

2 **ESHB 2756** - S COMM AMD

3 By Committee on Law & Justice

4

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

7 "**Sec. 1.** RCW 10.31.100 and 1997 c 66 s 10 are each amended to read
8 as follows:

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

15 (1) Any police officer having probable cause to believe that a
16 person has committed or is committing a misdemeanor or gross
17 misdemeanor, involving physical harm or threats of harm to any person
18 or property or the unlawful taking of property or involving the use or
19 possession of cannabis, or involving the acquisition, possession, or
20 consumption of alcohol by a person under the age of twenty-one years
21 under RCW 66.44.270, or involving criminal trespass under RCW 9A.52.070
22 or 9A.52.080, shall have the authority to arrest the person.

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

26 (a) An order has been issued of which the person has knowledge
27 under RCW 10.99.040(2), 10.99.050, 26.09.050, 26.09.060, 26.10.040,
28 26.10.115, 26.44.063, chapter 26.26 RCW, or chapter 26.50 RCW
29 restraining the person and the person has violated the terms of the
30 order restraining the person from: (i) Acts or threats of violence;
31 (ii) contacting another person; (iii) intentionally coming within a
32 specified distance of a location specified in the order; or
33 ~~((restraining the person from))~~ (iv) going onto the grounds of ((or)),
34 entering, or coming within a specified distance of a residence,
35 workplace, school, or day care or, in the case of an order issued under

1 RCW 26.44.063, imposing any other restrictions or conditions upon the
2 person; or

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

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

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

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

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

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

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

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

36 (4) A law enforcement officer investigating at the scene of a motor
37 vehicle accident may arrest the driver of a motor vehicle involved in
38 the accident if the officer has probable cause to believe that the

1 driver has committed in connection with the accident a violation of any
2 traffic law or regulation.

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

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

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

15 (8) A police officer may 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 an order has been issued of which the person has knowledge under
19 chapter 10.14 RCW and the person has violated the terms of that order.

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

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

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

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

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

36 **Sec. 2.** RCW 26.50.060 and 1996 c 248 s 13 are each amended to read
37 as follows:

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

3 (a) Restrain the respondent from committing acts of domestic
4 violence;

5 (b) (~~(Exclude)~~) Restrain the respondent from going onto the grounds
6 of, entering, or coming within a specified distance of the dwelling
7 which the parties share, (~~from~~) the residence, workplace, or school
8 of the petitioner, or (~~from~~) the day care or school of a child;

9 (c) 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) Order the respondent to participate in batterers' treatment;

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

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

22 (g) Restrain the respondent from having any contact with the victim
23 of domestic violence or the victim's children or members of the
24 victim's household;

25 (h) Restrain the respondent from intentionally coming within a
26 specified distance of any location specified by the court;

27 (i) Require the respondent to submit to electronic monitoring. The
28 order shall specify who shall provide the electronic monitoring
29 services and the terms under which the monitoring must be performed.
30 The order also may include a requirement that the respondent pay the
31 costs of the monitoring. The court shall consider the ability of the
32 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 order restrains the respondent from contacting
39 the respondent's minor children the restraint shall be for a fixed

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

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

16 (3) If the court grants an order for a fixed time period, the
17 petitioner may apply for renewal of the order by filing a petition for
18 renewal at any time within the three months before the order expires.
19 The petition for renewal shall state the reasons why the petitioner
20 seeks to renew the protection order. Upon receipt of the petition for
21 renewal the court shall order a hearing which shall be not later than
22 fourteen days from the date of the order. Except as provided in RCW
23 26.50.085, personal service shall be made on the respondent not less
24 than five days before the hearing. If timely service cannot be made
25 the court shall set a new hearing date and shall either require
26 additional attempts at obtaining personal service or permit service by
27 publication as provided in RCW 26.50.085 or by mail as provided in RCW
28 26.50.123. If the court permits service by publication or mail, the
29 court shall set the new hearing date not later than twenty-four days
30 from the date of the order. If the order expires because timely
31 service cannot be made the court shall grant an ex parte order of
32 protection as provided in RCW 26.50.070. The court shall grant the
33 petition for renewal unless the respondent proves by a preponderance of
34 the evidence that the respondent will not resume acts of domestic
35 violence against the petitioner or the petitioner's children or family
36 or household members when the order expires. The court may renew the
37 protection order for another fixed time period or may enter a permanent
38 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. 3.** RCW 26.50.070 and 1996 c 248 s 14 are each amended to read
25 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, or coming within a specified distance of the dwelling that
36 the parties share, from the residence, workplace, or school of the
37 other, or from the day care or school of a child until further order of
38 the court;

1 (c) Restraining any party from interfering with the other's custody
2 of the minor children or from removing the children from the
3 jurisdiction of the court;

4 (d) Restraining any party from having any contact with the victim
5 of domestic violence or the victim's children or members of the
6 victim's household; (~~and~~)

7 (e) Restraining any party from intentionally coming within a
8 specified distance of any location specified in the order; and

9 (f) Considering the provisions of RCW 9.41.800.

