 Controlled Substance Homicide (RCW
 2 69.50.415)
 3 Explosive devices prohibited (RCW
 4 70.74.180)
 5 Homicide by Watercraft, by being under the
 6 influence of intoxicating liquor or
 7 any drug (RCW ((88.12.029))
 8 79A.60.050)
 9 Inciting Criminal Profiteering (RCW
 10 9A.82.060(1)(b))
 11 Malicious placement of an explosive 2 (RCW
 12 70.74.270(2))
 13 Over 18 and deliver narcotic from Schedule
 14 III, IV, or V or a nonnarcotic, except
 15 flunitrazepam or methamphetamine, from
 16 Schedule I-V to someone under 18 and 3
 17 years junior (RCW 69.50.406)
 18 Robbery 1 (RCW 9A.56.200)
 19 Sexual Exploitation (RCW 9.68A.040)
 20 Vehicular Homicide, by being under the
 21 influence of intoxicating liquor or
 22 any drug (RCW 46.61.520)

23 VIII Arson 1 (RCW 9A.48.020)

24 Deliver or possess with intent to deliver
 25 m e t h a m p h e t a m i n e (R C W
 26 69.50.401(a)(1)(ii))

27 Homicide by Watercraft, by the operation of
 28 any vessel in a reckless manner (RCW
 29 ((88.12.029)) 79A.60.050)

30 Manslaughter 2 (RCW 9A.32.070)

31 Manufacture, deliver, or possess with
 32 intent to deliver amphetamine (RCW
 33 69.50.401(a)(1)(ii))

34 Manufacture, deliver, or possess with
 35 intent to deliver heroin or cocaine
 36 (RCW 69.50.401(a)(1)(i))

37 Possession of ephedrine or pseudoephedrine
 38 with intent to manufacture
 39 methamphetamine (RCW 69.50.440)

1 Promoting Prostitution 1 (RCW 9A.88.070)
2 Selling for profit (controlled or
3 counterfeit) any controlled substance
4 (RCW 69.50.410)
5 Vehicular Homicide, by the operation of any
6 vehicle in a reckless manner (RCW
7 46.61.520)

8 VII Burglary 1 (RCW 9A.52.020)
9 Child Molestation 2 (RCW 9A.44.086)
10 Dealing in depictions of minor engaged in
11 sexually explicit conduct (RCW
12 9.68A.050)
13 Drive-by Shooting (RCW 9A.36.045)
14 Homicide by Watercraft, by disregard for
15 the safety of others (RCW
16 ((88.12.029)) 79A.60.050)
17 Indecent Liberties (without forcible
18 compulsion) (RCW 9A.44.100(1) (b) and
19 (c))
20 Introducing Contraband 1 (RCW 9A.76.140)
21 Involving a minor in drug dealing (RCW
22 69.50.401(f))
23 Malicious placement of an explosive 3 (RCW
24 70.74.270(3))
25 Sending, bringing into state depictions of
26 minor engaged in sexually explicit
27 conduct (RCW 9.68A.060)
28 Unlawful Possession of a Firearm in the
29 first degree (RCW 9.41.040(1)(a))
30 Use of a Machine Gun in Commission of a
31 Felony (RCW 9.41.225)
32 Vehicular Homicide, by disregard for the
33 safety of others (RCW 46.61.520)

34 VI Bail Jumping with Murder 1 (RCW
35 9A.76.170(2)(a))
36 Bribery (RCW 9A.68.010)
37 Incest 1 (RCW 9A.64.020(1))
38 Intimidating a Judge (RCW 9A.72.160)

1 Intimidating a Juror/Witness (RCW
2 9A.72.110, 9A.72.130)
3 Malicious placement of an imitation device
4 2 (RCW 70.74.272(1)(b))
5 Manufacture, deliver, or possess with
6 intent to deliver narcotics from
7 Schedule I or II (except heroin or
8 cocaine) or flunitrazepam from
9 Schedule IV (RCW 69.50.401(a)(1)(i))
10 Rape of a Child 3 (RCW 9A.44.079)
11 Theft of a Firearm (RCW 9A.56.300)
12 V Abandonment of dependent person 1 (RCW
13 9A.42.060)
14 Advancing money or property for
15 extortionate extension of credit (RCW
16 9A.82.030)
17 Bail Jumping with class A Felony (RCW
18 9A.76.170(2)(b))
19 Child Molestation 3 (RCW 9A.44.089)
20 Criminal Mistreatment 1 (RCW 9A.42.020)
21 Custodial Sexual Misconduct 1 (RCW
22 9A.44.160)
23 Delivery of imitation controlled substance
24 by person eighteen or over to person
25 under eighteen (RCW 69.52.030(2))
26 Domestic Violence Court Order Violation
27 (RCW 10.99.040, 10.99.050, 26.09.300,
28 26.10.220, 26.26.138, 26.50.110,
29 26.52.070, or section 2 of this act)
30 Extortion 1 (RCW 9A.56.120)
31 Extortionate Extension of Credit (RCW
32 9A.82.020)
33 Extortionate Means to Collect Extensions of
34 Credit (RCW 9A.82.040)
35 Incest 2 (RCW 9A.64.020(2))
36 Kidnapping 2 (RCW 9A.40.030)
37 ~~((On and after July 1, 2000: No-Contact~~
38 ~~Order Violation: Domestic Violence~~

1 ~~Pretrial Condition (RCW 10.99.040(4)~~
2 ~~(b) and (c))~~
3 ~~On and after July 1, 2000: No Contact~~
4 ~~Order Violation: Domestic Violence~~
5 ~~Sentence Condition (RCW 10.99.050(2))~~
6 ~~On and after July 1, 2000: Protection~~
7 ~~Order Violation: Domestic Violence~~
8 ~~Civil Action (RCW 26.50.110 (4) and~~
9 ~~(5))~~
10 ~~On and after July 1, 2000: Stalking (RCW~~
11 ~~9A.46.110))~~
12 Perjury 1 (RCW 9A.72.020)
13 Persistent prison misbehavior (RCW
14 9.94.070)
15 Possession of a Stolen Firearm (RCW
16 9A.56.310)
17 Rape 3 (RCW 9A.44.060)
18 Rendering Criminal Assistance 1 (RCW
19 9A.76.070)
20 Sexual Misconduct with a Minor 1 (RCW
21 9A.44.093)
22 Sexually Violating Human Remains (RCW
23 9A.44.105)
24 Stalking (RCW 9A.46.110)

