
ENGROSSED SUBSTITUTE HOUSE BILL 2756

State of Washington

55th Legislature

1998 Regular Session

By House Committee on Law & Justice (originally sponsored by Representatives Sheahan, Costa, Lambert, Constantine, Sherstad, Kessler, Ogden, Dickerson, Conway, Cooper, Mason, Anderson, Thompson, Gardner, Wood, Morris and Ballasiotes)

Read first time 02/06/98. Referred to Committee on .

1 AN ACT Relating to domestic violence; amending RCW 10.31.100,
2 26.50.060, 26.50.070, 26.50.110, 26.50.160, 26.50.135, 26.50.025,
3 26.09.050, 26.09.060, 26.09.300, 26.10.040, 26.10.115, 26.10.220,
4 26.26.130, 26.26.137, 26.26.138, 26.44.063, 10.99.040, 10.99.050,
5 9.95.062, 10.64.025, and 9.94A.360; and reenacting and amending RCW
6 9.94A.120.

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

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

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

16 (1) Any police officer having probable cause to believe that a
17 person has committed or is committing a misdemeanor or gross
18 misdemeanor, involving physical harm or threats of harm to any person
19 or property or the unlawful taking of property or involving the use or

1 possession of cannabis, or involving the acquisition, possession, or
2 consumption of alcohol by a person under the age of twenty-one years
3 under RCW 66.44.270, or involving criminal trespass under RCW 9A.52.070
4 or 9A.52.080, shall have the authority to arrest the person.

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

8 (a) An order has been issued of which the person has knowledge
9 under RCW 10.99.040(2), 10.99.050, 26.09.050, 26.09.060, 26.10.040,
10 26.10.115, 26.44.063, chapter 26.26 RCW, or chapter 26.50 RCW
11 restraining the person and the person has violated the terms of the
12 order restraining the person from acts or threats of violence, from
13 contacting or coming within a specified distance of another person with
14 the intent of intimidating, harassing, or frightening the other person
15 or if the person knows or reasonably should have known that the other
16 person is afraid, intimidated, or harassed even if that person did not
17 intend to place the other person in fear, or intimidate or harass the
18 other person, or ((restraining the person)) from going onto the grounds
19 of ((~~or~~)), entering, or coming within a specified distance of a
20 residence, workplace, school, or day care or, in the case of an order
21 issued under RCW 26.44.063, imposing any other restrictions or
22 conditions upon the person; or

23 (b) The person is sixteen years or older and within the preceding
24 four hours has assaulted a family or household member as defined in RCW
25 10.99.020 and the officer believes: (i) A felonious assault has
26 occurred; (ii) an assault has occurred which has resulted in bodily
27 injury to the victim, whether the injury is observable by the
28 responding officer or not; or (iii) that any physical action has
29 occurred which was intended to cause another person reasonably to fear
30 imminent serious bodily injury or death. Bodily injury means physical
31 pain, illness, or an impairment of physical condition. When the
32 officer has probable cause to believe that family or household members
33 have assaulted each other, the officer is not required to arrest both
34 persons. The officer shall arrest the person whom the officer believes
35 to be the primary physical aggressor. In making this determination,
36 the officer shall make every reasonable effort to consider: (i) The
37 intent to protect victims of domestic violence under RCW 10.99.010;
38 (ii) the comparative extent of injuries inflicted or serious threats

1 creating fear of physical injury; and (iii) the history of domestic
2 violence between the persons involved.

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

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

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

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

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

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

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

18 (4) A law enforcement officer investigating at the scene of a motor
19 vehicle accident may arrest the driver of a motor vehicle involved in
20 the accident if the officer has probable cause to believe that the
21 driver has committed in connection with the accident a violation of any
22 traffic law or regulation.

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

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

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

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

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

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

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

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

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

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

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

21 (a) Restrain the respondent from committing acts of domestic
22 violence;

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

27 (c) On the same basis as is provided in chapter 26.09 RCW, the
28 court shall make residential provision with regard to minor children of
29 the parties. However, parenting plans as specified in chapter 26.09
30 RCW shall not be required under this chapter;

31 (d) Order the respondent to participate in batterers' treatment;

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

36 (f) Require the respondent to pay the administrative court costs
37 and service fees, as established by the county or municipality

1 incurring the expense and to reimburse the petitioner for costs
2 incurred in bringing the action, including a reasonable attorney's fee;

3 (g) Restrain the respondent from having any contact with or coming
4 within a specified distance of the victim of domestic violence or the
5 victim's children or members of the victim's household with the intent
6 of intimidating, harassing, or frightening the victim, the victim's
7 children, or members of the victim's household or if the respondent
8 knows or reasonably should have known that the victim, the victim's
9 children, or members of the victim's household are afraid, intimidated,
10 or harassed even if the respondent did not intend to place the victim,
11 the victim's children, or members of the victim's household in fear, or
12 intimidate or harass the victim, the victim's children, or members of
13 the victim's household;

14 (h) Require the respondent to submit to electronic monitoring. The
15 order shall specify who shall provide the electronic monitoring
16 services and the terms under which the monitoring must be performed.
17 The order also may include a requirement that the respondent pay the
18 costs of the monitoring. The court shall consider the ability of the
19 respondent to pay for electronic monitoring;

20 (i) Consider the provisions of RCW 9.41.800;

21 (j) Order possession and use of essential personal effects. The
22 court shall list the essential personal effects with sufficient
23 specificity to make it clear which property is included; and

24 (k) Order use of a vehicle.

25 (2) If a restraining order restrains the respondent from contacting
26 the respondent's minor children the restraint shall be for a fixed
27 period not to exceed one year. This limitation is not applicable to
28 orders for protection issued under chapter 26.09, 26.10, or 26.26 RCW.
29 With regard to other relief, if the petitioner has petitioned for
30 relief on his or her own behalf or on behalf of the petitioner's family
31 or household members or minor children, and the court finds that the
32 respondent is likely to resume acts of domestic violence against the
33 petitioner or the petitioner's family or household members or minor
34 children when the order expires, the court may either grant relief for
35 a fixed period or enter a permanent order of protection.

36 If the petitioner has petitioned for relief on behalf of the
37 respondent's minor children, the court shall advise the petitioner that
38 if the petitioner wants to continue protection for a period beyond one
39 year the petitioner may either petition for renewal pursuant to the

1 provisions of this chapter or may seek relief pursuant to the
2 provisions of chapter 26.09 or 26.26 RCW.

3 (3) If the court grants an order for a fixed time period, the
4 petitioner may apply for renewal of the order by filing a petition for
5 renewal at any time within the three months before the order expires.
6 The petition for renewal shall state the reasons why the petitioner
7 seeks to renew the protection order. Upon receipt of the petition for
8 renewal the court shall order a hearing which shall be not later than
9 fourteen days from the date of the order. Except as provided in RCW
10 26.50.085, personal service shall be made on the respondent not less
11 than five days before the hearing. If timely service cannot be made
12 the court shall set a new hearing date and shall either require
13 additional attempts at obtaining personal service or permit service by
14 publication as provided in RCW 26.50.085 or by mail as provided in RCW
15 26.50.123. If the court permits service by publication or mail, the
16 court shall set the new hearing date not later than twenty-four days
17 from the date of the order. If the order expires because timely
18 service cannot be made the court shall grant an ex parte order of
19 protection as provided in RCW 26.50.070. The court shall grant the
20 petition for renewal unless the respondent proves by a preponderance of
21 the evidence that the respondent will not resume acts of domestic
22 violence against the petitioner or the petitioner's children or family
23 or household members when the order expires. The court may renew the
24 protection order for another fixed time period or may enter a permanent
25 order as provided in this section. The court may award court costs,
26 service fees, and reasonable attorneys' fees as provided in subsection
27 (1)(f) of this section.

28 (4) In providing relief under this chapter, the court may realign
29 the designation of the parties as "petitioner" and "respondent" where
30 the court finds that the original petitioner is the abuser and the
31 original respondent is the victim of domestic violence and may issue an
32 ex parte temporary order for protection in accordance with RCW
33 26.50.070 on behalf of the victim until the victim is able to prepare
34 a petition for an order for protection in accordance with RCW
35 26.50.030.

36 (5) Except as provided in subsection (4) of this section, no order
37 for protection shall grant relief to any party except upon notice to
38 the respondent and hearing pursuant to a petition or counter-petition

1 filed and served by the party seeking relief in accordance with RCW
2 26.50.050.

3 (6) The court order shall specify the date the order expires if
4 any. The court order shall also state whether the court issued the
5 protection order following personal service, service by publication, or
6 service by mail and whether the court has approved service by
7 publication or mail of an order issued under this section.