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

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

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

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

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

36 **Sec. 4.** RCW 26.50.110 and 1996 c 248 s 16 are each amended to read
37 as follows:

1 (1) Whenever an order for protection is granted under this chapter
2 and the respondent or person to be restrained knows of the order, a
3 violation of ~~((the))~~ any restraint provision~~((s or of))~~ including a
4 provision ~~((excluding))~~ restraining the person from going onto the
5 grounds of, entering, or coming within a specified distance of a
6 residence, workplace, school, or day care is a gross misdemeanor except
7 as provided in subsections (4) and (5) of this section. Upon
8 conviction, and in addition to any other penalties provided by law, the
9 court may require that the respondent submit to electronic monitoring.
10 The court shall specify who shall provide the electronic monitoring
11 services, and the terms under which the monitoring shall be performed.
12 The order also may include a requirement that the respondent pay the
13 costs of the monitoring. The court shall consider the ability of the
14 convicted person to pay for electronic monitoring.

15 (2) A peace officer shall arrest without a warrant and take into
16 custody a person whom the peace officer has probable cause to believe
17 has violated an order issued under this chapter that restrains the
18 person ~~((or excludes the person))~~ in any manner including from going
19 onto the grounds of, entering, or coming within a specified distance of
20 a residence, workplace, school, or day care, if the person restrained
21 knows of the order. Presence of the order in the law enforcement
22 computer-based criminal intelligence information system is not the only
23 means of establishing knowledge of the order.

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

26 (4) Any assault that is a violation of an order issued under this
27 chapter and that does not amount to assault in the first or second
28 degree under RCW 9A.36.011 or 9A.36.021 is a class C felony, and any
29 conduct in violation of a protective order issued under this chapter
30 that is reckless and creates a substantial risk of death or serious
31 physical injury to another person is a class C felony.

32 (5) A violation of a court order issued under this chapter is a
33 class C felony if the offender has at least two previous convictions
34 for violating the provisions of a no-contact order issued under chapter
35 10.99 RCW, a domestic violence protection order issued under chapter
36 26.09, 26.10, or 26.26 RCW or this chapter, or any federal or out-of-
37 state order that is comparable to a no-contact or protection order
38 issued under Washington law. The previous convictions may involve the

1 same victim or other victims specifically protected by the no-contact
2 orders or protection 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, the court may issue an order to
6 the respondent, requiring the respondent to appear and show cause
7 within fourteen days why the respondent should not be found in contempt
8 of court and punished accordingly. The hearing may be held in the
9 court of any county or municipality in which the petitioner or
10 respondent temporarily or permanently resides at the time of the
11 alleged violation.

12 **Sec. 5.** RCW 26.50.160 and 1995 c 246 s 18 are each amended to read
13 as follows:

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

20 ((1) The names of the parties and the cause number for)) the
21 legislature finds it is necessary and in the public's interest for
22 courts to collect and enter into the judicial information system
23 personal identifiers on all parties and other persons named in orders
24 in the following actions: Every order of protection issued under this
25 title, every criminal no-contact order issued under chapter 10.99 RCW,
26 every antiharassment order issued under chapter 10.14 RCW, every
27 dissolution action under chapter 26.09 RCW involving either minor
28 children or a restraining order wherein the court restricts personal
29 contact, every third-party custody action under chapter 26.10 RCW,
30 ((and)) every parentage action under chapter ((26.10)) 26.26 RCW((;

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

32 (3) Other relevant information necessary to assist courts in
33 issuing orders under this chapter as determined by the judicial
34 information system committee)) upon entry of the final judgment and
35 order, every child custody action under chapter 26.27 RCW, every
36 dependency and termination of parent-child relationship action under
37 chapter 13.34 RCW, and every at-risk youth and child in need of
38 services action under chapter 13.32A RCW in which a residential

1 placement decision is made. The data shall include full legal name,
2 names also known by or previously known by, case number and date of
3 birth, and one other identifier to be determined by the judicial
4 information system. This information shall be entered on all parties
5 to the case and for other persons named in the order. This
6 information, along with the judicial information criminal case history
7 of the parties, and the order history for each case type named, shall
8 be shared with all municipal, district, and superior courts in the
9 state.

