
BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: H-4887.3/00 3rd draft

ATTY/TYPIST: KT:rmh

BRIEF DESCRIPTION:

3 **E2SSB 6400** - H COMM AMD

4 By Committee on Criminal Justice & Corrections

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

8 "NEW SECTION. **Sec. 1.** A new section is added to chapter 3.62 RCW
9 to read as follows:

10 (1) When any person is found guilty, in any court organized under
11 Title 3 or 35 RCW, of a domestic violence offense as defined in RCW
12 10.99.020, or of a violation of a similar municipal ordinance, the
13 court shall impose upon the person a penalty assessment in addition to
14 any other penalty or fine imposed or authorized by law. The amount of
15 the penalty assessment shall be five hundred dollars for each case or
16 cause of action that includes one or more convictions of a gross
17 misdemeanor, and two hundred fifty dollars for each case or cause of
18 action that includes one or more convictions of only one or more
19 misdemeanors. The court may not suspend or waive the penalty
20 assessment. The assessment by this subsection shall not be subject to
21 the public safety and education assessment imposed by RCW 3.62.090.

22 (2) The court shall remit the assessments imposed and collected
23 under this section to the city treasurer, in the case of a municipal
24 court, or the county treasurer, in the case of a district court. The
25 city or county treasurer shall monthly remit fifty percent of the funds
26 received under this section to the state treasurer for deposit in the
27 public safety and education account. The remaining fifty percent of
28 the funds received under this section shall be retained by the city or
29 county for the purposes of reimbursing the city or county for the costs
30 incurred in implementing chapter ..., Laws of 2000 (this act). Moneys
31 retained by the city or county under this subsection shall constitute
32 reimbursement for the costs of any increased levels of service for the
33 purposes of RCW 43.135.060.

34 NEW SECTION. **Sec. 2.** A new section is added to chapter 26.50 RCW
35 to read as follows:

1 The department of social and health services, in its discretion,
2 may seek the relief provided in this chapter on behalf of and with the
3 consent of any vulnerable adult as those persons are defined in RCW
4 74.34.020. Neither the department nor the state of Washington shall be
5 liable for failure to seek relief on behalf of any persons under this
6 section.

7 NEW SECTION. **Sec. 3.** A new section is added to chapter 74.34 RCW
8 to read as follows:

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

17 (2) Whenever an order for protection of a vulnerable adult is
18 issued under this chapter, and the respondent or person to be
19 restrained knows of the order, a violation of a provision restraining
20 the person from committing acts of abuse, prohibiting contact with the
21 petitioner, excluding the person from any specified location, or
22 prohibiting the person from coming within a specified distance of a
23 location, shall be punishable under RCW 26.50.110, regardless of
24 whether the person is a family or household member as defined in RCW
25 26.50.010.

26 **Sec. 4.** RCW 9.94A.220 and 1994 c 271 s 901 are each amended to
27 read as follows:

28 (1) When an offender has completed the requirements of the
29 sentence, the secretary of the department or the secretary's designee
30 shall notify the sentencing court, which shall discharge the offender
31 and provide the offender with a certificate of discharge.

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

1 (3) Except as provided in subsection (4) of this section, the
2 discharge shall have the effect of restoring all civil rights lost by
3 operation of law upon conviction, and the certificate of discharge
4 shall so state. Nothing in this section prohibits the use of an
5 offender's prior record for purposes of determining sentences for later
6 offenses as provided in this chapter. Nothing in this section affects
7 or prevents use of the offender's prior conviction in a later criminal
8 prosecution either as an element of an offense or for impeachment
9 purposes. A certificate of discharge is not based on a finding of
10 rehabilitation.

11 (4) Unless otherwise ordered by the sentencing court, a certificate
12 of discharge shall not terminate the offender's obligation to comply
13 with an order issued under chapter 10.99 RCW that excludes or prohibits
14 the offender from having contact with a specified person or coming
15 within a set distance of any specified location that was contained in
16 the judgment and sentence. An offender who violates such an order
17 after a certificate of discharge has been issued shall be subject to
18 prosecution according to the chapter under which the order was
19 originally issued.

20 (5) Upon release from custody, the offender may apply to the
21 department for counseling and help in adjusting to the community. This
22 voluntary help may be provided for up to one year following the release
23 from custody.