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

11 **Sec. 3.** RCW 26.50.070 and 1996 c 248 s 14 are each amended to read
12 as follows:

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

19 (a) Restraining any party from committing acts of domestic
20 violence;

21 (b) Restraining any party from going onto the grounds of ~~((or))~~,
22 entering, or coming within a specified distance of the dwelling that
23 the parties share, from the residence, workplace, or school of the
24 other, or from the day care or school of a child until further order of
25 the court;

26 (c) Restraining any party from interfering with the other's custody
27 of the minor children or from removing the children from the
28 jurisdiction of the court;

29 (d) Restraining any party from having any contact with or coming
30 within a specified distance of the victim of domestic violence or the
31 victim's children or members of the victim's household with the intent
32 of intimidating, harassing, or frightening the victim, the victim's
33 children, or members of the victim's household or if the party knows or
34 reasonably should have known that the victim, victim's children, or
35 members of the victim's household are afraid, intimidated, or harassed
36 even if the party did not intend to place the victim, victim's
37 children, or members of the victim's household in fear, or intimidate

1 or harass the victim, victim's children, or members of the victim's
2 household; and

3 (e) Considering the provisions of RCW 9.41.800.

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

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

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

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

26 (6) If the court declines to issue an ex parte temporary order for
27 protection the court shall state the particular reasons for the court's
28 denial. The court's denial of a motion for an ex parte order of
29 protection shall be filed with the court.

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

32 (1) Whenever an order for protection is granted under this chapter
33 and the respondent or person to be restrained knows of the order, a
34 violation of ((the)) any restraint provision(~~(s or of)~~) including a
35 provision (~~(excluding)~~) restraining the person from going onto the
36 grounds of, entering, or coming within a specified distance of a
37 residence, workplace, school, or day care is a gross misdemeanor except
38 as provided in subsections (4) and (5) of this section. Upon

1 conviction, and in addition to any other penalties provided by law, the
2 court may require that the respondent submit to electronic monitoring.
3 The court shall specify who shall provide the electronic monitoring
4 services, and the terms under which the monitoring shall be performed.
5 The order also may include a requirement that the respondent pay the
6 costs of the monitoring. The court shall consider the ability of the
7 convicted person to pay for electronic monitoring.

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

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

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

25 (5) A violation of a court order issued under this chapter is a
26 class C felony if the offender has at least two previous convictions
27 for violating the provisions of a no-contact order issued under chapter
28 10.99 RCW, a domestic violence protection order issued under chapter
29 26.09, 26.10, or 26.26 RCW or this chapter, or any federal or out-of-
30 state order that is comparable to a no-contact or protection order
31 issued under Washington law. The previous convictions may involve the
32 same victim or other victims specifically protected by the no-contact
33 orders or protection orders the offender violated.

34 (6) Upon the filing of an affidavit by the petitioner or any peace
35 officer alleging that the respondent has violated an order for
36 protection granted under this chapter, the court may issue an order to
37 the respondent, requiring the respondent to appear and show cause
38 within fourteen days why the respondent should not be found in contempt
39 of court and punished accordingly. The hearing may be held in the

1 court of any county or municipality in which the petitioner or
2 respondent temporarily or permanently resides at the time of the
3 alleged violation.

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

6 Notwithstanding any statutes to the contrary, to prevent the
7 issuance of competing protection and custody orders in different courts
8 and to give courts needed information for issuance of orders, ((the
9 judicial information system shall be available in each district,
10 municipal, and superior court by July 1, 1997, and shall include a data
11 base containing the following information:

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

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

24 (3) Other relevant information necessary to assist courts in
25 issuing orders under this chapter as determined by the judicial
26 information system committee)) upon entry of the final judgment and
27 order, every child custody action under chapter 26.27 RCW, every
28 dependency and termination of parent-child relationship action under
29 chapter 13.34 RCW, and every at-risk youth and child in need of
30 services action under chapter 13.32A RCW in which a residential
31 placement decision is made. The data shall include full legal name,
32 names also known by or previously known by, case number and date of
33 birth, and one other identifier to be determined by the judicial
34 information system. This information shall be entered on all parties
35 to the case and for other persons named in the order. This
36 information, along with the judicial information criminal case history
37 of the parties, and the order history for each case type named, shall

1 be shared with all municipal, district, and superior courts in the
2 state.

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

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

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

30 (2) Jurisdictional issues regarding out-of-state proceedings
31 involving the custody or residential placement of any child of the
32 parties shall be governed by the uniform child custody jurisdiction
33 act, chapter 26.27 RCW.

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

36 (1) Any order available under this chapter may be issued in actions
37 under chapter 26.09, 26.10, or 26.26 RCW after entry of the judgment

1 and order determining the parent and child relationship. If an order
2 for protection is issued in an action under chapter 26.09, 26.10, or
3 26.26 RCW, the order shall be issued on the forms mandated by RCW
4 26.50.035(1). An order issued in accordance with this subsection is
5 fully enforceable and shall be enforced under the provisions of this
6 chapter.

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

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

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

31 (2) Restraining orders issued under this section restraining the
32 person from acts or threats of violence or molesting or disturbing
33 another party, from contacting or coming within a specified distance of
34 another party with the intent of intimidating, harassing, or
35 frightening the party or if the person knows or reasonably should have
36 known that the party is afraid, intimidated, or harassed even if that
37 person did not intend to place the other party in fear, or intimidate
38 or harass the other party, or from going onto the grounds of ((œ)),

1 entering, or coming within a specified distance of the home, workplace,
2 or school of the other party or the day care or school of any child
3 shall prominently bear on the front page of the order the legend:
4 VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL
5 OFFENSE UNDER CHAPTER 26.09 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

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

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

19 (1) In a proceeding for:

20 (a) Dissolution of marriage, legal separation, or a declaration of
21 invalidity; or

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

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

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

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

3 (c) Going onto the grounds of ((~~or~~)), entering, or coming within a
4 specified distance of the home, workplace, or school of the other party
5 or the day care or school of any child upon a showing of the necessity
6 therefor;

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

8 (e) Contacting or coming within a specified distance of another
9 party with the intent of intimidating, harassing, or frightening the
10 party or if the person knows or reasonably should have known that the
11 other party is afraid, intimidated, or harassed even if that person did
12 not intend to place the other party in fear, or intimidate or harass
13 the other party.

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

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

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

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

36 (7) Restraining orders issued under this section restraining the
37 person from acts or threats of violence or molesting or disturbing
38 another party, from contacting or coming within a specified distance of
39 another party with the intent of intimidating, harassing, or

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

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

23 (9) A temporary order, temporary restraining order, or preliminary
24 injunction:

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

27 (b) May be revoked or modified;

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

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

34 (10) Delinquent support payments accrued under an order for
35 temporary support remain collectible and are not extinguished when a
36 final decree is entered unless the decree contains specific language to
37 the contrary. A support debt under a temporary order owed to the state
38 for public assistance expenditures shall not be extinguished by the
39 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. 10.** RCW 26.09.300 and 1996 c 248 s 9 are each amended to read
7 as follows:

8 (1) Whenever a restraining order is issued under this chapter, and
9 the person to be restrained knows of the order, a violation of the
10 provisions restricting the person from acts or threats of violence or
11 molesting or disturbing another party, from contacting or coming within
12 a specified distance of another party with the intent of intimidating,
13 harassing, or frightening the party or if the person knows or
14 reasonably should have known that the other party is afraid,
15 intimidated, or harassed even if that person did not intend to place
16 the other party in fear, or intimidate or harass the other party, or
17 ~~((of a provision restraining the person))~~ from going onto the grounds
18 of ~~((or))~~, entering, or coming within a specified distance of the
19 residence, workplace, school, 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 acts or threats of violence or molesting or
9 disturbing another, from contacting or coming within a specified
10 distance of another party with the intent of intimidating, harassing,
11 or frightening the party or if the person knows or reasonably should
12 have known that the other party is afraid, intimidated, or harassed
13 even if that person did not intend to place the other party in fear, or
14 intimidate or harass the other party, or ((restraining the person))
15 from going onto the grounds of ((~~or~~)), entering, or coming within a
16 specified distance of the residence, workplace, school, or day care of
17 another.

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

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

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

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

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

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

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

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

1 (5) Restraining orders issued under this section restraining the
2 person from acts or threats of violence or molesting or disturbing
3 another party, from contacting or coming within a specified distance of
4 another party with the intent of intimidating, harassing, or
5 frightening the party or if the person knows or reasonably should have
6 known that the other party is afraid, intimidated, or harassed even if
7 that person did not intend to place the other party in fear, or
8 intimidate or harass the other party, or from going onto the grounds of
9 ((or)), entering, or coming within a specified distance of the home,
10 workplace, or school of the other party or the day care or school of
11 any child shall prominently bear on the front page of the order the
12 legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A
13 CRIMINAL OFFENSE UNDER CHAPTER 26.10 RCW AND WILL SUBJECT A VIOLATOR TO
14 ARREST;

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

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

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

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

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

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

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

6 (d) Contacting or coming within a specified distance of another
7 party with the intent of intimidating, harassing, or frightening the
8 party or if the person knows or reasonably should have known that the
9 other party is afraid, intimidated, or harassed even if that person did
10 not intend to place the other party in fear, or intimidate or harass
11 the other party.