10 Collecting information and entering it in the judicial information
11 system under this section does not constitute the practice of law, and
12 clerks are not responsible for incorrect or incomplete information
13 provided by the litigants and entered in the judicial information
14 system. County clerks are not liable for unauthorized release of
15 information outside their office by court personnel. Sharing this
16 information with other courts in the state of Washington does not
17 violate statutory confidentiality restrictions, provided that juvenile
18 dependency records covered by RCW 13.50.100 may be shared only among
19 superior courts.

20 **Sec. 6.** RCW 26.50.135 and 1995 c 246 s 19 are each amended to read
21 as follows:

22 (1) Notwithstanding any statutes to the contrary, before granting
23 an order under this chapter directing residential placement of a child
24 or restraining or limiting a party's contact with a child, the court
25 shall consult the judicial information system, if available, to
26 determine the pendency of other proceedings involving the residential
27 placement of any child of the parties for whom residential placement
28 has been requested. Providing to the court judicial information from
29 the judicial information system under this section does not constitute
30 the practice of law by the clerks, and clerks are not responsible for
31 incorrect information. County clerks are not liable for unauthorized
32 release of court information outside their office by court personnel.
33 Sharing information from the judicial information system with other
34 courts in the state of Washington does not violate statutory
35 confidentiality restrictions; however, juvenile dependency records
36 covered by RCW 13.50.100 may be shared only among superior courts.

37 (2) Jurisdictional issues regarding out-of-state proceedings
38 involving the custody or residential placement of any child of the

1 parties shall be governed by the uniform child custody jurisdiction
2 act, chapter 26.27 RCW.

3 **Sec. 7.** RCW 26.50.025 and 1995 c 246 s 2 are each amended to read
4 as follows:

5 (1) Any order available under this chapter may be issued in actions
6 under chapter 26.09, 26.10, or 26.26 RCW after entry of the judgment
7 and order determining the parent and child relationship. If an order
8 for protection is issued in an action under chapter 26.09, 26.10, or
9 26.26 RCW, the order shall be issued on the forms mandated by RCW
10 26.50.035(1). An order issued in accordance with this subsection is
11 fully enforceable and shall be enforced under the provisions of this
12 chapter.

13 (2) If a party files an action under chapter 26.09, 26.10, or 26.26
14 RCW, an order issued previously under this chapter between the same
15 parties may be consolidated by the court under that action and cause
16 number. Any order issued under this chapter after consolidation shall
17 contain the original cause number and the cause number of the action
18 under chapter 26.09, 26.10, or 26.26 RCW. Relief under this chapter
19 shall not be denied or delayed on the grounds that the relief is
20 available in another action.

21 **Sec. 8.** RCW 26.09.050 and 1995 c 93 s 2 are each amended to read
22 as follows:

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

1 (2) Restraining orders issued under this section restraining the
2 person from: (a) Acts or threats of violence or molesting or
3 disturbing another party; (b) contacting another party; (c)
4 intentionally coming within a specified distance of any location
5 specified in the order; or ((from)) (d) going onto the grounds of
6 ((or)), entering, or coming within a specified distance of the home,
7 workplace, or school of the other party or the day care or school of
8 any child shall prominently bear on the front page of the order the
9 legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A
10 CRIMINAL OFFENSE UNDER CHAPTER 26.09 RCW AND WILL SUBJECT A VIOLATOR TO
11 ARREST.

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

23 **Sec. 9.** RCW 26.09.060 and 1995 c 246 s 26 are each amended to read
24 as follows:

25 (1) In a proceeding for:

26 (a) Dissolution of marriage, legal separation, or a declaration of
27 invalidity; or

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

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

1 (a) Transferring, removing, encumbering, concealing, or in any way
2 disposing of any property except in the usual course of business or for
3 the necessities of life, and, if so restrained or enjoined, requiring
4 him or her to notify the moving party of any proposed extraordinary
5 expenditures made after the order is issued;

6 (b) Acts or threats of violence or molesting or disturbing the
7 peace of the other party or of any child;

8 (c) Going onto the grounds of ((~~or~~)), entering, or coming within a
9 specified distance of the home, workplace, or school of the other party
10 or the day care or school of any child upon a showing of the necessity
11 therefor;

12 (d) Removing a child from the jurisdiction of the court;

13 (e)(i) Contacting another party; (ii) intentionally coming within
14 a specified distance of any location specified in the order or
15 temporary injunction.