24 **Sec. 5.** RCW 10.31.100 and 1999 c 184 s 14 are each amended to read
25 as follows:

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

32 (1) Any police officer having probable cause to believe that a
33 person has committed or is committing a misdemeanor or gross
34 misdemeanor, involving physical harm or threats of harm to any person
35 or property or the unlawful taking of property or involving the use or
36 possession of cannabis, or involving the acquisition, possession, or
37 consumption of alcohol by a person under the age of twenty-one years

1 under RCW 66.44.270, or involving criminal trespass under RCW 9A.52.070
2 or 9A.52.080, shall have the authority to arrest the person.

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

6 (a) An order has been issued of which the person has knowledge
7 under RCW (~~(10.99.040(2), 10.99.050, 26.09.050, 26.09.060, 26.10.040,~~
8 ~~26.10.115,~~) 26.44.063, or chapter 10.99, 26.09, 26.10, 26.26 (~~(RCW, or~~
9 ~~chapter)~~), 26.50, or 74.34 RCW restraining the person and the person
10 has violated the terms of the order restraining the person from acts or
11 threats of violence, or restraining the person from going onto the
12 grounds of or entering a residence, workplace, school, or day care, or
13 prohibiting the person from knowingly coming within, or knowingly
14 remaining within, a specified distance of a location or, in the case of
15 an order issued under RCW 26.44.063, imposing any other restrictions or
16 conditions upon the person; or

17 (b) A foreign protection order, as defined in RCW 26.52.010, has
18 been issued of which the person under restraint has knowledge and the
19 person under restraint has violated a provision of the foreign
20 protection order prohibiting the person under restraint from contacting
21 or communicating with another person, or (~~(of a provision))~~ excluding
22 the person under restraint from a residence, workplace, school, or day
23 care, or prohibiting the person from knowingly coming within, or
24 knowingly remaining within, a specified distance of a location, or a
25 violation of any provision for which the foreign protection order
26 specifically indicates that a violation will be a crime; or

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

1 the officer shall make every reasonable effort to consider: (i) The
2 intent to protect victims of domestic violence under RCW 10.99.010;
3 (ii) the comparative extent of injuries inflicted or serious threats
4 creating fear of physical injury; and (iii) the history of domestic
5 violence between the persons involved.

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

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

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

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

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

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

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

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

26 (5) Any police officer having probable cause to believe that a
27 person has committed or is committing a violation of RCW ((88.12.025))
28 79A.60.040 shall have the authority to arrest the person.

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

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

38 (8) A police officer may arrest and take into custody, pending
39 release on bail, personal recognizance, or court order, a person

1 without a warrant when the officer has probable cause to believe that
2 an order has been issued of which the person has knowledge under
3 chapter 10.14 RCW and the person has violated the terms of that order.

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

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

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

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

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

20 **Sec. 6.** RCW 10.99.020 and 1997 c 338 s 53 are each amended to read
21 as follows:

22 Unless the context clearly requires otherwise, the definitions in
23 this section apply throughout this chapter.

24 (1) "Family or household members" means spouses, former spouses,
25 persons who have a child in common regardless of whether they have been
26 married or have lived together at any time, adult persons related by
27 blood or marriage, adult persons who are presently residing together or
28 who have resided together in the past, persons sixteen years of age or
29 older who are presently residing together or who have resided together
30 in the past and who have or have had a dating relationship, persons
31 sixteen years of age or older with whom a person sixteen years of age
32 or older has or has had a dating relationship, and persons who have a
33 biological or legal parent-child relationship, including stepparents
34 and stepchildren and grandparents and grandchildren.