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

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

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

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

32 (7) Restraining orders issued under this section restraining the
33 person from acts or threats of violence or molesting or disturbing
34 another party, from contacting or coming within a specified distance of
35 another party with the intent of intimidating, harassing, or
36 frightening the party or if the person knows or reasonably should have
37 known that the other party is afraid, intimidated, or harassed even if
38 that person did not intend to place the other party in fear, or
39 intimidate or harass the other party, or from 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 (8) The court shall order that any temporary restraining order
8 bearing a criminal offense legend, any domestic violence protection
9 order, or any antiharassment protection order granted under this
10 section be forwarded by the clerk of the court on or before the next
11 judicial day to the appropriate law enforcement agency specified in the
12 order. Upon receipt of the order, the law enforcement agency shall
13 forthwith enter the order into any computer-based criminal intelligence
14 information system available in this state used by law enforcement
15 agencies to list outstanding warrants. Entry into the law enforcement
16 information system constitutes notice to all law enforcement agencies
17 of the existence of the order. The order is fully enforceable in any
18 county in the state.

19 (9) A temporary order, temporary restraining order, or preliminary
20 injunction:

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

23 (b) May be revoked or modified;

24 (c) Terminates when the final order is entered or when the motion
25 is dismissed;

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

28 (10) A support debt owed to the state for public assistance
29 expenditures which has been charged against a party pursuant to RCW
30 74.20A.040 and/or 74.20A.055 shall not be merged in, or otherwise
31 extinguished by, the final decree or order, unless the office of
32 support enforcement has been given notice of the final proceeding and
33 an opportunity to present its claim for the support debt to the court
34 and has failed to file an affidavit as provided in this subsection.
35 Notice of the proceeding shall be served upon the office of support
36 enforcement personally, or by certified mail, and shall be given no
37 fewer than thirty days prior to the date of the final proceeding. An
38 original copy of the notice shall be filed with the court either before
39 service or within a reasonable time thereafter. The office of support

1 enforcement may present its claim, and thereby preserve the support
2 debt, by filing an affidavit setting forth the amount of the debt with
3 the court, and by mailing a copy of the affidavit to the parties or
4 their attorney prior to the date of the final proceeding.

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

7 (1) Whenever a restraining order is issued under this chapter, and
8 the person to be restrained knows of the order, a violation of the
9 provisions restricting the person from acts or threats of violence or
10 molesting or disturbing another party, from contacting or coming within
11 a specified distance of another party with the intent of intimidating,
12 harassing, or frightening the party or if the person knows or
13 reasonably should have known that the other party is afraid,
14 intimidated, or harassed even if that person did not intend to place
15 the other party in fear, or intimidate or harass the other party, or
16 ((of a provision restraining the person)) from going onto the grounds
17 of ((or)), entering, or coming within a specified distance of the
18 residence, workplace, school, or day care of another is a misdemeanor.

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 molesting or
6 disturbing another party, from contacting or coming within a specified
7 distance of another party with the intent of intimidating, harassing,
8 or frightening the party or if the person knows or reasonably should
9 have known that the other party is afraid, intimidated, or harassed
10 even if that person did not intend to place the other party in fear, or
11 intimidate or harass the other party, or restraining the person from
12 going onto the grounds of ~~((or))~~, entering, or coming within a
13 specified distance of the residence, workplace, school, or day care of
14 another.

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

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

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

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

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

28 (3) The judgment and order shall contain other appropriate
29 provisions directed to the appropriate parties to the proceeding,
30 concerning the duty of current and future support, the extent of any
31 liability for past support furnished to the child if that issue is
32 before the court, the furnishing of bond or other security for the
33 payment of the judgment, or any other matter in the best interest of
34 the child. The judgment and order may direct the father to pay the
35 reasonable expenses of the mother's pregnancy and confinement. The
36 judgment and order may include a continuing restraining order or
37 injunction. In issuing the order, the court shall consider the
38 provisions of RCW 9.41.800.

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

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

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

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

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

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

31 (10) Restraining orders issued under this section restraining the
32 person from acts or threats of violence or molesting or disturbing
33 another party, from contacting or coming within a specified distance of
34 another party with the intent of intimidating, harassing, or
35 frightening the party or if the person knows or reasonably should have
36 known that the other party is afraid, intimidated, or harassed even if
37 that person did not intend to place the other party in fear, or
38 intimidate or harass the other party, or from going onto the grounds of
39 ((or)), entering, or coming within a specified distance of the home,

1 workplace, or school of the other party or the day care or school of
2 any child shall prominently bear on the front page of the order the
3 legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A
4 CRIMINAL OFFENSE UNDER CHAPTER 26.26 RCW AND WILL SUBJECT A VIOLATOR TO
5 ARREST.

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

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

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

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

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

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

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

34 (d) Contacting or coming within a specified distance of another
35 party with the intent of intimidating, harassing, or frightening the
36 party or if the person knows or reasonably should have known that the
37 other party is afraid, intimidated, or harassed even if that person did

1 not intend to place the other party in fear, or intimidate or harass
2 the other party.

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

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

18 (4) Restraining orders issued under this section restraining the
19 person from acts or threats of violence or molesting or disturbing
20 another party, contacting or coming within a specified distance of
21 another party with the intent of intimidating, harassing, or
22 frightening the party or if the person knows or reasonably should have
23 known that the other party is afraid, intimidated, or harassed even if
24 that person did not intend to place the other party in fear, or
25 intimidate or harass the other party, or from going onto the grounds of
26 ((or)), entering, or coming within a specified distance of the home,
27 workplace, or school of the other party or the day care or school of
28 any child shall prominently bear on the front page of the order the
29 legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A
30 CRIMINAL OFFENSE UNDER CHAPTER 26.26 RCW AND WILL SUBJECT A VIOLATOR TO
31 ARREST.

32 (5) The court shall order that any temporary restraining order
33 bearing a criminal offense legend, any domestic violence protection
34 order, or any antiharassment protection order granted under this
35 section be forwarded by the clerk of the court on or before the next
36 judicial day to the appropriate law enforcement agency specified in the
37 order. Upon receipt of the order, the law enforcement agency shall
38 forthwith enter the order into any computer-based criminal intelligence
39 information system available in this state used by law enforcement

1 agencies to list outstanding warrants. The order is fully enforceable
2 in any county in the state.

3 (6) 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 (7) 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 In issuing the order, the court shall consider the provisions of RCW
12 9.41.800.

13 (8) A temporary order, temporary restraining order, or preliminary
14 injunction:

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

17 (b) May be revoked or modified;

18 (c) Terminates when the final order is entered or when the petition
19 is dismissed; and

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

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

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

3 (1) Whenever a restraining order is issued under this chapter, and
4 the person to be restrained knows of the order, a violation of the
5 provisions restricting the person from acts or threats of violence or
6 molesting or disturbing another party, or contacting or coming within
7 a specified distance of another party with the intent of intimidating,
8 harassing, or frightening the party or if the person knows or
9 reasonably should have known that the other party is afraid,
10 intimidated, or harassed even if that person did not intend to place
11 the other party in fear, or intimidate or harass the other party, or of
12 a provision restraining the person from going onto the grounds of
13 ~~((or))~~, entering, or coming within a specified distance of the
14 residence, workplace, school, or day care of another is a misdemeanor.

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

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

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

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

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

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

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

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

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

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

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

38 (c) The person to be arrested has violated the terms of the order
39 restraining the person from acts or threats of violence or molesting or

1 disturbing another party, from contacting or coming within a specified
2 distance of another party with the intent of intimidating, harassing,
3 or frightening the party or if the person knows or reasonably should
4 have known that the other party is afraid, intimidated, or harassed
5 even if that person did not intend to place the other party in fear, or
6 intimidate or harass the party, or ((restraining the person)) from
7 going onto the grounds of ((or)), entering, or coming within a
8 specified distance of the residence, workplace, school, or day care of
9 another.

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

17 (1) It is the intent of the legislature to minimize trauma to a
18 child involved in an allegation of sexual or physical abuse. The
19 legislature declares that removing the child from the home often has
20 the effect of further traumatizing the child. It is, therefore, the
21 legislature's intent that the alleged offender, rather than the child,
22 shall be removed from the home and that this should be done at the
23 earliest possible point of intervention in accordance with RCW
24 10.31.100, 13.34.130, this section, and RCW 26.44.130.

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

32 (a) Acts or threats of violence or molesting or disturbing the
33 peace of the alleged victim;

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

37 (c) Having any contact with or coming within a specified distance
38 of the alleged victim with the intent of intimidating, harassing, or

1 frightening the alleged victim or if the person knows or reasonably
2 should have known that the alleged victim is afraid, intimidated, or
3 harassed even if that person did not intend to place the alleged victim
4 in fear, or intimidate or harass the alleged victim, except as
5 specifically authorized by the court.

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

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

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

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

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

24 (b) May be revoked or modified.

25 (7) The person having physical custody of the child shall have an
26 affirmative duty to assist in the enforcement of the restraining order
27 including but not limited to a duty to notify the court as soon as
28 practicable of any violation of the order, a duty to request the
29 assistance of law enforcement officers to enforce the order, and a duty
30 to notify the department of social and health services of any violation
31 of the order as soon as practicable if the department is a party to the
32 action. Failure by the custodial party to discharge these affirmative
33 duties shall be subject to contempt proceedings.