25 IV Arson 2 (RCW 9A.48.030)
26 Assault 2 (RCW 9A.36.021)
27 Assault by Watercraft (RCW ((~~88.12.032~~))
28 79A.60.060)
29 Bribing a Witness/Bribe Received by Witness
30 (RCW 9A.72.090, 9A.72.100)
31 Commercial Bribery (RCW 9A.68.060)
32 Counterfeiting (RCW 9.16.035(4))
33 Escape 1 (RCW 9A.76.110)
34 Hit and Run--Injury Accident (RCW
35 46.52.020(4))
36 Hit and Run with Vessel--Injury Accident
37 (RCW ((~~88.12.155(3)~~)) 79A.60.200(3))

1 Indecent Exposure to Person Under Age
2 Fourteen (subsequent sex offense) (RCW
3 9A.88.010)
4 Influencing Outcome of Sporting Event (RCW
5 9A.82.070)
6 Knowingly Trafficking in Stolen Property
7 (RCW 9A.82.050(2))
8 Malicious Harassment (RCW 9A.36.080)
9 Manufacture, deliver, or possess with
10 intent to deliver narcotics from
11 Schedule III, IV, or V or nonnarcotics
12 from Schedule I-V (except marijuana,
13 amphetamine, methamphetamines, or
14 flunitrazepam) (RCW 69.50.401(a)(1)
15 (iii) through (v))
16 Residential Burglary (RCW 9A.52.025)
17 Robbery 2 (RCW 9A.56.210)
18 Theft of Livestock 1 (RCW 9A.56.080)
19 Threats to Bomb (RCW 9.61.160)
20 Use of Proceeds of Criminal Profiteering
21 (RCW 9A.82.080 (1) and (2))
22 Vehicular Assault (RCW 46.61.522)
23 Willful Failure to Return from Furlough
24 (RCW 72.66.060)
25 III Abandonment of dependent person 2 (RCW
26 9A.42.070)
27 Assault 3 (RCW 9A.36.031)
28 Assault of a Child 3 (RCW 9A.36.140)
29 Bail Jumping with class B or C Felony (RCW
30 9A.76.170(2)(c))
31 Burglary 2 (RCW 9A.52.030)
32 Communication with a Minor for Immoral
33 Purposes (RCW 9.68A.090)
34 Criminal Gang Intimidation (RCW 9A.46.120)
35 Criminal Mistreatment 2 (RCW 9A.42.030)
36 Custodial Assault (RCW 9A.36.100)
37 Delivery of a material in lieu of a
38 controlled substance (RCW
39 69.50.401(c))

1 Escape 2 (RCW 9A.76.120)
2 Extortion 2 (RCW 9A.56.130)
3 Harassment (RCW 9A.46.020)
4 Intimidating a Public Servant (RCW
5 9A.76.180)
6 Introducing Contraband 2 (RCW 9A.76.150)
7 Maintaining a Dwelling or Place for
8 Controlled Substances (RCW
9 69.50.402(a)(6))
10 Malicious Injury to Railroad Property (RCW
11 81.60.070)
12 Manufacture, deliver, or possess with
13 intent to deliver marijuana (RCW
14 69.50.401(a)(1)(iii))
15 Manufacture, distribute, or possess with
16 intent to distribute an imitation
17 controlled substance (RCW
18 69.52.030(1))
19 Patronizing a Juvenile Prostitute (RCW
20 9.68A.100)
21 Perjury 2 (RCW 9A.72.030)
22 Possession of Incendiary Device (RCW
23 9.40.120)
24 Possession of Machine Gun or Short-Barreled
25 Shotgun or Rifle (RCW 9.41.190)
26 Promoting Prostitution 2 (RCW 9A.88.080)
27 Recklessly Trafficking in Stolen Property
28 (RCW 9A.82.050(1))
29 Securities Act violation (RCW 21.20.400)
30 Tampering with a Witness (RCW 9A.72.120)
31 Telephone Harassment (subsequent conviction
32 or threat of death) (RCW 9.61.230)
33 Theft of Livestock 2 (RCW 9A.56.080)
34 Unlawful Imprisonment (RCW 9A.40.040)
35 Unlawful possession of firearm in the
36 second degree (RCW 9.41.040(1)(b))
37 Unlawful Use of Building for Drug Purposes
38 (RCW 69.53.010)

1 Willful Failure to Return from Work Release
2 (RCW 72.65.070)

3 II Computer Trespass 1 (RCW 9A.52.110)
4 Counterfeiting (RCW 9.16.035(3))
5 Create, deliver, or possess a counterfeit
6 controlled substance (RCW
7 69.50.401(b))
8 Escape from Community Custody (RCW
9 72.09.310)

10 Health Care False Claims (RCW 48.80.030)
11 Malicious Mischief 1 (RCW 9A.48.070)
12 Possession of controlled substance that is
13 either heroin or narcotics from
14 Schedule I or II or flunitrazepam from
15 Schedule IV (RCW 69.50.401(d))
16 Possession of phencyclidine (PCP) (RCW
17 69.50.401(d))
18 Possession of Stolen Property 1 (RCW
19 9A.56.150)
20 Theft 1 (RCW 9A.56.030)
21 Theft of Rental, Leased, or Lease-purchased
22 Property (valued at one thousand five
23 hundred dollars or more) (RCW
24 9A.56.096(4))
25 Trafficking in Insurance Claims (RCW
26 48.30A.015)
27 Unlawful Practice of Law (RCW 2.48.180)
28 Unlicensed Practice of a Profession or
29 Business (RCW 18.130.190(7))

30 I Attempting to Elude a Pursuing Police
31 Vehicle (RCW 46.61.024)
32 False Verification for Welfare (RCW
33 74.08.055)
34 Forged Prescription (RCW 69.41.020)
35 Forged Prescription for a Controlled
36 Substance (RCW 69.50.403)
37 Forgery (RCW 9A.60.020)
38 Malicious Mischief 2 (RCW 9A.48.080)