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

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

- 1 (a) Assault in the first degree (RCW 9A.36.011);
2 (b) Assault in the second degree (RCW 9A.36.021);
3 (c) Assault in the third degree (RCW 9A.36.031);
4 (d) Assault in the fourth degree (RCW 9A.36.041);
5 (e) Drive-by shooting (RCW 9A.36.045);
6 (f) Reckless endangerment (RCW 9A.36.050);
7 (g) Coercion (RCW 9A.36.070);
8 (h) Burglary in the first degree (RCW 9A.52.020);
9 (i) Burglary in the second degree (RCW 9A.52.030);
10 (j) Criminal trespass in the first degree (RCW 9A.52.070);
11 (k) Criminal trespass in the second degree (RCW 9A.52.080);
12 (l) Malicious mischief in the first degree (RCW 9A.48.070);
13 (m) Malicious mischief in the second degree (RCW 9A.48.080);
14 (n) Malicious mischief in the third degree (RCW 9A.48.090);
15 (o) Kidnapping in the first degree (RCW 9A.40.020);
16 (p) Kidnapping in the second degree (RCW 9A.40.030);
17 (q) Unlawful imprisonment (RCW 9A.40.040);
18 (r) Violation of the provisions of a restraining order, no-contact
19 order, or protection order restraining or enjoining the person or
20 restraining the person from going onto the grounds of or entering a
21 residence, workplace, school, or day care, or prohibiting the person
22 from knowingly coming within, or knowingly remaining within, a
23 specified distance of a location (RCW 10.99.040, 10.99.050, 26.09.300,
24 26.10.220, ~~((or))~~ 26.26.138, 26.44.063, 26.44.150, 26.50.060,
25 26.50.070, 26.50.130, 26.52.070, or section 3 of this act);
26 (s) ~~((Violation of the provisions of a protection order or no-~~
27 ~~contact order restraining the person or restraining the person from~~
28 ~~going onto the grounds of or entering a residence, workplace, school,~~
29 ~~or day care~~ (RCW 26.50.060, 26.50.070, 26.50.130, 10.99.040, or
30 10.99.050);
31 ~~(t))~~ Rape in the first degree (RCW 9A.44.040);
32 ~~((u))~~ (t) Rape in the second degree (RCW 9A.44.050);
33 ~~((v))~~ (u) Residential burglary (RCW 9A.52.025);
34 ~~((w))~~ (v) Stalking (RCW 9A.46.110); and
35 ~~((x))~~ (w) Interference with the reporting of domestic violence
36 (RCW 9A.36.150).
37 (4) "Victim" means a family or household member who has been
38 subjected to domestic violence.

1 **Sec. 7.** RCW 26.09.050 and 1995 c 93 s 2 are each amended to read
2 as follows:

3 (1) In entering a decree of dissolution of marriage, legal
4 separation, or declaration of invalidity, the court shall determine the
5 marital status of the parties, make provision for a parenting plan for
6 any minor child of the marriage, make provision for the support of any
7 child of the marriage entitled to support, consider or approve
8 provision for the maintenance of either spouse, make provision for the
9 disposition of property and liabilities of the parties, make provision
10 for the allocation of the children as federal tax exemptions, make
11 provision for any necessary continuing restraining orders including the
12 provisions contained in RCW 9.41.800, make provision for the issuance
13 within this action of the restraint provisions of a domestic violence
14 protection order under chapter 26.50 RCW or an antiharassment
15 protection order under chapter 10.14 RCW, and make provision for the
16 change of name of any party.

17 (2) Restraining orders issued under this section restraining or
18 enjoining the person from molesting or disturbing another party, or
19 from going onto the grounds of or entering the home, workplace, or
20 school of the other party or the day care or school of any child, or
21 prohibiting the person from knowingly coming within, or knowingly
22 remaining within, a specified distance of a location, shall prominently
23 bear on the front page of the order the legend: VIOLATION OF THIS
24 ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER
25 CHAPTER ((26.09)) 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

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

37 (4) If a restraining order issued pursuant to this section is
38 modified or terminated, the clerk of the court shall notify the law
39 enforcement agency specified in the order on or before the next

1 judicial day. Upon receipt of notice that an order has been
2 terminated, the law enforcement agency shall remove the order from any
3 computer-based criminal intelligence system.

4 **Sec. 8.** RCW 26.09.060 and 1995 c 246 s 26 are each amended to read
5 as follows:

6 (1) In a proceeding for:

7 (a) Dissolution of marriage, legal separation, or a declaration of
8 invalidity; or

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

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

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

25 (b) Molesting or disturbing the peace of the other party or of any
26 child;

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

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

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

33 (3) Either party may request a domestic violence protection order
34 under chapter 26.50 RCW or an antiharassment protection order under
35 chapter 10.14 RCW on a temporary basis. The court may grant any of the
36 relief provided in RCW 26.50.060 except relief pertaining to
37 residential provisions for the children which provisions shall be
38 provided for under this chapter, and any of the relief provided in RCW

1 10.14.080. Ex parte orders issued under this subsection shall be
2 effective for a fixed period not to exceed fourteen days, or upon court
3 order, not to exceed twenty-four days if necessary to ensure that all
4 temporary motions in the case can be heard at the same time.