16 (3) Either party may request a domestic violence protection order
17 under chapter 26.50 RCW or an antiharassment protection order under
18 chapter 10.14 RCW on a temporary basis. The court may grant any of the
19 relief provided in RCW 26.50.060 except relief pertaining to
20 residential provisions for the children which provisions shall be
21 provided for under this chapter, and any of the relief provided in RCW
22 10.14.080. Ex parte orders issued under this subsection shall be
23 effective for a fixed period not to exceed fourteen days, or upon court
24 order, not to exceed twenty-four days if necessary to ensure that all
25 temporary motions in the case can be heard at the same time.

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

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

33 (6) The court may issue a temporary restraining order or
34 preliminary injunction and an order for temporary maintenance or
35 support in such amounts and on such terms as are just and proper in the
36 circumstances. The court may in its discretion waive the filing of the
37 bond or the posting of security.

38 (7) Restraining orders issued under this section restraining the
39 person from: (a) Acts or threats of violence or molesting or

1 disturbing another party; (b) contacting another party; (c)
2 intentionally coming within a specified distance of another party for
3 the purpose of intimidating, harassing, or frightening the party; (d)
4 intentionally coming within a specified distance of another party if
5 the person knows or reasonably should have known that the other party
6 is afraid, intimidated, or harassed even if that person did not intend
7 to place the other party in fear, or intimidate or harass the other
8 party; or ((from)) (e) going onto the grounds of ((or)), entering, or
9 coming within a specified distance of the home, workplace, or school of
10 the other party or the day care or school of any child shall
11 prominently bear on the front page of the order the legend: VIOLATION
12 OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE
13 UNDER CHAPTER 26.09 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

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

26 (9) A temporary order, temporary restraining order, or preliminary
27 injunction:

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

30 (b) May be revoked or modified;

31 (c) Terminates when the final decree is entered, except as provided
32 under subsection (10) of this section, or when the petition for
33 dissolution, legal separation, or declaration of invalidity is
34 dismissed;

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

37 (10) Delinquent support payments accrued under an order for
38 temporary support remain collectible and are not extinguished when a
39 final decree is entered unless the decree contains specific language to

1 the contrary. A support debt under a temporary order owed to the state
2 for public assistance expenditures shall not be extinguished by the
3 final decree if:

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

6 (b) The temporary order directs the obligor to make support
7 payments to the office of support enforcement or the Washington state
8 support registry.

9 **Sec. 10.** RCW 26.09.300 and 1996 c 248 s 9 are each amended to read
10 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: (a) Acts or threats of
14 violence or molesting or disturbing another party; (b) contacting
15 another party; (c) intentionally coming within a specified distance of
16 any location specified in the order; or ~~((of a provision restraining~~
17 ~~the person from))~~ (d) going onto the grounds of ((or)), entering, or
18 coming within a specified distance of the residence, workplace, school,
19 or day care of another is a misdemeanor.

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

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

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

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

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

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

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

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

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

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

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

7 (c) The person to be arrested has violated the terms of the order
8 restraining the person from: (i) Acts or threats of violence or
9 molesting or disturbing another; (ii) contacting another party; (iii)
10 intentionally coming within a specified distance of any location
11 specified in the order; or ((restraining the person from)) (iv) going
12 onto the grounds of ((or)), entering, or coming within a specified
13 distance of the residence, workplace, school, or day care of another.

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

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

19 **Sec. 11.** RCW 26.10.040 and 1995 c 93 s 3 are each amended to read
20 as follows:

21 In entering an order under this chapter, the court shall consider,
22 approve, or make provision for:

23 (1) Child custody, visitation, and the support of any child
24 entitled to support;

25 (2) The allocation of the children as a federal tax exemption;

26 (3) Any necessary continuing restraining orders, including the
27 provisions contained in RCW 9.41.800;

28 (4) A domestic violence protection order under chapter 26.50 RCW or
29 an antiharassment protection order under chapter 10.14 RCW. The court
30 may grant any of the relief provided in RCW 26.50.060 except relief
31 pertaining to residential provisions for the children which provisions
32 shall be provided for under this chapter, and any of the relief
33 provided in RCW 10.14.080;

34 (5) Restraining orders issued under this section restraining the
35 person from: (a) Acts or threats of violence or molesting or
36 disturbing another party; (b) contacting another party; (c)
37 intentionally coming within a specified distance of any location
38 specified in the order; or ((from)) (d) going onto the grounds of

1 ~~((or))~~, entering, or coming within a specified distance of the home,
2 workplace, or school of the other party or the day care or school of
3 any child shall prominently bear on the front page of the order the
4 legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A
5 CRIMINAL OFFENSE UNDER CHAPTER 26.10 RCW AND WILL SUBJECT A VIOLATOR TO
6 ARREST;

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

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

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

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

28 (a) Acts or threats of violence or molesting or disturbing the
29 peace of the other party or of any child;

30 (b) ~~((Entering the family home or the home of the other party))~~
31 Going onto the grounds of, entering, or coming within a specified
32 distance of the home, workplace, or school of another party or the day
33 care or school of any child upon a showing of the necessity therefor;

34 (c) Removing a child from the jurisdiction of the court;

35 (d) Contacting another party;

36 (e) Intentionally coming within a specified distance of any
37 location specified in the order or injunction; or

1 (f) Intentionally coming within a specified distance of another
2 party if the person knows or reasonably should have known that the
3 other party is afraid, intimidated, or harassed even if that person did
4 not intend to place the other party in fear, or intimidate or harass
5 the other party.