1 Possess Controlled Substance that is a
2 Narcotic from Schedule III, IV, or V
3 or Non-narcotic from Schedule I-V
4 (except phencyclidine or
5 flunitrazepam) (RCW 69.50.401(d))
6 Possession of Stolen Property 2 (RCW
7 9A.56.160)
8 Reckless Burning 1 (RCW 9A.48.040)
9 Taking Motor Vehicle Without Permission
10 (RCW 9A.56.070)
11 Theft 2 (RCW 9A.56.040)
12 Theft of Rental, Leased, or Lease-purchased
13 Property (valued at two hundred fifty
14 dollars or more but less than one
15 thousand five hundred dollars) (RCW
16 9A.56.096(4))
17 Unlawful Issuance of Checks or Drafts (RCW
18 9A.56.060)
19 Unlawful Use of Food Stamps (RCW 9.91.140
20 (2) and (3))
21 Vehicle Prowl 1 (RCW 9A.52.095)

22 **Sec. 18.** RCW 10.99.040 and 1997 c 338 s 54 are each amended to
23 read as follows:

24 (1) Because of the serious nature of domestic violence, the court
25 in domestic violence actions:

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

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

30 (c) Shall waive any requirement that the victim's location be
31 disclosed to any person, other than the attorney of a criminal
32 defendant, upon a showing that there is a possibility of further
33 violence: PROVIDED, That the court may order a criminal defense
34 attorney not to disclose to his or her client the victim's location;
35 and

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

1 (2)(a) Because of the likelihood of repeated violence directed at
2 those who have been victims of domestic violence in the past, when any
3 person charged with or arrested for a crime involving domestic violence
4 is released from custody before arraignment or trial on bail or
5 personal recognizance, the court authorizing the release may prohibit
6 that person from having any contact with the victim. The jurisdiction
7 authorizing the release shall determine whether that person should be
8 prohibited from having any contact with the victim. If there is no
9 outstanding restraining or protective order prohibiting that person
10 from having contact with the victim, the court authorizing release may
11 issue, by telephone, a no-contact order prohibiting the person charged
12 or arrested from having contact with the victim or from knowingly
13 coming within, or knowingly remaining within, a specified distance of
14 a location.

15 (b) In issuing the order, the court shall consider the provisions
16 of RCW 9.41.800.

17 (c) The no-contact order shall also be issued in writing as soon as
18 possible.

19 (3) At the time of arraignment the court shall determine whether a
20 no-contact order shall be issued or extended. The no-contact order
21 shall terminate if the defendant is acquitted or the charges are
22 dismissed. If a no-contact order is issued or extended, the court may
23 also include in the conditions of release a requirement that the
24 defendant submit to electronic monitoring. If electronic monitoring is
25 ordered, the court shall specify who shall provide the monitoring
26 services, and the terms under which the monitoring shall be performed.
27 Upon conviction, the court may require as a condition of the sentence
28 that the defendant reimburse the providing agency for the costs of the
29 electronic monitoring.

30 (4)(a) ~~Willful violation of a court order issued under subsection~~
31 ~~(2) or (3) of this section is ((a gross misdemeanor except as provided~~
32 ~~in (b) and (c) of this subsection (4). Upon conviction and in addition~~
33 ~~to other penalties provided by law, the court may require that the~~
34 ~~defendant submit to electronic monitoring. The court shall specify who~~
35 ~~shall provide the electronic monitoring services and the terms under~~
36 ~~which the monitoring must be performed. The court also may include a~~
37 ~~requirement that the defendant pay the costs of the monitoring. The~~
38 ~~court shall consider the ability of the convicted person to pay for~~
39 ~~electronic monitoring.~~

1 ~~(b) Any assault that is a violation of an order issued under this~~
2 ~~section and that does not amount to assault in the first or second~~
3 ~~degree under RCW 9A.36.011 or 9A.36.021 is a class C felony punishable~~
4 ~~under chapter 9A.20 RCW, and any conduct in violation of a protective~~
5 ~~order issued under this section that is reckless and creates a~~
6 ~~substantial risk of death or serious physical injury to another person~~
7 ~~is a class C felony punishable under chapter 9A.20 RCW.~~

8 ~~(c) A willful violation of a court order issued under this section~~
9 ~~is a class C felony if the offender has at least two previous~~
10 ~~convictions for violating the provisions of a no-contact order issued~~
11 ~~under this chapter, a domestic violence protection order issued under~~
12 ~~chapter 26.09, 26.10, 26.26, or 26.50 RCW, or any federal or out-of-~~
13 ~~state order that is comparable to a no-contact order or protection~~
14 ~~order issued under Washington law. The previous convictions may~~
15 ~~involve the same victim or other victims specifically protected by the~~
16 ~~no-contact orders or protection orders the offender violated))~~
17 ~~punishable under RCW 26.50.110.~~

18 ~~((d))~~ (b) The written order releasing the person charged or
19 arrested shall contain the court's directives and shall bear the
20 legend: "Violation of this order is a criminal offense under chapter
21 ~~((10.99))~~ 26.50 RCW and will subject a violator to arrest; any assault,
22 drive-by shooting, or reckless endangerment that is a violation of this
23 order is a felony. You can be arrested even if any person protected by
24 the order invites or allows you to violate the order's prohibitions.
25 You have the sole responsibility to avoid or refrain from violating the
26 order's provisions. Only the court can change the order."

27 (c) A certified copy of the order shall be provided to the victim.

28 (5) If a no-contact order has been issued prior to charging, that
29 order shall expire at arraignment or within seventy-two hours if
30 charges are not filed. Such orders need not be entered into the
31 computer-based criminal intelligence information system in this state
32 which is used by law enforcement agencies to list outstanding warrants.

33 ~~((5))~~ (6) Whenever ~~((an))~~ a no-contact order ~~((prohibiting~~
34 ~~contact))~~ is issued, modified, or terminated under subsection (2) or
35 (3) of this section, the clerk of the court shall forward a copy of the
36 order on or before the next judicial day to the appropriate law
37 enforcement agency specified in the order. Upon receipt of the copy of
38 the order the law enforcement agency shall ~~((forthwith))~~ enter the
39 order for one year or until the expiration date specified on the order

1 into any computer-based criminal intelligence information system
2 available in this state used by law enforcement agencies to list
3 outstanding warrants. Entry into the (~~law enforcement~~) computer-
4 based criminal intelligence information system constitutes notice to
5 all law enforcement agencies of the existence of the order. The order
6 is fully enforceable in any jurisdiction in the state. Upon receipt of
7 notice that an order has been terminated under subsection (3) of this
8 section, the law enforcement agency shall remove the order from the
9 computer-based criminal intelligence information system.