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

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

12 (6) The court may issue a temporary restraining order or
13 preliminary injunction and an order for temporary maintenance or
14 support in such amounts and on such terms as are just and proper in the
15 circumstances. The court may in its discretion waive the filing of the
16 bond or the posting of security.

17 (7) Restraining orders issued under this section restraining the
18 person from molesting or disturbing another party, or from going onto
19 the grounds of or entering the home, workplace, or school of the other
20 party or the day care or school of any child, or prohibiting the person
21 from knowingly coming within, or knowingly remaining within, a
22 specified distance of a location, shall prominently bear on the front
23 page of the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL
24 NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER ((26.09)) 26.50
25 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

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

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

7 (10) A temporary order, temporary restraining order, or preliminary
8 injunction:

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

11 (b) May be revoked or modified;

12 (c) Terminates when the final decree is entered, except as provided
13 under subsection (~~((10))~~) (11) of this section, or when the petition
14 for dissolution, legal separation, or declaration of invalidity is
15 dismissed;

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

18 (~~((10))~~) (11) Delinquent support payments accrued under an order
19 for temporary support remain collectible and are not extinguished when
20 a final decree is entered unless the decree contains specific language
21 to the contrary. A support debt under a temporary order owed to the
22 state for public assistance expenditures shall not be extinguished by
23 the final decree if:

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

26 (b) The temporary order directs the obligor to make support
27 payments to the office of support enforcement or the Washington state
28 support registry.

29 **Sec. 9.** RCW 26.10.040 and 1995 c 93 s 3 are each amended to read
30 as follows:

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

33 (~~((1))~~) (a) Child custody, visitation, and the support of any child
34 entitled to support;

35 (~~((2))~~) (b) The allocation of the children as a federal tax
36 exemption;

37 (~~((3))~~) (c) Any necessary continuing restraining orders, including
38 the provisions contained in RCW 9.41.800;

1 (~~(4)~~) (d) A domestic violence protection order under chapter
2 26.50 RCW or an antiharassment protection order under chapter 10.14
3 RCW. The court may grant any of the relief provided in RCW 26.50.060
4 except relief pertaining to residential provisions for the children
5 which provisions shall be provided for under this chapter, and any of
6 the relief provided in RCW 10.14.080;

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

17 (~~(6)~~) (2) The court shall order that any restraining order
18 bearing a criminal offense legend, any domestic violence protection
19 order, or any antiharassment protection order granted under this
20 section, in addition to the law enforcement information sheet or proof
21 of service of the order, be forwarded by the clerk of the court on or
22 before the next judicial day to the appropriate law enforcement agency
23 specified in the order. Upon receipt of the order, the law enforcement
24 agency shall (~~forthwith~~) enter the order into any computer-based
25 criminal intelligence information system available in this state used
26 by law enforcement agencies to list outstanding warrants. The order is
27 fully enforceable in any county in the state.

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

34 **Sec. 10.** RCW 26.10.115 and 1995 c 246 s 29 are each amended to
35 read as follows:

36 (1) In a proceeding under this chapter either party may file a
37 motion for temporary support of children entitled to support. The

1 motion shall be accompanied by an affidavit setting forth the factual
2 basis for the motion and the amount requested.

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

7 (a) Molesting or disturbing the peace of the other party or of any
8 child;

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

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

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

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 support in such
33 amounts and on such terms as are just and proper in the circumstances.