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

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

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

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

26 (7) Restraining orders issued under this section restraining the
27 person from: (a) Acts or threats of violence or molesting or
28 disturbing another party; (b) contacting another party; (c)
29 intentionally coming within a specified distance of any location
30 specified in the order or injunction; or ((from)) (d) going onto the
31 grounds of ((of)), entering, or coming within a specified distance of
32 the home, workplace, or school of the other party or the day care or
33 school of any child shall prominently bear on the front page of the
34 order the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS
35 TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.10 RCW AND WILL SUBJECT A
36 VIOLATOR TO ARREST.

37 (8) The court shall order that any temporary restraining order
38 bearing a criminal offense legend, any domestic violence protection
39 order, or any antiharassment protection order granted under this

1 section be forwarded by the clerk of the court on or before the next
2 judicial day to the appropriate law enforcement agency specified in the
3 order. Upon receipt of the order, the law enforcement agency shall
4 forthwith enter the order into any computer-based criminal intelligence
5 information system available in this state used by law enforcement
6 agencies to list outstanding warrants. Entry into the law enforcement
7 information system constitutes notice to all law enforcement agencies
8 of the existence of the order. The order is fully enforceable in any
9 county in the state.

10 (9) A temporary order, temporary restraining order, or preliminary
11 injunction:

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

14 (b) May be revoked or modified;

15 (c) Terminates when the final order is entered or when the motion
16 is dismissed;

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

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

35 **Sec. 13.** RCW 26.10.220 and 1996 c 248 s 10 are each amended to
36 read as follows:

37 (1) Whenever a restraining order is issued under this chapter, and
38 the person to be restrained knows of the order, a violation of the

1 provisions restricting the person from: (a) Acts or threats of
2 violence or molesting or disturbing another party; (b) contacting
3 another party; (c) intentionally coming within a specified distance of
4 any location specified in the order; or ~~((of a provision restraining~~
5 ~~the person from))~~ (d) going onto the grounds of ~~((or)),~~ entering, or
6 coming within a specified distance of the residence, workplace, school,
7 or day care of another is a misdemeanor.

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

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

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

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

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

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

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

22 (b) Obtaining a certified copy of the order, certified to be an
23 accurate copy of the original by a notary public or by the clerk of the
24 court.

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

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

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

31 (c) The person to be arrested has violated the terms of the order
32 restraining the person from: (i) Acts or threats of violence or
33 molesting or disturbing another party; (ii) contacting another party;
34 (iii) intentionally coming within a specified distance of any location
35 specified in the order; or ~~((restraining the person from))~~ (iv) going
36 onto the grounds of ~~((or)),~~ entering, or coming within a specified
37 distance of the residence, workplace, school, or day care of another.

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

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

4 **Sec. 14.** RCW 26.26.130 and 1997 c 58 s 947 are each amended to
5 read as follows:

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

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

12 (3) The judgment and order shall contain other appropriate
13 provisions directed to the appropriate parties to the proceeding,
14 concerning the duty of current and future support, the extent of any
15 liability for past support furnished to the child if that issue is
16 before the court, the furnishing of bond or other security for the
17 payment of the judgment, or any other matter in the best interest of
18 the child. The judgment and order may direct the father to pay the
19 reasonable expenses of the mother's pregnancy and confinement. The
20 judgment and order may include a continuing restraining order or
21 injunction. In issuing the order, the court shall consider the
22 provisions of RCW 9.41.800.

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

25 (5) Support judgment and orders shall be for periodic payments
26 which may vary in amount. The court may limit the father's liability
27 for the past support to the child to the proportion of the expenses
28 already incurred as the court deems just. The court shall not limit or
29 affect in any manner the right of nonparties including the state of
30 Washington to seek reimbursement for support and other services
31 previously furnished to the child.