10 **Sec. 19.** RCW 10.99.045 and 1998 c 55 s 2 are each amended to read
11 as follows:

12 (1) A defendant arrested for an offense involving domestic violence
13 as defined by RCW 10.99.020 shall be required to appear in person
14 before a magistrate within one judicial day after the arrest.

15 (2) A defendant who is charged by citation, complaint, or
16 information with an offense involving domestic violence as defined by
17 RCW 10.99.020 and not arrested shall appear in court for arraignment in
18 person as soon as practicable, but in no event later than fourteen days
19 after the next day on which court is in session following the issuance
20 of the citation or the filing of the complaint or information.

21 (3) At the time of the appearances provided in subsection (1) or
22 (2) of this section, the court shall determine the necessity of
23 imposing a no-contact order or other conditions of pretrial release
24 according to the procedures established by court rule for a preliminary
25 appearance or an arraignment. The court may include in the order any
26 conditions authorized under RCW 9.41.800 and 10.99.040.

27 (4) Appearances required pursuant to this section are mandatory and
28 cannot be waived.

29 (5) The no-contact order shall be issued and entered with the
30 appropriate law enforcement agency pursuant to the procedures outlined
31 in RCW 10.99.040 (2) and (4).

32 **Sec. 20.** RCW 10.99.050 and 1997 c 338 s 55 are each amended to
33 read as follows:

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

1 (2)(a) Willful violation of a court order issued under this section
2 is ~~((a gross misdemeanor. Any assault that is a violation of an order~~
3 ~~issued under this section and that does not amount to assault in the~~
4 ~~first or second degree under RCW 9A.36.011 or 9A.36.021 is a class C~~
5 ~~felony, and any conduct in violation of a protective order issued under~~
6 ~~this section that is reckless and creates a substantial risk of death~~
7 ~~or serious physical injury to another person is a class C felony. A~~
8 ~~willful violation of a court order issued under this section is also a~~
9 ~~class C felony if the offender has at least two previous convictions~~
10 ~~for violating the provisions of a no-contact order issued under this~~
11 ~~chapter, or a domestic violence protection order issued under chapter~~
12 ~~26.09, 26.10, 26.26, or 26.50 RCW, or any federal or out-of-state order~~
13 ~~that is comparable to a no-contact order or protection order that is~~
14 ~~issued under Washington law. The previous convictions may involve the~~
15 ~~same victim or other victims specifically protected by the no-contact~~
16 ~~orders or protection orders the offender violated)) punishable under~~
17 RCW 26.50.110.

18 (b) The written order shall contain the court's directives and
19 shall bear the legend: Violation of this order is a criminal offense
20 under chapter ~~((10.99))~~ 26.50 RCW and will subject a violator to
21 arrest; any assault, drive-by shooting, or reckless endangerment that
22 is a violation of this order is a felony.

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

35 (4) If an order prohibiting contact issued pursuant to this section
36 is modified or terminated, the clerk of the court shall notify the law
37 enforcement agency specified in the order on or before the next
38 judicial day. Upon receipt of notice that an order has been

1 terminated, the law enforcement agency shall remove the order from any
2 computer-based criminal intelligence system.

3 **Sec. 21.** RCW 26.09.300 and 1996 c 248 s 9 are each amended to read
4 as follows:

5 (1) Whenever a restraining order is issued under this chapter, and
6 the person to be restrained knows of the order, a violation of the
7 provisions restricting the person from acts or threats of violence or
8 of a provision restraining the person from going onto the grounds of or
9 entering the residence, workplace, school, or day care of another, or
10 prohibiting the person from knowingly coming within, or knowingly
11 remaining within, a specified distance of a location, is ((a
12 misdemeanor)) punishable under RCW 26.50.110.

13 (2) A person is deemed to have notice of a restraining order if:

14 (a) The person to be restrained or the person's attorney signed the
15 order;

16 (b) The order recites that the person to be restrained or the
17 person's attorney appeared in person before the court;

18 (c) The order was served upon the person to be restrained; or

19 (d) The peace officer gives the person oral or written evidence of
20 the order by reading from it or handing to the person a certified copy
21 of the original order, certified to be an accurate copy of the original
22 by a notary public or by the clerk of the court.

23 (3) A peace officer shall verify the existence of a restraining
24 order by:

25 (a) Obtaining information confirming the existence and terms of the
26 order from a law enforcement agency; or

27 (b) Obtaining a certified copy of the order, certified to be an
28 accurate copy of the original by a notary public or by the clerk of the
29 court.

30 (4) A peace officer shall arrest and take into custody, pending
31 release on bail, personal recognizance, or court order, a person
32 without a warrant when the officer has probable cause to believe that:

33 (a) A restraining order has been issued under this chapter;

34 (b) The respondent or person to be restrained knows of the order;
35 and

36 (c) The person to be arrested has violated the terms of the order
37 restraining the person from acts or threats of violence or restraining
38 the person from going onto the grounds of or entering the residence,

1 workplace, school, or day care of another, or prohibiting the person
2 from knowingly coming within, or knowingly remaining within, a
3 specified distance of a location.

4 (5) It is a defense to prosecution under subsection (1) of this
5 section that the court order was issued contrary to law or court rule.

6 (6) No peace officer may be held criminally or civilly liable for
7 making an arrest under subsection (4) of this section if the officer
8 acts in good faith and without malice.

9 **Sec. 22.** RCW 26.10.220 and 1999 c 184 s 11 are each amended to
10 read as follows:

11 (1) Whenever a restraining order is issued under this chapter, and
12 the person to be restrained knows of the order, a violation of the
13 provisions restricting the person from acts or threats of violence or
14 of a provision restraining the person from going onto the grounds of or
15 entering the residence, workplace, school, or day care of another, or
16 prohibiting the person from knowingly coming within, or knowingly
17 remaining within, a specified distance of a location, is ((a gross
18 misdemeanor)) punishable under RCW 26.50.110.