34 (7) Restraining orders issued under this section restraining or
35 enjoining the person from molesting or disturbing another party, or
36 from going onto the grounds of or entering the home, workplace, or
37 school of the other party or the day care or school of any child, or
38 prohibiting the person from knowingly coming within, or knowingly
39 remaining within, a specified distance of a location, shall prominently

1 bear on the front page of the order the legend: VIOLATION OF THIS
2 ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER
3 CHAPTER ((26.10)) 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

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

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

23 (10) 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 order is entered or when the motion
29 is dismissed;

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

32 ((~~10~~)) (11) A support debt owed to the state for public
33 assistance expenditures which has been charged against a party pursuant
34 to RCW 74.20A.040 and/or 74.20A.055 shall not be merged in, or
35 otherwise extinguished by, the final decree or order, unless the office
36 of support enforcement has been given notice of the final proceeding
37 and an opportunity to present its claim for the support debt to the
38 court and has failed to file an affidavit as provided in this
39 subsection. Notice of the proceeding shall be served upon the office

1 of support enforcement personally, or by certified mail, and shall be
2 given no fewer than thirty days prior to the date of the final
3 proceeding. An original copy of the notice shall be filed with the
4 court either before service or within a reasonable time thereafter.
5 The office of support enforcement may present its claim, and thereby
6 preserve the support debt, by filing an affidavit setting forth the
7 amount of the debt with the court, and by mailing a copy of the
8 affidavit to the parties or their attorney prior to the date of the
9 final proceeding.

10 **Sec. 11.** RCW 26.26.130 and 1997 c 58 s 947 are each amended to
11 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

9 **Sec. 12.** RCW 26.26.137 and 1995 c 246 s 32 are each amended to
10 read as follows:

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

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

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

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

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

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

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

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

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

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

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

24 (7) 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 ~~((+7))~~ (8) 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 In issuing the order, the court shall consider the provisions of RCW
33 9.41.800.

34 ~~((+8))~~ (9) A temporary order, temporary restraining order, or
35 preliminary injunction:

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

38 (b) May be revoked or modified;

1 (c) Terminates when the final order is entered or when the petition
2 is dismissed; and

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

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

21 **Sec. 13.** RCW 26.44.063 and 1993 c 412 s 15 are each amended to
22 read as follows:

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

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

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

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

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

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

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

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

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

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

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

25 (b) May be revoked or modified.

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

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

1 subject to contempt proceedings, and will subject a violator to
2 arrest."

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

9 **Sec. 14.** RCW 26.44.067 and 1993 c 412 s 16 are each amended to
10 read as follows:

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

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

21 (3) The remedies provided in this section shall not apply unless
22 restraining orders subject to this section (~~shall~~) bear this legend:
23 VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL
24 OFFENSE UNDER CHAPTER 26.44 RCW AND IS ALSO SUBJECT TO CONTEMPT
25 PROCEEDINGS.

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

31 **Sec. 15.** RCW 26.50.035 and 1995 c 246 s 4 are each amended to read
32 as follows:

33 (1) (~~By July 1, 1994,~~) The administrator for the courts shall
34 develop and prepare instructions and informational brochures required
35 under RCW 26.50.030(4), standard petition and order for protection
36 forms, and a court staff handbook on domestic violence and the
37 protection order process. The standard petition and order for

1 protection forms must be used after September 1, 1994, for all
2 petitions filed and orders issued under this chapter. The
3 instructions, brochures, forms, and handbook shall be prepared in
4 consultation with interested persons, including a representative of the
5 state domestic violence coalition, judges, and law enforcement
6 personnel.

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

10 (b) The informational brochure shall describe the use of and the
11 process for obtaining ((a)), modifying, and terminating a domestic
12 violence protection order as provided under this chapter, ((a)) an
13 anti-harassment no-contact order as provided ((by RCW 10.99.040)) under
14 chapter 9A.46 RCW, a domestic violence no-contact order as provided
15 under chapter 10.99 RCW, a restraining order as provided ((by RCW
16 26.09.060)) under chapter 26.09, 26.10, 26.26, and 26.44 RCW, ((and))
17 an antiharassment protection order as provided by chapter 10.14 RCW,
18 and a foreign protection order as defined in chapter 26.52 RCW.

19 (c) The order for protection form shall include, in a conspicuous
20 location, notice of criminal penalties resulting from violation of the
21 order, and the following statement: "You can be arrested even if the
22 person or persons who obtained the order invite or allow you to violate
23 the order's prohibitions. The respondent has the sole responsibility
24 to avoid or refrain from violating the order's provisions. Only the
25 court can change the order upon written application."

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

28 (2) All court clerks shall obtain a community resource list from a
29 domestic violence program, defined in RCW 70.123.020, serving the
30 county in which the court is located. The community resource list
31 shall include the names and telephone numbers of domestic violence
32 programs serving the community in which the court is located, including
33 law enforcement agencies, domestic violence agencies, sexual assault
34 agencies, legal assistance programs, interpreters, multicultural
35 programs, and batterers' treatment programs. The court shall make the
36 community resource list available as part of or in addition to the
37 informational brochures described in subsection (1) of this section.