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

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

1 (8) In any dispute between the natural parents of a child and a
2 person or persons who have (a) commenced adoption proceedings or who
3 have been granted an order of adoption, and (b) pursuant to a court
4 order, or placement by the department of social and health services or
5 by a licensed agency, have had actual custody of the child for a period
6 of one year or more before court action is commenced by the natural
7 parent or parents, the court shall consider the best welfare and
8 interests of the child, including the child's need for situation
9 stability, in determining the matter of custody, and the parent or
10 person who is more fit shall have the superior right to custody.

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

15 (10) Restraining orders issued under this section restraining the
16 person from: (a) Acts or threats of violence or molesting or
17 disturbing another party; (b) contacting another party; (c)
18 intentionally coming within a specified distance of any location
19 specified in the order; or ((from)) (d) going onto the grounds of
20 ((or)), entering, or coming within a specified distance of the home,
21 workplace, or school of the other party or the day care or school of
22 any child shall prominently bear on the front page of the order the
23 legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A
24 CRIMINAL OFFENSE UNDER CHAPTER 26.26 RCW AND WILL SUBJECT A VIOLATOR TO
25 ARREST.

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

36 **Sec. 15.** RCW 26.26.137 and 1995 c 246 s 32 are each amended to
37 read as follows:

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

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

11 (a) Acts or threats of violence or molesting or disturbing the
12 peace of another party;

13 (b) Going onto the grounds of ((~~or~~)), entering, or coming within a
14 specified distance of the home, workplace, or school of another party
15 or the day care or school of any child; ((~~or~~))

16 (c) Removing a child from the jurisdiction of the court;

17 (d) Contacting another party;

18 (e) Intentionally coming within a specified distance of any
19 location specified in the order; or

20 (f) Intentionally coming within a specified distance of another
21 party if the person knows or reasonably should have known that the
22 other party is afraid, intimidated, or harassed even if that person did
23 not intend to place the other party in fear, or intimidate or harass
24 the other party.

25 Orders issued under (c) of this subsection will not be entered into
26 the judicial information system.

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

1 (4) Restraining orders issued under this section restraining the
2 person from: (a) Acts or threats of violence or molesting or
3 disturbing another party; (b) contacting another party; (c)
4 intentionally coming within a specified distance of any location
5 specified in the order; or ~~((from))~~ (d) going onto the grounds of
6 ~~((or))~~, entering, or coming within a specified distance of the home,
7 workplace, or school of the other party or the day care or school of
8 any child shall prominently bear on the front page of the order the
9 legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A
10 CRIMINAL OFFENSE UNDER CHAPTER 26.26 RCW AND WILL SUBJECT A VIOLATOR TO
11 ARREST.

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

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

27 (7) The court may issue a temporary restraining order or
28 preliminary injunction and an order for temporary support in such
29 amounts and on such terms as are just and proper in the circumstances.
30 In issuing the order, the court shall consider the provisions of RCW
31 9.41.800.

32 (8) A temporary order, temporary restraining order, or preliminary
33 injunction:

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

36 (b) May be revoked or modified;

37 (c) Terminates when the final order is entered or when the petition
38 is dismissed; and

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

3 (9) A support debt owed to the state for public assistance
4 expenditures which has been charged against a party pursuant to RCW
5 74.20A.040 and/or 74.20A.055 shall not be merged in, or otherwise
6 extinguished by, the final decree or order, unless the office of
7 support enforcement has been given notice of the final proceeding and
8 an opportunity to present its claim for the support debt to the court
9 and has failed to file an affidavit as provided in this subsection.
10 Notice of the proceeding shall be served upon the office of support
11 enforcement personally, or by certified mail, and shall be given no
12 fewer than thirty days prior to the date of the final proceeding. An
13 original copy of the notice shall be filed with the court either before
14 service or within a reasonable time thereafter. The office of support
15 enforcement may present its claim, and thereby preserve the support
16 debt, by filing an affidavit setting forth the amount of the debt with
17 the court, and by mailing a copy of the affidavit to the parties or
18 their attorney prior to the date of the final proceeding.

19 **Sec. 16.** RCW 26.26.138 and 1996 c 248 s 11 are each amended to
20 read as follows:

21 (1) Whenever a restraining order is issued under this chapter, and
22 the person to be restrained knows of the order, a violation of the
23 provisions restricting the person from: (a) Acts or threats of
24 violence or molesting or disturbing another party; (b) contacting
25 another party; (c) intentionally coming within a specified distance of
26 any location specified in the order; or (~~(of a provision restraining~~
27 ~~the person from)) (d) going onto the grounds of (~~(or)~~), entering, or
28 coming within a specified distance of the residence, workplace, school,
29 or day care of another is a misdemeanor.~~

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

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

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

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

36 (d) The peace officer gives the person oral or written evidence of
37 the order by reading from it or handing to the person a certified copy

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

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

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

7 (b) Obtaining a certified copy of the order, certified to be an
8 accurate copy of the original by a notary public or by the clerk of the
9 court.