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

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

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

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

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

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

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

17 (2) Because of the likelihood of repeated violence directed at
18 those who have been victims of domestic violence in the past, when any
19 person charged with or arrested for a crime involving domestic violence
20 is held in or released from custody before arraignment or trial on bail
21 or personal recognizance, the court (~~((authorizing the release))~~) may
22 prohibit that person from having any contact with the victim or coming
23 within a specified distance of the victim with the intent of
24 intimidating, harassing, or frightening the victim or if the person
25 knows or reasonably should have known that the victim is afraid,
26 intimidated, or harassed even if that person did not intend to place
27 the victim in fear, or intimidate or harass the victim.

28 (a) The jurisdiction authorizing the release or in which the person
29 is held in custody shall determine whether that person should be
30 prohibited from having any contact with the victim or coming within a
31 specified distance of the victim with the intent of intimidating,
32 harassing, or frightening the victim or if the person knows or
33 reasonably should have known that the victim is afraid, intimidated, or
34 harassed even if that person did not intend to place the victim in
35 fear, or intimidate or harass the victim. If there is no outstanding
36 restraining or protective order prohibiting that person from having
37 contact with the victim or coming within a specified distance of the
38 victim, the court (~~((authorizing release))~~) may issue, by telephone, a
39 no-contact order prohibiting the person charged or arrested from having

1 contact with the victim or coming within a specified distance of the
2 victim with the intent of intimidating, harassing, or frightening the
3 victim or if the person knows or reasonably should have known that the
4 victim is afraid, intimidated, or harassed even if that person did not
5 intend to place the victim in fear, or intimidate or harass the victim.
6 In issuing the order, the court shall consider the provisions of RCW
7 9.41.800. The (~~no-contact~~) order shall also be issued in writing as
8 soon as possible.

9 (b) Upon the court's own motion, or upon a verified application by
10 the prosecuting attorney, alleging with specificity that the accused
11 has violated a condition of release imposed under (a) of this
12 subsection, the court shall order the accused to be arrested and held
13 without bail or release on personal recognizance, pending an immediate
14 hearing to reconsider the release authorized under this subsection.

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

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

35 (b) Any assault that is a violation of an order issued under this
36 section and that does not amount to assault in the first or second
37 degree under RCW 9A.36.011 or 9A.36.021 is a class C felony punishable
38 under chapter 9A.20 RCW, and any conduct in violation of a protective
39 order issued under this section that is reckless and creates a

1 substantial risk of death or serious physical injury to another person
2 is a class C felony punishable under chapter 9A.20 RCW.

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

12 (d) The written order releasing or holding in custody the person
13 charged or arrested shall contain the court's directives and shall bear
14 the legend: "Violation of this order is a criminal offense under
15 chapter 10.99 RCW and will subject a violator to arrest; any assault,
16 drive-by shooting, or reckless endangerment that is a violation of this
17 order is a felony. You can be arrested even if any person protected by
18 the order invites or allows you to violate the order's prohibitions.
19 You have the sole responsibility to avoid or refrain from violating the
20 order's provisions. Only the court can change the order. You are
21 further notified that, upon motion of the court or the prosecuting
22 attorney, alleging with specificity that you have violated a condition
23 of this order, you are subject to arrest without bail or release on
24 personal recognizance pending trial." A certified copy of the order
25 shall be provided to the victim. If (~~(a no-contact order)~~) an order
26 prohibiting contact with or coming within a specified distance of the
27 victim with the intent of intimidating, harassing, or frightening the
28 victim or if the person knows or reasonably should have known that the
29 victim is afraid, intimidated, or harassed even if that person did not
30 intend to place the victim in fear, or intimidate or harass the victim
31 has been issued prior to charging, that order shall expire at
32 arraignment or within seventy-two hours if charges are not filed. Such
33 orders need not be entered into the computer-based criminal
34 intelligence information system in this state which is used by law
35 enforcement agencies to list outstanding warrants.

36 (5) Whenever an order prohibiting contact with or coming within a
37 specified distance of the victim with the intent of intimidating,
38 harassing, or frightening the victim or if the person knows or
39 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 is issued, modified, or
3 terminated under subsection (2) or (3) of this section, the clerk of
4 the court shall forward a copy of the order on or before the next
5 judicial day to the appropriate law enforcement agency specified in the
6 order. Upon receipt of the copy of the order the law enforcement
7 agency shall forthwith enter the order for one year or until the
8 expiration date specified on the order into any computer-based criminal
9 intelligence information system available in this state used by law
10 enforcement agencies to list outstanding warrants. Entry into the law
11 enforcement information system constitutes notice to all law
12 enforcement agencies of the existence of the order. The order is fully
13 enforceable in any jurisdiction in the state.

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

16 (1) When a defendant is found guilty of a crime and a condition of
17 the sentence restricts the defendant's ability to have contact with the
18 victim or to come within a specified distance of the victim with the
19 intent of intimidating, harassing, or frightening the victim or if the
20 defendant knows or reasonably should have known that the victim is
21 afraid, intimidated, or harassed even if the defendant did not intend
22 to place the victim in fear, or intimidate or harass the victim, such
23 condition shall be recorded and a written certified copy of that order
24 shall be provided to the victim.

25 (2) Willful violation of a court order issued under this section is
26 a gross misdemeanor. Any assault that is a violation of an order
27 issued under this section and that does not amount to assault in the
28 first or second degree under RCW 9A.36.011 or 9A.36.021 is a class C
29 felony, and any conduct in violation of a protective order issued under
30 this section that is reckless and creates a substantial risk of death
31 or serious physical injury to another person is a class C felony. A
32 willful violation of a court order issued under this section is also a
33 class C felony if the offender has at least two previous convictions
34 for violating the provisions of (~~a no-contact~~) an order issued under
35 this chapter, or a domestic violence protection order issued under
36 chapter 26.09, 26.10, 26.26, or 26.50 RCW, or any federal or out-of-
37 state order that is comparable to a no-contact order or protection
38 order that is issued under Washington law. The previous convictions

1 may involve the same victim or other victims specifically protected by
2 the (~~no contact orders or protection~~) orders the offender violated.

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

8 (3) Whenever an order prohibiting contact with or coming within a
9 specified distance of the victim with the intent of intimidating,
10 harassing, or frightening the victim or if the person knows or
11 reasonably should have known that the victim is afraid, intimidated, or
12 harassed even if that person did not intend to place the victim in
13 fear, or intimidate or harass the victim is issued pursuant to this
14 section, the clerk of the court shall forward a copy of the order on or
15 before the next judicial day to the appropriate law enforcement agency
16 specified in the order. Upon receipt of the copy of the order the law
17 enforcement agency shall forthwith enter the order for one year into
18 any computer-based criminal intelligence information system available
19 in this state used by law enforcement agencies to list outstanding
20 warrants. Entry into the law enforcement information system
21 constitutes notice to all law enforcement agencies of the existence of
22 the order. The order is fully enforceable in any jurisdiction in the
23 state.

24 **Sec. 20.** RCW 9.95.062 and 1996 c 275 s 9 are each amended to read
25 as follows:

26 (1) Notwithstanding CrR 3.2 or RAP 7.2, an appeal by a defendant in
27 a criminal action shall not stay the execution of the judgment of
28 conviction, if the court determines by a preponderance of the evidence
29 that:

30 (a) The defendant is likely to flee or to pose a danger to the
31 safety of any other person or the community if the judgment is stayed;
32 or

33 (b) The delay resulting from the stay will unduly diminish the
34 deterrent effect of the punishment; or

35 (c) A stay of the judgment will cause unreasonable trauma to the
36 victims of the crime or their families; or

37 (d) The defendant has not undertaken to the extent of the
38 defendant's financial ability to pay the financial obligations under

1 the judgment or has not posted an adequate performance bond to assure
2 payment.

3 (2) An appeal by a defendant convicted of one of the following
4 offenses shall not stay execution of the judgment of conviction: Rape
5 in the first or second degree (RCW 9A.44.040 and 9A.44.050); rape of a
6 child in the first, second, or third degree (RCW 9A.44.073, 9A.44.076,
7 and 9A.44.079); child molestation in the first, second, or third degree
8 (RCW 9A.44.083, 9A.44.086, and 9A.44.089); sexual misconduct with a
9 minor in the first or second degree (RCW 9A.44.093 and 9A.44.096);
10 indecent liberties (RCW 9A.44.100); incest (RCW 9A.64.020); luring (RCW
11 9A.40.090); any class A or B felony that is a sexually motivated
12 offense as defined in RCW 9.94A.030; a felony violation of RCW
13 9.68A.090; a felony domestic violence offense as defined in RCW
14 10.99.020; or any offense that is, under chapter 9A.28 RCW, a criminal
15 attempt, solicitation, or conspiracy to commit one of those offenses.

16 (3) In case the defendant has been convicted of a felony, and has
17 been unable to obtain release pending the appeal by posting an appeal
18 bond, cash, adequate security, release on personal recognizance, or any
19 other conditions imposed by the court, the time the defendant has been
20 imprisoned pending the appeal shall be deducted from the term for which
21 the defendant was sentenced, if the judgment is affirmed.