38 (3) The administrator for the courts shall distribute a master copy
39 of the petition and order forms, instructions, and informational

1 brochures to all court clerks and shall distribute a master copy of the
2 petition and order forms to all superior, district, and municipal
3 courts.

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

7 (5) The administrator for the courts shall determine the
8 significant non-English-speaking or limited English-speaking
9 populations in the state. The administrator shall then arrange for
10 translation of the instructions and informational brochures required by
11 this section, which shall contain a sample of the standard petition and
12 order for protection forms, into the languages spoken by those
13 significant non-English-speaking populations and shall distribute a
14 master copy of the translated instructions and informational brochures
15 to all court clerks by January 1, 1997.

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

19 **Sec. 16.** RCW 26.50.060 and 1999 c 147 s 2 are each amended to read
20 as follows:

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

23 (a) Restrain the respondent from committing acts of domestic
24 violence;

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

28 (c) Prohibit the respondent from knowingly coming within, or
29 knowingly remaining within, a specified distance from a specified
30 location;

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

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

37 (~~(e)~~) (f) Order other relief as it deems necessary for the
38 protection of the petitioner and other family or household members

1 sought to be protected, including orders or directives to a peace
2 officer, as allowed under this chapter;

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

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

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

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

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

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

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

34 If the petitioner has petitioned for relief on behalf of the
35 respondent's minor children, the court shall advise the petitioner that
36 if the petitioner wants to continue protection for a period beyond one
37 year the petitioner may either petition for renewal pursuant to the
38 provisions of this chapter or may seek relief pursuant to the
39 provisions of chapter 26.09 or 26.26 RCW.

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

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

34 (5) Except as provided in subsection (4) of this section, no order
35 for protection shall grant relief to any party except upon notice to
36 the respondent and hearing pursuant to a petition or counter-petition
37 filed and served by the party seeking relief in accordance with RCW
38 26.50.050.

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

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

9 **Sec. 17.** RCW 26.50.070 and 1996 c 248 s 14 are each amended to
10 read as follows:

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

17 (a) Restraining any party from committing acts of domestic
18 violence;

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

23 (c) Prohibiting any party from knowingly coming within, or
24 knowingly remaining within, a specified distance from a specified
25 location;

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

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

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

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

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

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

19 (6) If the court declines to issue an ex parte temporary order for
20 protection the court shall state the particular reasons for the court's
21 denial. The court's denial of a motion for an ex parte order of
22 protection shall be filed with the court.

23 **Sec. 18.** RCW 9.94A.320 and 1999 c 352 s 3, 1999 c 322 s 5, and
24 1999 c 45 s 4 are each reenacted and amended to read as follows:

25 TABLE 2

26 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

27 XVI	Aggravated Murder 1 (RCW 10.95.020)
28 XV	Homicide by abuse (RCW 9A.32.055)
29	Malicious explosion 1 (RCW 70.74.280(1))
30	Murder 1 (RCW 9A.32.030)
31 XIV	Murder 2 (RCW 9A.32.050)
32 XIII	Malicious explosion 2 (RCW 70.74.280(2))
33	Malicious placement of an explosive 1 (RCW
34	70.74.270(1))
35 XII	Assault 1 (RCW 9A.36.011)