19 (2) A person is deemed to have notice of a restraining order if:

20 (a) The person to be restrained or the person's attorney signed the
21 order;

22 (b) The order recites that the person to be restrained or the
23 person's attorney appeared in person before the court;

24 (c) The order was served upon the person to be restrained; or

25 (d) The peace officer gives the person oral or written evidence of
26 the order by reading from it or handing to the person a certified copy
27 of the original order, certified to be an accurate copy of the original
28 by a notary public or by the clerk of the court.

29 (3) A peace officer shall verify the existence of a restraining
30 order by:

31 (a) Obtaining information confirming the existence and terms of the
32 order from a law enforcement agency; or

33 (b) Obtaining a certified copy of the order, certified to be an
34 accurate copy of the original by a notary public or by the clerk of the
35 court.

36 (4) A peace officer shall arrest and take into custody, pending
37 release on bail, personal recognizance, or court order, a person
38 without a warrant when the officer has probable cause to believe that:

- 1 (a) A restraining order has been issued under this chapter;
2 (b) The respondent or person to be restrained knows of the order;
3 and
4 (c) The person to be arrested has violated the terms of the order
5 restraining the person from acts or threats of violence or restraining
6 the person from going onto the grounds of or entering the residence,
7 workplace, school, or day care of another, or prohibiting the person
8 from knowingly coming within, or knowingly remaining within, a
9 specified distance of a location.

10 (5) It is a defense to prosecution under subsection (1) of this
11 section that the court order was issued contrary to law or court rule.

12 (6) No peace officer may be held criminally or civilly liable for
13 making an arrest under subsection (4) of this section if the officer
14 acts in good faith and without malice.

15 **Sec. 23.** RCW 26.26.138 and 1999 c 184 s 12 are each amended to
16 read as follows:

17 (1) Whenever a restraining order is issued under this chapter, and
18 the person to be restrained knows of the order, a violation of the
19 provisions restricting the person from acts or threats of violence or
20 of a provision restraining the person from going onto the grounds of or
21 entering the residence, workplace, school, or day care of another, or
22 prohibiting the person from knowingly coming within, or knowingly
23 remaining within, a specified distance of a location, is ((a gross
24 misdemeanor)) punishable under RCW 26.50.110.

25 (2) A person is deemed to have notice of a restraining order if:

26 (a) The person to be restrained or the person's attorney signed the
27 order;

28 (b) The order recites that the person to be restrained or the
29 person's attorney appeared in person before the court;

30 (c) The order was served upon the person to be restrained; or

31 (d) The peace officer gives the person oral or written evidence of
32 the order by reading from it or handing to the person a certified copy
33 of the original order, certified to be an accurate copy of the original
34 by a notary public or by the clerk of the court.

35 (3) A peace officer shall verify the existence of a restraining
36 order by:

37 (a) Obtaining information confirming the existence and terms of the
38 order from a law enforcement agency; or

1 (b) Obtaining a certified copy of the order, certified to be an
2 accurate copy of the original by a notary public or by the clerk of the
3 court.

4 (4) A peace officer shall arrest and take into custody, pending
5 release on bail, personal recognizance, or court order, a person
6 without a warrant when the officer has probable cause to believe that:

7 (a) A restraining order has been issued under this chapter;

8 (b) The respondent or person to be restrained knows of the order;
9 and

10 (c) The person to be arrested has violated the terms of the order
11 restraining the person from acts or threats of violence or restraining
12 the person from going onto the grounds of or entering the residence,
13 workplace, school, or day care of another, or prohibiting the person
14 from knowingly coming within, or knowingly remaining within, a
15 specified distance of a location.

16 (5) It is a defense to prosecution under subsection (1) of this
17 section that the court order was issued contrary to law or court rule.

18 (6) No peace officer may be held criminally or civilly liable for
19 making an arrest under subsection (4) of this section if the officer
20 acts in good faith and without malice.

21 **Sec. 24.** RCW 26.50.110 and 1996 c 248 s 16 are each amended to
22 read as follows:

23 (1) Whenever an order (~~for protection~~) is granted under this
24 chapter, chapter 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or there is
25 a valid foreign protection order as defined in RCW 26.52.020, and the
26 respondent or person to be restrained knows of the order, a violation
27 of the restraint provisions, or of a provision excluding the person
28 from a residence, workplace, school, or day care, or of a provision
29 prohibiting a person from knowingly coming within, or knowingly
30 remaining within, a specified distance of a location, or of a provision
31 of a foreign protection order specifically indicating that a violation
32 will be a crime, for which an arrest is required under RCW 10.31.100(2)
33 (a) or (b), is a gross misdemeanor except as provided in subsections
34 (4) and (5) of this section. Upon conviction, and in addition to any
35 other penalties provided by law, the court may require that the
36 respondent submit to electronic monitoring. The court shall specify
37 who shall provide the electronic monitoring services, and the terms
38 under which the monitoring shall be performed. The order also may

1 include a requirement that the respondent pay the costs of the
2 monitoring. The court shall consider the ability of the convicted
3 person to pay for electronic monitoring.

4 (2) A peace officer shall arrest without a warrant and take into
5 custody a person whom the peace officer has probable cause to believe
6 has violated an order issued under this chapter, chapter 10.99, 26.09,
7 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order as
8 defined in RCW 26.52.020, that restrains the person or excludes the
9 person from a residence, workplace, school, or day care, or prohibits
10 the person from knowingly coming within, or knowingly remaining within,
11 a specified distance of a location, if the person restrained knows of
12 the order. Presence of the order in the law enforcement computer-based
13 criminal intelligence information system is not the only means of
14 establishing knowledge of the order.

15 (3) A violation of an order (~~(for protection)~~) issued under this
16 chapter, chapter 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a
17 valid foreign protection order as defined in RCW 26.52.020, shall also
18 constitute contempt of court, and is subject to the penalties
19 prescribed by law.

20 (4) Any assault that is a violation of an order issued under this
21 chapter, chapter 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a
22 valid foreign protection order as defined in RCW 26.52.020, and that
23 does not amount to assault in the first or second degree under RCW
24 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in
25 violation of (~~(a protective)~~) such an order (~~(issued under this~~
26 ~~chapter)~~) that is reckless and creates a substantial risk of death or
27 serious physical injury to another person is a class C felony.