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

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

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

16 (c) The person to be arrested has violated the terms of the order
17 restraining the person from: (i) Acts or threats of violence or
18 molesting or disturbing another party; (ii) contacting another party;
19 (iii) intentionally coming within a specified distance of any location
20 specified in the order; or ((restraining the person from)) (iv) going
21 onto the grounds of ((or)), entering, or coming within a specified
22 distance of the residence, workplace, school, or day care of another.

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

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

28 **Sec. 17.** RCW 26.44.063 and 1993 c 412 s 15 are each amended to
29 read as follows:

30 (1) It is the intent of the legislature to minimize trauma to a
31 child involved in an allegation of sexual or physical abuse. The
32 legislature declares that removing the child from the home often has
33 the effect of further traumatizing the child. It is, therefore, the
34 legislature's intent that the alleged offender, rather than the child,
35 shall be removed from the home and that this should be done at the
36 earliest possible point of intervention in accordance with RCW
37 10.31.100, 13.34.130, this section, and RCW 26.44.130.

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

8 (a) Acts or threats of violence or molesting or disturbing the
9 peace of the alleged victim;

10 (b) Going onto the grounds of, entering, or coming within a
11 specified distance of the family home, school, or day care of the
12 alleged victim except as specifically authorized by the court; ((or))

13 (c) Having any contact with the alleged victim;

14 (d) Intentionally coming within a specified distance of or any
15 location specified in the order, except as specifically authorized by
16 the court.

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

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

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

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

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

35 (b) May be revoked or modified.

36 (7) The person having physical custody of the child shall have an
37 affirmative duty to assist in the enforcement of the restraining order
38 including but not limited to a duty to notify the court as soon as
39 practicable of any violation of the order, a duty to request the

1 assistance of law enforcement officers to enforce the order, and a duty
2 to notify the department of social and health services of any violation
3 of the order as soon as practicable if the department is a party to the
4 action. Failure by the custodial party to discharge these affirmative
5 duties shall be subject to contempt proceedings.

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

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

14 (1) Because of the serious nature of domestic violence, the court
15 in domestic violence actions:

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

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

20 (c) Shall waive any requirement that the victim's location be
21 disclosed to any person, other than the attorney of a criminal
22 defendant, upon a showing that there is a possibility of further
23 violence: PROVIDED, That the court may order a criminal defense
24 attorney not to disclose to his or her client the victim's location;
25 and

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

28 (2) Because of the likelihood of repeated violence directed at
29 those who have been victims of domestic violence in the past, when any
30 person charged with or arrested for a crime involving domestic violence
31 is held in or released from custody before arraignment or trial on bail
32 or personal recognizance, the court (~~((authorizing the release))~~) may
33 prohibit that person from having any contact with the victim or may
34 prohibit that person from intentionally coming within a specified
35 distance of the victim for the purpose of intimidating, harassing, or
36 frightening the victim or prohibiting the person from intentionally
37 coming within a specified distance of the victim if the person knows or
38 reasonably should have known that the victim is afraid, intimidated, or

1 harassed even if that person did not intend to place the victim in
2 fear, or intimidate or harass the victim.

3 The jurisdiction authorizing the release or in which the person is
4 held in custody shall determine whether that person should be
5 prohibited from having any contact with the victim or prohibited from
6 intentionally coming within a specified distance of any location
7 specified in the prohibition. If there is no outstanding restraining
8 or protective order prohibiting that person from having contact with
9 the victim or prohibiting that person from intentionally coming within
10 a specified distance of a location, the court (~~authorizing release~~)
11 may issue, by telephone, a no-contact order prohibiting the person
12 charged or arrested from having contact with the victim or
13 intentionally coming within a specified distance of any location
14 specified in the order. In issuing the order, the court shall consider
15 the provisions of RCW 9.41.800. The (~~no-contact~~) order shall also be
16 issued in writing as soon as possible.

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

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

37 (b) Any assault that is a violation of an order issued under this
38 section and that does not amount to assault in the first or second
39 degree under RCW 9A.36.011 or 9A.36.021 is a class C felony punishable

1 under chapter 9A.20 RCW, and any conduct in violation of a protective
2 order issued under this section that is reckless and creates a
3 substantial risk of death or serious physical injury to another person
4 is a class C felony punishable under chapter 9A.20 RCW.