1 Assault of a Child 1 (RCW 9A.36.120)
 2 Malicious placement of an imitation device
 3 1 (RCW 70.74.272(1)(a))
 4 Rape 1 (RCW 9A.44.040)
 5 Rape of a Child 1 (RCW 9A.44.073)
 6 XI Manslaughter 1 (RCW 9A.32.060)
 7 Rape 2 (RCW 9A.44.050)
 8 Rape of a Child 2 (RCW 9A.44.076)
 9 X Child Molestation 1 (RCW 9A.44.083)
 10 Indecent Liberties (with forcible
 11 compulsion) (RCW 9A.44.100(1)(a))
 12 Kidnapping 1 (RCW 9A.40.020)
 13 Leading Organized Crime (RCW
 14 9A.82.060(1)(a))
 15 Malicious explosion 3 (RCW 70.74.280(3))
 16 Manufacture of methamphetamine (RCW
 17 69.50.401(a)(1)(ii))
 18 Over 18 and deliver heroin,
 19 methamphetamine, a narcotic from
 20 Schedule I or II, or flunitrazepam
 21 from Schedule IV to someone under 18
 22 (RCW 69.50.406)
 23 IX Assault of a Child 2 (RCW 9A.36.130)
 24 Controlled Substance Homicide (RCW
 25 69.50.415)
 26 Explosive devices prohibited (RCW
 27 70.74.180)
 28 Homicide by Watercraft, by being under the
 29 influence of intoxicating liquor or
 30 any drug (RCW ((88.12.029))
 31 79A.60.050)
 32 Inciting Criminal Profiteering (RCW
 33 9A.82.060(1)(b))
 34 Malicious placement of an explosive 2 (RCW
 35 70.74.270(2))
 36 Over 18 and deliver narcotic from Schedule
 37 III, IV, or V or a nonnarcotic, except
 38 flunitrazepam or methamphetamine, from

1 Schedule I-V to someone under 18 and 3
2 years junior (RCW 69.50.406)
3 Robbery 1 (RCW 9A.56.200)
4 Sexual Exploitation (RCW 9.68A.040)
5 Vehicular Homicide, by being under the
6 influence of intoxicating liquor or
7 any drug (RCW 46.61.520)

8 VIII Arson 1 (RCW 9A.48.020)
9 Deliver or possess with intent to deliver
10 methamphetamine (RCW
11 69.50.401(a)(1)(ii))
12 Homicide by Watercraft, by the operation of
13 any vessel in a reckless manner (RCW
14 (~~88.12.029~~) 79A.60.050)
15 Manslaughter 2 (RCW 9A.32.070)
16 Manufacture, deliver, or possess with
17 intent to deliver amphetamine (RCW
18 69.50.401(a)(1)(ii))
19 Manufacture, deliver, or possess with
20 intent to deliver heroin or cocaine
21 (RCW 69.50.401(a)(1)(i))
22 Possession of ephedrine or pseudoephedrine
23 with intent to manufacture
24 methamphetamine (RCW 69.50.440)
25 Promoting Prostitution 1 (RCW 9A.88.070)
26 Selling for profit (controlled or
27 counterfeit) any controlled substance
28 (RCW 69.50.410)
29 Vehicular Homicide, by the operation of any
30 vehicle in a reckless manner (RCW
31 46.61.520)

32 VII Burglary 1 (RCW 9A.52.020)
33 Child Molestation 2 (RCW 9A.44.086)
34 Dealing in depictions of minor engaged in
35 sexually explicit conduct (RCW
36 9.68A.050)
37 Drive-by Shooting (RCW 9A.36.045)

1 Homicide by Watercraft, by disregard for
2 the safety of others (RCW
3 ((88.12.029)) 79A.60.050)
4 Indecent Liberties (without forcible
5 compulsion) (RCW 9A.44.100(1) (b) and
6 (c))
7 Introducing Contraband 1 (RCW 9A.76.140)
8 Involving a minor in drug dealing (RCW
9 69.50.401(f))
10 Malicious placement of an explosive 3 (RCW
11 70.74.270(3))
12 Sending, bringing into state depictions of
13 minor engaged in sexually explicit
14 conduct (RCW 9.68A.060)
15 Unlawful Possession of a Firearm in the
16 first degree (RCW 9.41.040(1)(a))
17 Use of a Machine Gun in Commission of a
18 Felony (RCW 9.41.225)
19 Vehicular Homicide, by disregard for the
20 safety of others (RCW 46.61.520)

21 VI Bail Jumping with Murder 1 (RCW
22 9A.76.170(2)(a))
23 Bribery (RCW 9A.68.010)
24 Incest 1 (RCW 9A.64.020(1))
25 Intimidating a Judge (RCW 9A.72.160)
26 Intimidating a Juror/Witness (RCW
27 9A.72.110, 9A.72.130)
28 Malicious placement of an imitation device
29 2 (RCW 70.74.272(1)(b))
30 Manufacture, deliver, or possess with
31 intent to deliver narcotics from
32 Schedule I or II (except heroin or
33 cocaine) or flunitrazepam from
34 Schedule IV (RCW 69.50.401(a)(1)(i))
35 Rape of a Child 3 (RCW 9A.44.079)
36 Theft of a Firearm (RCW 9A.56.300)