28 (5) A violation of a court order issued under this chapter, chapter
29 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign
30 protection order as defined in RCW 26.52.020, is a class C felony if
31 the offender has at least two previous convictions for violating the
32 provisions of (~~(a no-contact)~~) an order issued under this chapter,
33 chapter 10.99 (~~(RCW, a domestic violence protection order issued under~~
34 ~~chapter 26.09, 26.10, or 26.26 RCW or this chapter, or any federal or~~
35 ~~out-of-state order that is comparable to a no-contact or protection~~
36 ~~order issued under Washington law)~~), 26.09, 26.10, 26.26, or 74.34 RCW,
37 or a valid foreign protection order as defined in RCW 26.52.020. The
38 previous convictions may involve the same victim or other victims

1 specifically protected by the (~~no contact orders or protection~~)
2 orders the offender violated.

3 (6) Upon the filing of an affidavit by the petitioner or any peace
4 officer alleging that the respondent has violated an order (~~for~~
5 ~~protection~~) granted under this chapter, chapter 10.99, 26.09, 26.10,
6 26.26, or 74.34 RCW, or a valid foreign protection order as defined in
7 RCW 26.52.020, the court may issue an order to the respondent,
8 requiring the respondent to appear and show cause within fourteen days
9 why the respondent should not be found in contempt of court and
10 punished accordingly. The hearing may be held in the court of any
11 county or municipality in which the petitioner or respondent
12 temporarily or permanently resides at the time of the alleged
13 violation.

14 **Sec. 25.** RCW 26.50.160 and 1995 c 246 s 18 are each amended to
15 read as follows:

16 To prevent the issuance of competing protection orders in different
17 courts and to give courts needed information for issuance of orders,
18 the judicial information system shall be available in each district,
19 municipal, and superior court by July 1, 1997, and shall include a data
20 base containing the following information:

21 (1) The names of the parties and the cause number for every order
22 of protection issued under this title, every criminal no-contact order
23 issued under chapters 9A.46 and 10.99 RCW, every antiharassment order
24 issued under chapter 10.14 RCW, every dissolution action under chapter
25 26.09 RCW, every third-party custody action under chapter 26.10 RCW,
26 (~~and~~) every parentage action under chapter (~~26.10~~) 26.26 RCW, every
27 restraining order issued on behalf of an abused child or adult
28 dependent person under chapter 26.44 RCW, every foreign protection
29 order filed under chapter 26.52 RCW, and every order for protection of
30 a vulnerable adult under chapter 74.34 RCW. When a guardian or the
31 department of social and health services has petitioned for relief on
32 behalf of an abused child, adult dependent person, or vulnerable adult,
33 the name of the person on whose behalf relief was sought shall be
34 included in the data base as a party rather than the guardian or
35 department;

36 (2) A criminal history of the parties; and

1 (3) Other relevant information necessary to assist courts in
2 issuing orders under this chapter as determined by the judicial
3 information system committee.

4 **Sec. 26.** RCW 26.52.070 and 1999 c 184 s 9 are each amended to read
5 as follows:

6 (1) Whenever a foreign protection order is granted to a person
7 entitled to protection and the person under restraint knows of the
8 foreign protection order, a violation of a provision prohibiting the
9 person under restraint from contacting or communicating with another
10 person, or of a provision excluding the person under restraint from a
11 residence, workplace, school, or day care, or of a provision
12 prohibiting a person from knowingly coming within, or knowingly
13 remaining within, a specified distance of a location, or a violation of
14 any provision for which the foreign protection order specifically
15 indicates that a violation will be a crime, is ~~((a gross misdemeanor~~
16 ~~except as provided in subsections (3) and (4) of this section. Upon~~
17 ~~conviction, and in addition to any other penalties provided by law, the~~
18 ~~court may require the person under restraint to submit to electronic~~
19 ~~monitoring. The court shall specify who will provide the electronic~~
20 ~~monitoring services, and the terms under which the monitoring will be~~
21 ~~performed. The order also may include a requirement that the person~~
22 ~~under restraint pay the costs of the monitoring. The court shall~~
23 ~~consider the ability of the convicted person to pay for electronic~~
24 ~~monitoring)) punishable under RCW 26.50.110.~~

25 (2) A peace officer shall arrest without a warrant and take into
26 custody a person when the peace officer has probable cause to believe
27 that a foreign protection order has been issued of which the person
28 under restraint has knowledge and the person under restraint has
29 violated a provision of the foreign protection order that prohibits the
30 person under restraint from contacting or communicating with another
31 person, or a provision that excludes the person under restraint from a
32 residence, workplace, school, or day care, or of a provision
33 prohibiting a person from knowingly coming within, or knowingly
34 remaining within, a specified distance of a location, or a violation of
35 any provision for which the foreign protection order specifically
36 indicates that a violation will be a crime. Presence of the order in
37 the law enforcement computer-based criminal intelligence information
38 system is not the only means of establishing knowledge of the order.

1 ~~((3) An assault that is a violation of a valid foreign protection~~
2 ~~order that does not amount to assault in the first or second degree~~
3 ~~under RCW 9A.36.011 or 9A.36.021 is a class C felony, and conduct in~~
4 ~~violation of a valid foreign protection order issued under this chapter~~
5 ~~that is reckless and creates a substantial risk of death or serious~~
6 ~~physical injury to another person is a class C felony.~~

7 ~~(4) A violation of a valid foreign protection order is a class C~~
8 ~~felony if the offender has at least two previous convictions for~~
9 ~~violating the provisions of a no contact order issued under chapter~~
10 ~~10.99 RCW, a domestic violence protection order issued under chapter~~
11 ~~26.09, 26.10, 26.26, or 26.50 RCW, or a federal or out of state order~~
12 ~~that is comparable to a no contact or protection order issued under~~
13 ~~Washington law. The previous convictions may involve the same person~~
14 ~~entitled to protection or other person entitled to protection~~
15 ~~specifically protected by the no contact orders or protection orders~~
16 ~~the offender violated.))~~

17 **Sec. 27.** RCW 74.34.130 and 1999 c 176 s 13 are each amended to
18 read as follows:

19 The court may order relief as it deems necessary for the protection
20 of the petitioner, including, but not limited to the following:

21 (1) Restraining respondent from committing acts of abandonment,
22 abuse, neglect, or financial exploitation;

23 (2) Excluding the respondent from petitioner's residence for a
24 specified period or until further order of the court;

25 (3) Prohibiting contact by respondent for a specified period or
26 until further order of the court;

27 (4) Prohibiting the respondent from knowingly coming within, or
28 knowingly remaining within, a specified distance from a specified
29 location;

30 (5) Requiring an accounting by respondent of the disposition of
31 petitioner's income or other resources;

32 ~~((5))~~ (6) Restraining the transfer of property for a specified
33 period not exceeding ninety days; and

34 ~~((6))~~ (7) Requiring the respondent to pay the filing fee and
35 court costs, including service fees, and to reimburse the petitioner
36 for costs incurred in bringing the action, including a reasonable
37 attorney's fee.