22 **Sec. 21.** RCW 10.64.025 and 1996 c 275 s 10 are each amended to
23 read as follows:

24 (1) A defendant who has been found guilty of a felony and is
25 awaiting sentencing shall be detained unless the court finds by clear
26 and convincing evidence that the defendant is not likely to flee or to
27 pose a danger to the safety of any other person or the community if
28 released. Any bail bond that was posted on behalf of a defendant
29 shall, upon the defendant's conviction, be exonerated.

30 (2) A defendant who has been found guilty of one of the following
31 offenses shall be detained pending sentencing: Rape in the first or
32 second degree (RCW 9A.44.040 and 9A.44.050); rape of a child in the
33 first, second, or third degree (RCW 9A.44.073, 9A.44.076, and
34 9A.44.079); child molestation in the first, second, or third degree
35 (RCW 9A.44.083, 9A.44.086, and 9A.44.089); sexual misconduct with a
36 minor in the first or second degree (RCW 9A.44.093 and 9A.44.096);
37 indecent liberties (RCW 9A.44.100); incest (RCW 9A.64.020); luring (RCW
38 9A.40.090); any class A or B felony that is a sexually motivated

1 offense as defined in RCW 9.94A.030; a felony violation of RCW
2 9.68A.090; a felony domestic violence offense as defined in RCW
3 10.99.020; or any offense that is, under chapter 9A.28 RCW, a criminal
4 attempt, solicitation, or conspiracy to commit one of those offenses.

5 **Sec. 22.** RCW 9.94A.360 and 1997 c 338 s 5 are each amended to read
6 as follows:

7 The offender score is measured on the horizontal axis of the
8 sentencing grid. The offender score rules are as follows:

9 The offender score is the sum of points accrued under this section
10 rounded down to the nearest whole number.

11 (1) A prior conviction is a conviction which exists before the date
12 of sentencing for the offense for which the offender score is being
13 computed. Convictions entered or sentenced on the same date as the
14 conviction for which the offender score is being computed shall be
15 deemed "other current offenses" within the meaning of RCW 9.94A.400.

16 (2) Class A and sex prior felony convictions shall always be
17 included in the offender score. Class B prior felony convictions other
18 than sex offenses shall not be included in the offender score, if since
19 the last date of release from confinement (including full-time
20 residential treatment) pursuant to a felony conviction, if any, or
21 entry of judgment and sentence, the offender had spent ten consecutive
22 years in the community without committing any crime that subsequently
23 results in a conviction. Class C prior felony convictions other than
24 sex offenses shall not be included in the offender score if, since the
25 last date of release from confinement (including full-time residential
26 treatment) pursuant to a felony conviction, if any, or entry of
27 judgment and sentence, the offender had spent five consecutive years in
28 the community without committing any crime that subsequently results in
29 a conviction. Serious traffic convictions shall not be included in the
30 offender score if, since the last date of release from confinement
31 (including full-time residential treatment) pursuant to a felony
32 conviction, if any, or entry of judgment and sentence, the offender
33 spent five years in the community without committing any crime that
34 subsequently results in a conviction. This subsection applies to both
35 adult and juvenile prior convictions.

36 (3) Out-of-state convictions for offenses shall be classified
37 according to the comparable offense definitions and sentences provided
38 by Washington law. Federal convictions for offenses shall be

1 classified according to the comparable offense definitions and
2 sentences provided by Washington law. If there is no clearly
3 comparable offense under Washington law or the offense is one that is
4 usually considered subject to exclusive federal jurisdiction, the
5 offense shall be scored as a class C felony equivalent if it was a
6 felony under the relevant federal statute.

7 (4) Score prior convictions for felony anticipatory offenses
8 (attempts, criminal solicitations, and criminal conspiracies) the same
9 as if they were convictions for completed offenses.

10 (5)(a) In the case of multiple prior convictions, for the purpose
11 of computing the offender score, count all convictions separately,
12 except:

13 (i) Prior offenses which were found, under RCW 9.94A.400(1)(a), to
14 encompass the same criminal conduct, shall be counted as one offense,
15 the offense that yields the highest offender score. The current
16 sentencing court shall determine with respect to other prior adult
17 offenses for which sentences were served concurrently or prior juvenile
18 offenses for which sentences were served consecutively, whether those
19 offenses shall be counted as one offense or as separate offenses using
20 the "same criminal conduct" analysis found in RCW 9.94A.400(1)(a), and
21 if the court finds that they shall be counted as one offense, then the
22 offense that yields the highest offender score shall be used. The
23 current sentencing court may presume that such other prior offenses
24 were not the same criminal conduct from sentences imposed on separate
25 dates, or in separate counties or jurisdictions, or in separate
26 complaints, indictments, or informations;

27 (ii) In the case of multiple prior convictions for offenses
28 committed before July 1, 1986, for the purpose of computing the
29 offender score, count all adult convictions served concurrently as one
30 offense, and count all juvenile convictions entered on the same date as
31 one offense. Use the conviction for the offense that yields the
32 highest offender score.

33 (b) As used in this subsection (5), "served concurrently" means
34 that: (i) The latter sentence was imposed with specific reference to
35 the former; (ii) the concurrent relationship of the sentences was
36 judicially imposed; and (iii) the concurrent timing of the sentences
37 was not the result of a probation or parole revocation on the former
38 offense.

1 (6) If the present conviction is one of the anticipatory offenses
2 of criminal attempt, solicitation, or conspiracy, count each prior
3 conviction as if the present conviction were for a completed offense.

4 (7) If the present conviction is for a nonviolent offense and not
5 covered by subsection (11) or (12) of this section, count one point for
6 each adult prior felony conviction and one point for each juvenile
7 prior violent felony conviction and 1/2 point for each juvenile prior
8 nonviolent felony conviction.

9 (8) If the present conviction is for a violent offense and not
10 covered in subsection (9), (10), (11), or (12) of this section, count
11 two points for each prior adult and juvenile violent felony conviction,
12 one point for each prior adult nonviolent felony conviction, and 1/2
13 point for each prior juvenile nonviolent felony conviction.

14 (9) If the present conviction is for Murder 1 or 2, Assault 1,
15 Assault of a Child 1, Kidnapping 1, Homicide by Abuse, or Rape 1, count
16 three points for prior adult and juvenile convictions for crimes in
17 these categories, two points for each prior adult and juvenile violent
18 conviction (not already counted), one point for each prior adult
19 nonviolent felony conviction, and 1/2 point for each prior juvenile
20 nonviolent felony conviction.

21 (10) If the present conviction is for Burglary 1, count prior
22 convictions as in subsection (8) of this section; however count two
23 points for each prior adult Burglary 2 or residential burglary
24 conviction, and one point for each prior juvenile Burglary 2 or
25 residential burglary conviction.

26 (11) If the present conviction is for a felony traffic offense
27 count two points for each adult or juvenile prior conviction for
28 Vehicular Homicide or Vehicular Assault; for each felony offense or
29 serious traffic offense, count one point for each adult and 1/2 point
30 for each juvenile prior conviction.

31 (12) If the present conviction is for a drug offense count three
32 points for each adult prior felony drug offense conviction and two
33 points for each juvenile drug offense. All other adult and juvenile
34 felonies are scored as in subsection (8) of this section if the current
35 drug offense is violent, or as in subsection (7) of this section if the
36 current drug offense is nonviolent.

37 (13) If the present conviction is for Willful Failure to Return
38 from Furlough, RCW 72.66.060, Willful Failure to Return from Work
39 Release, RCW 72.65.070, or Escape from Community Custody, RCW

1 72.09.310, count only prior escape convictions in the offender score.
2 Count adult prior escape convictions as one point and juvenile prior
3 escape convictions as 1/2 point.

4 (14) If the present conviction is for Escape 1, RCW 9A.76.110, or
5 Escape 2, RCW 9A.76.120, count adult prior convictions as one point and
6 juvenile prior convictions as 1/2 point.

7 (15) If the present conviction is for Burglary 2 or residential
8 burglary, count priors as in subsection (7) of this section; however,
9 count two points for each adult and juvenile prior Burglary 1
10 conviction, two points for each adult prior Burglary 2 or residential
11 burglary conviction, and one point for each juvenile prior Burglary 2
12 or residential burglary conviction.

13 (16) If the present conviction is for a sex offense, count priors
14 as in subsections (7) through (15) of this section; however count three
15 points for each adult and juvenile prior sex offense conviction.

16 (17) If the present conviction is for an offense committed while
17 the offender was under community placement, add one point.

18 (18) If the present conviction is for a felony domestic violence
19 offense as defined in RCW 10.99.020, with respect to misdemeanor
20 domestic violence offenses, count one point for each adult and 1/2
21 point for each juvenile prior conviction.

22 **Sec. 23.** RCW 9.94A.120 and 1997 c 340 s 2, 1997 c 338 s 4, 1997 c
23 144 s 2, 1997 c 121 s 2, and 1997 c 69 s 1 are each reenacted and
24 amended to read as follows:

25 When a person is convicted of a felony, the court shall impose
26 punishment as provided in this section.

27 (1) Except as authorized in subsections (2), (4), (5), (6), and (8)
28 of this section, the court shall impose a sentence within the sentence
29 range for the offense.