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

14 (d) The written order releasing or holding in custody the person
15 charged or arrested shall contain the court's directives and shall bear
16 the legend: "Violation of this order is a criminal offense under
17 chapter 10.99 RCW and will subject a violator to arrest; any assault,
18 drive-by shooting, or reckless endangerment that is a violation of this
19 order is a felony. You can be arrested even if any person protected by
20 the order invites or allows you to violate the order's prohibitions.
21 You have the sole responsibility to avoid or refrain from violating the
22 order's provisions. Only the court can change the order." A certified
23 copy of the order shall be provided to the victim. If (~~(a no-contact~~
24 ~~order)~~) an order prohibiting contact with the victim or from
25 intentionally coming within a specified distance of any location
26 specified in the order has been issued prior to charging, that order
27 shall expire at arraignment or within seventy-two hours if charges are
28 not filed. Such orders need not be entered into the computer-based
29 criminal intelligence information system in this state which is used by
30 law enforcement agencies to list outstanding warrants.

31 (5) Whenever an order prohibiting contact with the victim or from
32 intentionally coming within a specified distance of any location
33 specified in the order is issued, modified, or terminated under
34 subsection (2) or (3) of this section, the clerk of the court shall
35 forward a copy of the order on or before the next judicial day to the
36 appropriate law enforcement agency specified in the order. Upon
37 receipt of the copy of the order the law enforcement agency shall
38 forthwith enter the order for one year or until the expiration date
39 specified on the order into any computer-based criminal intelligence

1 information system available in this state used by law enforcement
2 agencies to list outstanding warrants. Entry into the law enforcement
3 information system constitutes notice to all law enforcement agencies
4 of the existence of the order. The order is fully enforceable in any
5 jurisdiction in the state.

6 **Sec. 19.** RCW 10.99.050 and 1997 c 338 s 55 are each amended to
7 read as follows:

8 (1) When a defendant is found guilty of a crime and a condition of
9 the sentence restricts the defendant's ability to have contact with the
10 victim or restricts the defendant's ability to intentionally come
11 within a specified distance of the victim for the purpose of
12 intimidating, harassing, or frightening the victim or prohibiting the
13 defendant from intentionally coming within a specified distance of any
14 location specified in the sentence, such condition shall be recorded
15 and a written certified copy of that order shall be provided to the
16 victim.

17 (2) Willful violation of a court order issued under this section is
18 a gross misdemeanor. Any assault that is a violation of an order
19 issued under this section and that does not amount to assault in the
20 first or second degree under RCW 9A.36.011 or 9A.36.021 is a class C
21 felony, and any conduct in violation of a protective order issued under
22 this section that is reckless and creates a substantial risk of death
23 or serious physical injury to another person is a class C felony. A
24 willful violation of a court order issued under this section is also a
25 class C felony if the offender has at least two previous convictions
26 for violating the provisions of (~~a no-contact~~) an order issued under
27 this chapter, or a domestic violence protection order issued under
28 chapter 26.09, 26.10, 26.26, or 26.50 RCW, or any federal or out-of-
29 state order that is comparable to a no-contact order or protection
30 order that is issued under Washington law. The previous convictions
31 may involve the same victim or other victims specifically protected by
32 the (~~no-contact orders or protection~~) orders the offender violated.

33 The written order shall contain the court's directives and shall
34 bear the legend: Violation of this order is a criminal offense under
35 chapter 10.99 RCW and will subject a violator to arrest; any assault,
36 drive-by shooting, or reckless endangerment that is a violation of this
37 order is a felony.

1 (3) Whenever an order prohibiting contact with the victim or
2 prohibiting the defendant from intentionally coming within a specified
3 distance of any location specified in the order is issued pursuant to
4 this section, the clerk of the court shall forward a copy of the order
5 on or before the next judicial day to the appropriate law enforcement
6 agency specified in the order. Upon receipt of the copy of the order
7 the law enforcement agency shall forthwith enter the order for one year
8 into any computer-based criminal intelligence information system
9 available in this state used by law enforcement agencies to list
10 outstanding warrants. Entry into the law enforcement information
11 system constitutes notice to all law enforcement agencies of the
12 existence of the order. The order is fully enforceable in any
13 jurisdiction in the state."

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15 By Committee on Law & Justice

16

17 On page 1, line 1 of the title, after "violence;" strike the
18 remainder of the title and insert "and amending RCW 10.31.100,
19 26.50.060, 26.50.070, 26.50.110, 26.50.160, 26.50.135, 26.50.025,
20 26.09.050, 26.09.060, 26.09.300, 26.10.040, 26.10.115, 26.10.220,
21 26.26.130, 26.26.137, 26.26.138, 26.44.063, 10.99.040, and 10.99.050."

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