1 Any relief granted by an order for protection, other than a
2 judgment for costs, shall be for a fixed period not to exceed one year.

3 **Sec. 28.** RCW 9.94A.440 and 1999 c 322 s 6 and 1999 c 196 s 11 are
4 each reenacted and amended to read as follows:

5 (1) Decision not to prosecute.

6 STANDARD: A prosecuting attorney may decline to prosecute, even
7 though technically sufficient evidence to prosecute exists, in
8 situations where prosecution would serve no public purpose, would
9 defeat the underlying purpose of the law in question or would result in
10 decreased respect for the law.

11 GUIDELINE/COMMENTARY:

12 Examples

13 The following are examples of reasons not to prosecute which could
14 satisfy the standard.

15 (a) Contrary to Legislative Intent - It may be proper to decline to
16 charge where the application of criminal sanctions would be clearly
17 contrary to the intent of the legislature in enacting the particular
18 statute.

19 (b) Antiquated Statute - It may be proper to decline to charge
20 where the statute in question is antiquated in that:

21 (i) It has not been enforced for many years; and

22 (ii) Most members of society act as if it were no longer in
23 existence; and

24 (iii) It serves no deterrent or protective purpose in today's
25 society; and

26 (iv) The statute has not been recently reconsidered by the
27 legislature.

28 This reason is not to be construed as the basis for declining cases
29 because the law in question is unpopular or because it is difficult to
30 enforce.

31 (c) De Minimus Violation - It may be proper to decline to charge
32 where the violation of law is only technical or insubstantial and where
33 no public interest or deterrent purpose would be served by prosecution.

34 (d) Confinement on Other Charges - It may be proper to decline to
35 charge because the accused has been sentenced on another charge to a
36 lengthy period of confinement; and

37 (i) Conviction of the new offense would not merit any additional
38 direct or collateral punishment;

1 (ii) The new offense is either a misdemeanor or a felony which is
2 not particularly aggravated; and

3 (iii) Conviction of the new offense would not serve any significant
4 deterrent purpose.

5 (e) Pending Conviction on Another Charge - It may be proper to
6 decline to charge because the accused is facing a pending prosecution
7 in the same or another county; and

8 (i) Conviction of the new offense would not merit any additional
9 direct or collateral punishment;

10 (ii) Conviction in the pending prosecution is imminent;

11 (iii) The new offense is either a misdemeanor or a felony which is
12 not particularly aggravated; and

13 (iv) Conviction of the new offense would not serve any significant
14 deterrent purpose.

15 (f) High Disproportionate Cost of Prosecution - It may be proper to
16 decline to charge where the cost of locating or transporting, or the
17 burden on, prosecution witnesses is highly disproportionate to the
18 importance of prosecuting the offense in question. This reason should
19 be limited to minor cases and should not be relied upon in serious
20 cases.

21 (g) Improper Motives of Complainant - It may be proper to decline
22 charges because the motives of the complainant are improper and
23 prosecution would serve no public purpose, would defeat the underlying
24 purpose of the law in question or would result in decreased respect for
25 the law.

26 (h) Immunity - It may be proper to decline to charge where immunity
27 is to be given to an accused in order to prosecute another where the
28 accused's information or testimony will reasonably lead to the
29 conviction of others who are responsible for more serious criminal
30 conduct or who represent a greater danger to the public interest.

31 (i) Victim Request - It may be proper to decline to charge because
32 the victim requests that no criminal charges be filed and the case
33 involves the following crimes or situations:

34 (i) Assault cases where the victim has suffered little or no
35 injury;

36 (ii) Crimes against property, not involving violence, where no
37 major loss was suffered;

38 (iii) Where doing so would not jeopardize the safety of society.

1 Care should be taken to insure that the victim's request is freely
2 made and is not the product of threats or pressure by the accused.

3 The presence of these factors may also justify the decision to
4 dismiss a prosecution which has been commenced.

5 Notification

6 The prosecutor is encouraged to notify the victim, when practical,
7 and the law enforcement personnel, of the decision not to prosecute.

8 (2) Decision to prosecute.

9 (a) STANDARD:

10 Crimes against persons will be filed if sufficient admissible
11 evidence exists, which, when considered with the most plausible,
12 reasonably foreseeable defense that could be raised under the evidence,
13 would justify conviction by a reasonable and objective fact-finder.
14 With regard to offenses prohibited by RCW 9A.44.040, 9A.44.050,
15 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, 9A.44.089, and
16 9A.64.020 the prosecutor should avoid prefiling agreements or
17 diversions intended to place the accused in a program of treatment or
18 counseling, so that treatment, if determined to be beneficial, can be
19 provided pursuant to RCW 9.94A.120(8).

20 Crimes against property/other crimes will be filed if the
21 admissible evidence is of such convincing force as to make it probable
22 that a reasonable and objective fact-finder would convict after hearing
23 all the admissible evidence and the most plausible defense that could
24 be raised.