30 (2) The court may impose a sentence outside the standard sentence
31 range for that offense if it finds, considering the purpose of this
32 chapter, that there are substantial and compelling reasons justifying
33 an exceptional sentence.

34 (3) Whenever a sentence outside the standard range is imposed, the
35 court shall set forth the reasons for its decision in written findings
36 of fact and conclusions of law. A sentence outside the standard range
37 shall be a determinate sentence.

1 (4) A persistent offender shall be sentenced to a term of total
2 confinement for life without the possibility of parole or, when
3 authorized by RCW 10.95.030 for the crime of aggravated murder in the
4 first degree, sentenced to death, notwithstanding the maximum sentence
5 under any other law. An offender convicted of the crime of murder in
6 the first degree shall be sentenced to a term of total confinement not
7 less than twenty years. An offender convicted of the crime of assault
8 in the first degree or assault of a child in the first degree where the
9 offender used force or means likely to result in death or intended to
10 kill the victim shall be sentenced to a term of total confinement not
11 less than five years. An offender convicted of the crime of rape in
12 the first degree shall be sentenced to a term of total confinement not
13 less than five years. The foregoing minimum terms of total confinement
14 are mandatory and shall not be varied or modified as provided in
15 subsection (2) of this section. In addition, all offenders subject to
16 the provisions of this subsection shall not be eligible for community
17 custody, earned early release time, furlough, home detention, partial
18 confinement, work crew, work release, or any other form of early
19 release as defined under RCW 9.94A.150 (1), (2), (3), (5), (7), or (8),
20 or any other form of authorized leave of absence from the correctional
21 facility while not in the direct custody of a corrections officer or
22 officers during such minimum terms of total confinement except in the
23 case of an offender in need of emergency medical treatment or for the
24 purpose of commitment to an inpatient treatment facility in the case of
25 an offender convicted of the crime of rape in the first degree.

26 (5) In sentencing a first-time offender the court may waive the
27 imposition of a sentence within the sentence range and impose a
28 sentence which may include up to ninety days of confinement in a
29 facility operated or utilized under contract by the county and a
30 requirement that the offender refrain from committing new offenses.
31 The sentence may also include up to two years of community supervision,
32 which, in addition to crime-related prohibitions, may include
33 requirements that the offender perform any one or more of the
34 following:

35 (a) Devote time to a specific employment or occupation;

36 (b) Undergo available outpatient treatment for up to two years, or
37 inpatient treatment not to exceed the standard range of confinement for
38 that offense;

1 (c) Pursue a prescribed, secular course of study or vocational
2 training;

3 (d) Remain within prescribed geographical boundaries and notify the
4 court or the community corrections officer prior to any change in the
5 offender's address or employment;

6 (e) Report as directed to the court and a community corrections
7 officer; or

8 (f) Pay all court-ordered legal financial obligations as provided
9 in RCW 9.94A.030 and/or perform community service work.

10 (6)(a) An offender is eligible for the special drug offender
11 sentencing alternative if:

12 (i) The offender is convicted of the manufacture, delivery, or
13 possession with intent to manufacture or deliver a controlled substance
14 classified in Schedule I or II that is a narcotic drug or a felony that
15 is, under chapter 9A.28 RCW or RCW 69.50.407, a criminal attempt,
16 criminal solicitation, or criminal conspiracy to commit such crimes,
17 and the violation does not involve a sentence enhancement under RCW
18 9.94A.310 (3) or (4);

19 (ii) The offender has no prior convictions for a felony in this
20 state, another state, or the United States; and

21 (iii) The offense involved only a small quantity of the particular
22 controlled substance as determined by the judge upon consideration of
23 such factors as the weight, purity, packaging, sale price, and street
24 value of the controlled substance.

25 (b) If the midpoint of the standard range is greater than one year
26 and the sentencing judge determines that the offender is eligible for
27 this option and that the offender and the community will benefit from
28 the use of the special drug offender sentencing alternative, the judge
29 may waive imposition of a sentence within the standard range and impose
30 a sentence that must include a period of total confinement in a state
31 facility for one-half of the midpoint of the standard range. During
32 incarceration in the state facility, offenders sentenced under this
33 subsection shall undergo a comprehensive substance abuse assessment and
34 receive, within available resources, treatment services appropriate for
35 the offender. The treatment services shall be designed by the division
36 of alcohol and substance abuse of the department of social and health
37 services, in cooperation with the department of corrections. If the
38 midpoint of the standard range is twenty-four months or less, no more
39 than three months of the sentence may be served in a work release

1 status. The court shall also impose one year of concurrent community
2 custody and community supervision that must include appropriate
3 outpatient substance abuse treatment, crime-related prohibitions
4 including a condition not to use illegal controlled substances, and a
5 requirement to submit to urinalysis or other testing to monitor that
6 status. The court may require that the monitoring for controlled
7 substances be conducted by the department or by a treatment
8 alternatives to street crime program or a comparable court or agency-
9 referred program. The offender may be required to pay thirty dollars
10 per month while on community custody to offset the cost of monitoring.
11 In addition, the court shall impose three or more of the following
12 conditions:

- 13 (i) Devote time to a specific employment or training;
- 14 (ii) Remain within prescribed geographical boundaries and notify
15 the court or the community corrections officer before any change in the
16 offender's address or employment;
- 17 (iii) Report as directed to a community corrections officer;
- 18 (iv) Pay all court-ordered legal financial obligations;
- 19 (v) Perform community service work;
- 20 (vi) Stay out of areas designated by the sentencing judge.

21 (c) If the offender violates any of the sentence conditions in (b)
22 of this subsection, the department shall impose sanctions
23 administratively, with notice to the prosecuting attorney and the
24 sentencing court. Upon motion of the court or the prosecuting
25 attorney, a violation hearing shall be held by the court. If the court
26 finds that conditions have been willfully violated, the court may
27 impose confinement consisting of up to the remaining one-half of the
28 midpoint of the standard range. All total confinement served during
29 the period of community custody shall be credited to the offender,
30 regardless of whether the total confinement is served as a result of
31 the original sentence, as a result of a sanction imposed by the
32 department, or as a result of a violation found by the court. The term
33 of community supervision shall be tolled by any period of time served
34 in total confinement as a result of a violation found by the court.

35 (d) The department shall determine the rules for calculating the
36 value of a day fine based on the offender's income and reasonable
37 obligations which the offender has for the support of the offender and
38 any dependents. These rules shall be developed in consultation with

1 the administrator for the courts, the office of financial management,
2 and the commission.

3 (7) If a sentence range has not been established for the
4 defendant's crime, the court shall impose a determinate sentence which
5 may include not more than one year of confinement, community service
6 work, a term of community supervision not to exceed one year, and/or
7 other legal financial obligations. The court may impose a sentence
8 which provides more than one year of confinement if the court finds,
9 considering the purpose of this chapter, that there are substantial and
10 compelling reasons justifying an exceptional sentence.

11 (8)(a)(i) When an offender is convicted of a sex offense other than
12 a violation of RCW 9A.44.050 or a sex offense that is also a serious
13 violent offense and has no prior convictions for a sex offense or any
14 other felony sex offenses in this or any other state, the sentencing
15 court, on its own motion or the motion of the state or the defendant,
16 may order an examination to determine whether the defendant is amenable
17 to treatment.

18 The report of the examination shall include at a minimum the
19 following: The defendant's version of the facts and the official
20 version of the facts, the defendant's offense history, an assessment of
21 problems in addition to alleged deviant behaviors, the offender's
22 social and employment situation, and other evaluation measures used.
23 The report shall set forth the sources of the evaluator's information.

24 The examiner shall assess and report regarding the defendant's
25 amenability to treatment and relative risk to the community. A
26 proposed treatment plan shall be provided and shall include, at a
27 minimum:

28 (A) Frequency and type of contact between offender and therapist;

29 (B) Specific issues to be addressed in the treatment and
30 description of planned treatment modalities;

31 (C) Monitoring plans, including any requirements regarding living
32 conditions, lifestyle requirements, and monitoring by family members
33 and others;

34 (D) Anticipated length of treatment; and

35 (E) Recommended crime-related prohibitions.

36 The court on its own motion may order, or on a motion by the state
37 shall order, a second examination regarding the offender's amenability
38 to treatment. The evaluator shall be selected by the party making the
39 motion. The defendant shall pay the cost of any second examination

1 ordered unless the court finds the defendant to be indigent in which
2 case the state shall pay the cost.

3 (ii) After receipt of the reports, the court shall consider whether
4 the offender and the community will benefit from use of this special
5 sex offender sentencing alternative and consider the victim's opinion
6 whether the offender should receive a treatment disposition under this
7 subsection. If the court determines that this special sex offender
8 sentencing alternative is appropriate, the court shall then impose a
9 sentence within the sentence range. If this sentence is less than
10 eleven years of confinement, the court may suspend the execution of the
11 sentence and impose the following conditions of suspension:

12 (A) The court shall place the defendant on community custody for
13 the length of the suspended sentence or three years, whichever is
14 greater, and require the offender to comply with any conditions imposed
15 by the department of corrections under subsection (14) of this section;

16 (B) The court shall order treatment for any period up to three
17 years in duration. The court in its discretion shall order outpatient
18 sex offender treatment or inpatient sex offender treatment, if
19 available. A community mental health center may not be used for such
20 treatment unless it has an appropriate program designed for sex
21 offender treatment. The offender shall not change sex offender
22 treatment providers or treatment conditions without first notifying the
23 prosecutor, the community corrections officer, and the court, and shall
24 not change providers without court approval after a hearing if the
25 prosecutor or community corrections officer object to the change. In
26 addition, as conditions of the suspended sentence, the court may impose
27 other sentence conditions including up to six months of confinement,
28 not to exceed the sentence range of confinement for that offense,
29 crime-related prohibitions, and requirements that the offender perform
30 any one or more of the following:

31 (I) Devote time to a specific employment or occupation;

32 (II) Remain within prescribed geographical boundaries and notify
33 the court or the community corrections officer prior to any change in
34 the offender's address or employment;

35 (III) Report as directed to the court and a community corrections
36 officer;

37 (IV) Pay all court-ordered legal financial obligations as provided
38 in RCW 9.94A.030, perform community service work, or any combination
39 thereof; or

1 (V) Make recoupment to the victim for the cost of any counseling
2 required as a result of the offender's crime; and

3 (C) Sex offenders sentenced under this special sex offender
4 sentencing alternative are not eligible to accrue any earned early
5 release time while serving a suspended sentence.

6 (iii) The sex offender therapist shall submit quarterly reports on
7 the defendant's progress in treatment to the court and the parties.
8 The report shall reference the treatment plan and include at a minimum
9 the following: Dates of attendance, defendant's compliance with
10 requirements, treatment activities, the defendant's relative progress
11 in treatment, and any other material as specified by the court at
12 sentencing.

13 (iv) At the time of sentencing, the court shall set a treatment
14 termination hearing for three months prior to the anticipated date for
15 completion of treatment. Prior to the treatment termination hearing,
16 the treatment professional and community corrections officer shall
17 submit written reports to the court and parties regarding the
18 defendant's compliance with treatment and monitoring requirements, and
19 recommendations regarding termination from treatment, including
20 proposed community supervision conditions. Either party may request
21 and the court may order another evaluation regarding the advisability
22 of termination from treatment. The defendant shall pay the cost of any
23 additional evaluation ordered unless the court finds the defendant to
24 be indigent in which case the state shall pay the cost. At the
25 treatment termination hearing the court may: (A) Modify conditions of
26 community custody, and either (B) terminate treatment, or (C) extend
27 treatment for up to the remaining period of community custody.

28 (v) If a violation of conditions occurs during community custody,
29 the department shall either impose sanctions as provided for in RCW
30 9.94A.205(2)(a) or refer the violation to the court and recommend
31 revocation of the suspended sentence as provided for in (a)(vi) of this
32 subsection.

33 (vi) The court may revoke the suspended sentence at any time during
34 the period of community custody and order execution of the sentence if:
35 (A) The defendant violates the conditions of the suspended sentence, or
36 (B) the court finds that the defendant is failing to make satisfactory
37 progress in treatment. All confinement time served during the period
38 of community custody shall be credited to the offender if the suspended
39 sentence is revoked.

1 (vii) Except as provided in (a)(viii) of this subsection, after
2 July 1, 1991, examinations and treatment ordered pursuant to this
3 subsection shall only be conducted by sex offender treatment providers
4 certified by the department of health pursuant to chapter 18.155 RCW.

5 (viii) A sex offender therapist who examines or treats a sex
6 offender pursuant to this subsection (8) does not have to be certified
7 by the department of health pursuant to chapter 18.155 RCW if the court
8 finds that: (A) The offender has already moved to another state or
9 plans to move to another state for reasons other than circumventing the
10 certification requirements; (B) no certified providers are available
11 for treatment within a reasonable geographical distance of the
12 offender's home; and (C) the evaluation and treatment plan comply with
13 this subsection (8) and the rules adopted by the department of health.

14 (ix) For purposes of this subsection (8), "victim" means any person
15 who has sustained emotional, psychological, physical, or financial
16 injury to person or property as a result of the crime charged.
17 "Victim" also means a parent or guardian of a victim who is a minor
18 child unless the parent or guardian is the perpetrator of the offense.

19 (x) If the defendant was less than eighteen years of age when the
20 charge was filed, the state shall pay for the cost of initial
21 evaluation and treatment.

22 (b) When an offender commits any felony sex offense on or after
23 July 1, 1987, and is sentenced to a term of confinement of more than
24 one year but less than six years, the sentencing court may, on its own
25 motion or on the motion of the offender or the state, request the
26 department of corrections to evaluate whether the offender is amenable
27 to treatment and the department may place the offender in a treatment
28 program within a correctional facility operated by the department.

29 Except for an offender who has been convicted of a violation of RCW
30 9A.44.040 or 9A.44.050, if the offender completes the treatment program
31 before the expiration of his or her term of confinement, the department
32 of corrections may request the court to convert the balance of
33 confinement to community supervision and to place conditions on the
34 offender including crime-related prohibitions and requirements that the
35 offender perform any one or more of the following:

36 (i) Devote time to a specific employment or occupation;

37 (ii) Remain within prescribed geographical boundaries and notify
38 the court or the community corrections officer prior to any change in
39 the offender's address or employment;

1 (iii) Report as directed to the court and a community corrections
2 officer;

3 (iv) Undergo available outpatient treatment.

4 If the offender violates any of the terms of his or her community
5 supervision, the court may order the offender to serve out the balance
6 of his or her community supervision term in confinement in the custody
7 of the department of corrections.

8 Nothing in this subsection (8)(b) shall confer eligibility for such
9 programs for offenders convicted and sentenced for a sex offense
10 committed prior to July 1, 1987. This subsection (8)(b) does not apply
11 to any crime committed after July 1, 1990.

12 (c) Offenders convicted and sentenced for a sex offense committed
13 prior to July 1, 1987, may, subject to available funds, request an
14 evaluation by the department of corrections to determine whether they
15 are amenable to treatment. If the offender is determined to be
16 amenable to treatment, the offender may request placement in a
17 treatment program within a correctional facility operated by the
18 department. Placement in such treatment program is subject to
19 available funds.

20 (9)(a) When a court sentences a person to a term of total
21 confinement to the custody of the department of corrections for an
22 offense categorized as a sex offense or a serious violent offense
23 committed after July 1, 1988, but before July 1, 1990, assault in the
24 second degree, assault of a child in the second degree, any crime
25 against a person where it is determined in accordance with RCW
26 9.94A.125 that the defendant or an accomplice was armed with a deadly
27 weapon at the time of commission, any felony domestic violence offense
28 as defined in RCW 10.99.020, or any felony offense under chapter 69.50
29 or 69.52 RCW not sentenced under subsection (6) of this section,
30 committed on or after July 1, 1988, the court shall in addition to the
31 other terms of the sentence, sentence the offender to a one-year term
32 of community placement beginning either upon completion of the term of
33 confinement or at such time as the offender is transferred to community
34 custody in lieu of earned early release in accordance with RCW
35 9.94A.150 (1) and (2). When the court sentences an offender under this
36 subsection to the statutory maximum period of confinement then the
37 community placement portion of the sentence shall consist entirely of
38 such community custody to which the offender may become eligible, in
39 accordance with RCW 9.94A.150 (1) and (2). Any period of community

1 custody actually served shall be credited against the community
2 placement portion of the sentence.

3 (b) When a court sentences a person to a term of total confinement
4 to the custody of the department of corrections for an offense
5 categorized as a sex offense committed on or after July 1, 1990, but
6 before June 6, 1996, a serious violent offense, vehicular homicide, or
7 vehicular assault, committed on or after July 1, 1990, the court shall
8 in addition to other terms of the sentence, sentence the offender to
9 community placement for two years or up to the period of earned early
10 release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is
11 longer. The community placement shall begin either upon completion of
12 the term of confinement or at such time as the offender is transferred
13 to community custody in lieu of earned early release in accordance with
14 RCW 9.94A.150 (1) and (2). When the court sentences an offender under
15 this subsection to the statutory maximum period of confinement then the
16 community placement portion of the sentence shall consist entirely of
17 the community custody to which the offender may become eligible, in
18 accordance with RCW 9.94A.150 (1) and (2). Any period of community
19 custody actually served shall be credited against the community
20 placement portion of the sentence. Unless a condition is waived by the
21 court, the terms of community placement for offenders sentenced
22 pursuant to this section shall include the following conditions:

23 (i) The offender shall report to and be available for contact with
24 the assigned community corrections officer as directed;

25 (ii) The offender shall work at department of corrections-approved
26 education, employment, and/or community service;

27 (iii) The offender shall not possess or consume controlled
28 substances except pursuant to lawfully issued prescriptions;

29 (iv) The offender shall pay supervision fees as determined by the
30 department of corrections;

31 (v) The residence location and living arrangements are subject to
32 the prior approval of the department of corrections during the period
33 of community placement; and

34 (vi) The offender shall submit to affirmative acts necessary to
35 monitor compliance with the orders of the court as required by the
36 department.