25 See table below for the crimes within these categories.

26 CATEGORIZATION OF CRIMES FOR PROSECUTING STANDARDS

27 CRIMES AGAINST PERSONS

28 Aggravated Murder

29 1st Degree Murder

30 2nd Degree Murder

31 1st Degree Kidnaping

32 1st Degree Assault

33 1st Degree Assault of a Child

34 1st Degree Rape

35 1st Degree Robbery

36 1st Degree Rape of a Child

37 1st Degree Arson

38 2nd Degree Kidnaping

1 2nd Degree Assault
2 2nd Degree Assault of a Child
3 2nd Degree Rape
4 2nd Degree Robbery
5 1st Degree Burglary
6 1st Degree Manslaughter
7 2nd Degree Manslaughter
8 1st Degree Extortion
9 Indecent Liberties
10 Incest
11 2nd Degree Rape of a Child
12 Vehicular Homicide
13 Vehicular Assault
14 3rd Degree Rape
15 3rd Degree Rape of a Child
16 1st Degree Child Molestation
17 2nd Degree Child Molestation
18 3rd Degree Child Molestation
19 2nd Degree Extortion
20 1st Degree Promoting Prostitution
21 Intimidating a Juror
22 Communication with a Minor
23 Intimidating a Witness
24 Intimidating a Public Servant
25 Bomb Threat (if against person)
26 3rd Degree Assault
27 3rd Degree Assault of a Child
28 Unlawful Imprisonment
29 Promoting a Suicide Attempt
30 Riot (if against person)
31 Stalking
32 Custodial Assault
33 ~~((No Contact Order Domestic Violence Pretrial (RCW 10.99.040(4) (b)~~
34 ~~and (c))~~
35 ~~No Contact Order Domestic Violence Sentence (RCW 10.99.050(2))~~
36 ~~Protection Order Domestic Violence Civil (RCW 26.50.110 (4) and~~
37 ~~(5))~~) Domestic Violence Court Order Violation (RCW 10.99.040,
38 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or
39 section 2 of this act)

1 Counterfeiting (if a violation of RCW 9.16.035(4))
2 CRIMES AGAINST PROPERTY/OTHER CRIMES
3 2nd Degree Arson
4 1st Degree Escape
5 2nd Degree Burglary
6 1st Degree Theft
7 1st Degree Perjury
8 1st Degree Introducing Contraband
9 1st Degree Possession of Stolen Property
10 Bribery
11 Bribing a Witness
12 Bribe received by a Witness
13 Bomb Threat (if against property)
14 1st Degree Malicious Mischief
15 2nd Degree Theft
16 2nd Degree Escape
17 2nd Degree Introducing Contraband
18 2nd Degree Possession of Stolen Property
19 2nd Degree Malicious Mischief
20 1st Degree Reckless Burning
21 Taking a Motor Vehicle without Authorization
22 Forgery
23 2nd Degree Perjury
24 2nd Degree Promoting Prostitution
25 Tampering with a Witness
26 Trading in Public Office
27 Trading in Special Influence
28 Receiving/Granting Unlawful Compensation
29 Bigamy
30 Eluding a Pursuing Police Vehicle
31 Willful Failure to Return from Furlough
32 Escape from Community Custody
33 Riot (if against property)
34 Thefts of Livestock
35 ALL OTHER UNCLASSIFIED FELONIES
36 Selection of Charges/Degree of Charge

1 (i) The prosecutor should file charges which adequately describe
2 the nature of defendant's conduct. Other offenses may be charged only
3 if they are necessary to ensure that the charges:

4 (A) Will significantly enhance the strength of the state's case at
5 trial; or

6 (B) Will result in restitution to all victims.

7 (ii) The prosecutor should not overcharge to obtain a guilty plea.
8 Overcharging includes:

9 (A) Charging a higher degree;

10 (B) Charging additional counts.

11 This standard is intended to direct prosecutors to charge those
12 crimes which demonstrate the nature and seriousness of a defendant's
13 criminal conduct, but to decline to charge crimes which are not
14 necessary to such an indication. Crimes which do not merge as a matter
15 of law, but which arise from the same course of conduct, do not all
16 have to be charged.

17 (b) GUIDELINES/COMMENTARY:

18 (i) Police Investigation

19 A prosecuting attorney is dependent upon law enforcement agencies
20 to conduct the necessary factual investigation which must precede the
21 decision to prosecute. The prosecuting attorney shall ensure that a
22 thorough factual investigation has been conducted before a decision to
23 prosecute is made. In ordinary circumstances the investigation should
24 include the following:

25 (A) The interviewing of all material witnesses, together with the
26 obtaining of written statements whenever possible;

27 (B) The completion of necessary laboratory tests; and

28 (C) The obtaining, in accordance with constitutional requirements,
29 of the suspect's version of the events.

30 If the initial investigation is incomplete, a prosecuting attorney
31 should insist upon further investigation before a decision to prosecute
32 is made, and specify what the investigation needs to include.

33 (ii) Exceptions

34 In certain situations, a prosecuting attorney may authorize filing
35 of a criminal complaint before the investigation is complete if:

36 (A) Probable cause exists to believe the suspect is guilty; and

37 (B) The suspect presents a danger to the community or is likely to
38 flee if not apprehended; or

1 (C) The arrest of the suspect is necessary to complete the
2 investigation of the crime.

3 In the event that the exception to the standard is applied, the
4 prosecuting attorney shall obtain a commitment from the law enforcement
5 agency involved to complete the investigation in a timely manner. If
6 the subsequent investigation does not produce sufficient evidence to
7 meet the normal charging standard, the complaint should be dismissed.

8 (iii) Investigation Techniques

9 The prosecutor should be fully advised of the investigatory
10 techniques that were used in the case investigation including:

11 (A) Polygraph testing;

12 (B) Hypnosis;

13 (C) Electronic surveillance;

14 (D) Use of informants.

15 (iv) Pre-Filing Discussions with Defendant

16 Discussions with the defendant or his/her representative regarding
17 the selection or disposition of charges may occur prior to the filing
18 of charges, and potential agreements can be reached.

19 (v) Pre-Filing Discussions with Victim(s)

20 Discussions with the victim(s) or victims' representatives
21 regarding the selection or disposition of charges may occur before the
22 filing of charges. The discussions may be considered by the prosecutor
23 in charging and disposition decisions, and should be considered before
24 reaching any agreement with the defendant regarding these decisions.

25 NEW SECTION. **Sec. 29.** If specific funding for the purposes of
26 this act, referencing this act by bill or chapter number, is not
27 provided by June 30, 2000, in the omnibus appropriations act, this act
28 is null and void.

29 NEW SECTION. **Sec. 30.** Section 17 of this act takes effect July 1,
30 2000.

31 NEW SECTION. **Sec. 31.** The penalties prescribed in this act apply
32 to violations of court orders which occur on or after July 1, 2000,
33 regardless of the date the court issued the order."

1 Correct the title.

--- END ---