37 (c) As a part of any sentence imposed under (a) or (b) of this
38 subsection, the court may also order any of the following special
39 conditions:

1 (i) The offender shall remain within, or outside of, a specified
2 geographical boundary;

3 (ii) The offender shall not have direct or indirect contact with
4 the victim of the crime or a specified class of individuals;

5 (iii) The offender shall participate in crime-related treatment or
6 counseling services;

7 (iv) The offender shall not consume alcohol;

8 (v) The offender shall comply with any crime-related prohibitions;
9 or

10 (vi) For an offender convicted of a felony sex offense against a
11 minor victim after June 6, 1996, the offender shall comply with any
12 terms and conditions of community placement imposed by the department
13 of corrections relating to contact between the sex offender and a minor
14 victim or a child of similar age or circumstance as a previous victim.

15 (d) Prior to transfer to, or during, community placement, any
16 conditions of community placement may be removed or modified so as not
17 to be more restrictive by the sentencing court, upon recommendation of
18 the department of corrections.

19 (10)(a) When a court sentences a person to the custody of the
20 department of corrections for an offense categorized as a sex offense
21 committed on or after June 6, 1996, the court shall, in addition to
22 other terms of the sentence, sentence the offender to community custody
23 for three years or up to the period of earned early release awarded
24 pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The
25 community custody shall begin either upon completion of the term of
26 confinement or at such time as the offender is transferred to community
27 custody in lieu of earned early release in accordance with RCW
28 9.94A.150 (1) and (2).

29 (b) Unless a condition is waived by the court, the terms of
30 community custody shall be the same as those provided for in subsection
31 (9)(b) of this section and may include those provided for in subsection
32 (9)(c) of this section. As part of any sentence that includes a term
33 of community custody imposed under this subsection, the court shall
34 also require the offender to comply with any conditions imposed by the
35 department of corrections under subsection (14) of this section.

36 (c) At any time prior to the completion of a sex offender's term of
37 community custody, if the court finds that public safety would be
38 enhanced, the court may impose and enforce an order extending any or
39 all of the conditions imposed pursuant to this section for a period up

1 to the maximum allowable sentence for the crime as it is classified in
2 chapter 9A.20 RCW, regardless of the expiration of the offender's term
3 of community custody. If a violation of a condition extended under
4 this subsection occurs after the expiration of the offender's term of
5 community custody, it shall be deemed a violation of the sentence for
6 the purposes of RCW 9.94A.195 and may be punishable as contempt of
7 court as provided for in RCW 7.21.040.

8 (11) If the court imposes a sentence requiring confinement of
9 thirty days or less, the court may, in its discretion, specify that the
10 sentence be served on consecutive or intermittent days. A sentence
11 requiring more than thirty days of confinement shall be served on
12 consecutive days. Local jail administrators may schedule court-ordered
13 intermittent sentences as space permits.

14 (12) If a sentence imposed includes payment of a legal financial
15 obligation, the sentence shall specify the total amount of the legal
16 financial obligation owed, and shall require the offender to pay a
17 specified monthly sum toward that legal financial obligation.
18 Restitution to victims shall be paid prior to any other payments of
19 monetary obligations. Any legal financial obligation that is imposed
20 by the court may be collected by the department, which shall deliver
21 the amount paid to the county clerk for credit. The offender's
22 compliance with payment of legal financial obligations shall be
23 supervised by the department for ten years following the entry of the
24 judgment and sentence or ten years following the offender's release
25 from total confinement. All monetary payments ordered shall be paid no
26 later than ten years after the last date of release from confinement
27 pursuant to a felony conviction or the date the sentence was entered
28 unless the superior court extends the criminal judgment an additional
29 ten years. If the legal financial obligations including crime victims'
30 assessments are not paid during the initial ten-year period, the
31 superior court may extend jurisdiction under the criminal judgment an
32 additional ten years as provided in RCW 9.94A.140, 9.94A.142, and
33 9.94A.145. If jurisdiction under the criminal judgment is extended,
34 the department is not responsible for supervision of the offender
35 during the subsequent period. Independent of the department, the party
36 or entity to whom the legal financial obligation is owed shall have the
37 authority to utilize any other remedies available to the party or
38 entity to collect the legal financial obligation. Nothing in this
39 section makes the department, the state, or any of its employees,

1 agents, or other persons acting on their behalf liable under any
2 circumstances for the payment of these legal financial obligations. If
3 an order includes restitution as one of the monetary assessments, the
4 county clerk shall make disbursements to victims named in the order.

5 (13) Except as provided under RCW 9.94A.140(1) and 9.94A.142(1), a
6 court may not impose a sentence providing for a term of confinement or
7 community supervision or community placement which exceeds the
8 statutory maximum for the crime as provided in chapter 9A.20 RCW.

9 (14) All offenders sentenced to terms involving community
10 supervision, community service, community placement, or legal financial
11 obligation shall be under the supervision of the department of
12 corrections and shall follow explicitly the instructions and conditions
13 of the department of corrections. The department may require an
14 offender to perform affirmative acts it deems appropriate to monitor
15 compliance with the conditions of the sentence imposed.

16 (a) The instructions shall include, at a minimum, reporting as
17 directed to a community corrections officer, remaining within
18 prescribed geographical boundaries, notifying the community corrections
19 officer of any change in the offender's address or employment, and
20 paying the supervision fee assessment.

21 (b) For offenders sentenced to terms involving community custody
22 for crimes committed on or after June 6, 1996, the department may
23 include, in addition to the instructions in (a) of this subsection, any
24 appropriate conditions of supervision, including but not limited to,
25 prohibiting the offender from having contact with any other specified
26 individuals or specific class of individuals. The conditions
27 authorized under this subsection (14)(b) may be imposed by the
28 department prior to or during an offender's community custody term. If
29 a violation of conditions imposed by the court or the department
30 pursuant to subsection (10) of this section occurs during community
31 custody, it shall be deemed a violation of community placement for the
32 purposes of RCW 9.94A.207 and shall authorize the department to
33 transfer an offender to a more restrictive confinement status as
34 provided in RCW 9.94A.205. At any time prior to the completion of a
35 sex offender's term of community custody, the department may recommend
36 to the court that any or all of the conditions imposed by the court or
37 the department pursuant to subsection (10) of this section be continued
38 beyond the expiration of the offender's term of community custody as
39 authorized in subsection (10)(c) of this section.

1 The department may require offenders to pay for special services
2 rendered on or after July 25, 1993, including electronic monitoring,
3 day reporting, and telephone reporting, dependent upon the offender's
4 ability to pay. The department may pay for these services for
5 offenders who are not able to pay.

6 (15) All offenders sentenced to terms involving community
7 supervision, community service, or community placement under the
8 supervision of the department of corrections shall not own, use, or
9 possess firearms or ammunition. Offenders who own, use, or are found
10 to be in actual or constructive possession of firearms or ammunition
11 shall be subject to the appropriate violation process and sanctions.
12 "Constructive possession" as used in this subsection means the power
13 and intent to control the firearm or ammunition. "Firearm" as used in
14 this subsection means a weapon or device from which a projectile may be
15 fired by an explosive such as gunpowder.

16 (16) The sentencing court shall give the offender credit for all
17 confinement time served before the sentencing if that confinement was
18 solely in regard to the offense for which the offender is being
19 sentenced.

20 (17) A departure from the standards in RCW 9.94A.400 (1) and (2)
21 governing whether sentences are to be served consecutively or
22 concurrently is an exceptional sentence subject to the limitations in
23 subsections (2) and (3) of this section, and may be appealed by the
24 defendant or the state as set forth in RCW 9.94A.210 (2) through (6).

25 (18) The court shall order restitution whenever the offender is
26 convicted of a felony that results in injury to any person or damage to
27 or loss of property, whether the offender is sentenced to confinement
28 or placed under community supervision, unless extraordinary
29 circumstances exist that make restitution inappropriate in the court's
30 judgment. The court shall set forth the extraordinary circumstances in
31 the record if it does not order restitution.

32 (19) As a part of any sentence, the court may impose and enforce an
33 order that relates directly to the circumstances of the crime for which
34 the offender has been convicted, prohibiting the offender from having
35 any contact with other specified individuals or a specific class of
36 individuals for a period not to exceed the maximum allowable sentence
37 for the crime, regardless of the expiration of the offender's term of
38 community supervision or community placement.

1 (20) In any sentence of partial confinement, the court may require
2 the defendant to serve the partial confinement in work release, in a
3 program of home detention, on work crew, or in a combined program of
4 work crew and home detention.

5 (21) All court-ordered legal financial obligations collected by the
6 department and remitted to the county clerk shall be credited and paid
7 where restitution is ordered. Restitution shall be paid prior to any
8 other payments of monetary obligations.

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