37 V Abandonment of dependent person 1 (RCW
38 9A.42.060)

1 Advancing money or property for
2 extortionate extension of credit (RCW
3 9A.82.030)
4 Bail Jumping with class A Felony (RCW
5 9A.76.170(2)(b))
6 Child Molestation 3 (RCW 9A.44.089)
7 Criminal Mistreatment 1 (RCW 9A.42.020)
8 Custodial Sexual Misconduct 1 (RCW
9 9A.44.160)
10 Delivery of imitation controlled substance
11 by person eighteen or over to person
12 under eighteen (RCW 69.52.030(2))
13 Domestic Violence Court Order Violation
14 (RCW 10.99.040, 10.99.050, 26.09.300,
15 26.10.220, 26.26.138, 26.50.110,
16 26.52.070, or section 3 of this act)
17 Extortion 1 (RCW 9A.56.120)
18 Extortionate Extension of Credit (RCW
19 9A.82.020)
20 Extortionate Means to Collect Extensions of
21 Credit (RCW 9A.82.040)
22 Incest 2 (RCW 9A.64.020(2))
23 Kidnapping 2 (RCW 9A.40.030)
24 ~~((On and after July 1, 2000: No Contact~~
25 ~~Order Violation: Domestic Violence~~
26 ~~Pretrial Condition (RCW 10.99.040(4)~~
27 ~~(b) and (c))~~
28 ~~On and after July 1, 2000: No Contact~~
29 ~~Order Violation: Domestic Violence~~
30 ~~Sentence Condition (RCW 10.99.050(2))~~
31 ~~On and after July 1, 2000: Protection~~
32 ~~Order Violation: Domestic Violence~~
33 ~~Civil Action (RCW 26.50.110 (4) and~~
34 ~~(5))~~
35 ~~On and after July 1, 2000: Stalking (RCW~~
36 ~~9A.46.110))~~
37 Perjury 1 (RCW 9A.72.020)
38 Persistent prison misbehavior (RCW
39 9.94.070)

1 Possession of a Stolen Firearm (RCW
2 9A.56.310)
3 Rape 3 (RCW 9A.44.060)
4 Rendering Criminal Assistance 1 (RCW
5 9A.76.070)
6 Sexual Misconduct with a Minor 1 (RCW
7 9A.44.093)
8 Sexually Violating Human Remains (RCW
9 9A.44.105)
10 Stalking (RCW 9A.46.110)

11 IV Arson 2 (RCW 9A.48.030)
12 Assault 2 (RCW 9A.36.021)
13 Assault by Watercraft (RCW ((~~88.12.032~~))
14 79A.60.060)
15 Bribing a Witness/Bribe Received by Witness
16 (RCW 9A.72.090, 9A.72.100)
17 Commercial Bribery (RCW 9A.68.060)
18 Counterfeiting (RCW 9.16.035(4))
19 Escape 1 (RCW 9A.76.110)
20 Hit and Run--Injury Accident (RCW
21 46.52.020(4))
22 Hit and Run with Vessel--Injury Accident
23 (RCW ((~~88.12.155(3)~~)) 79A.60.200(3))
24 Indecent Exposure to Person Under Age
25 Fourteen (subsequent sex offense) (RCW
26 9A.88.010)
27 Influencing Outcome of Sporting Event (RCW
28 9A.82.070)
29 Knowingly Trafficking in Stolen Property
30 (RCW 9A.82.050(2))
31 Malicious Harassment (RCW 9A.36.080)
32 Manufacture, deliver, or possess with
33 intent to deliver narcotics from
34 Schedule III, IV, or V or nonnarcotics
35 from Schedule I-V (except marijuana,
36 amphetamine, methamphetamines, or
37 flunitrazepam) (RCW 69.50.401(a)(1)
38 (iii) through (v))
39 Residential Burglary (RCW 9A.52.025)

1 Robbery 2 (RCW 9A.56.210)
2 Theft of Livestock 1 (RCW 9A.56.080)
3 Threats to Bomb (RCW 9.61.160)
4 Use of Proceeds of Criminal Profiteering
5 (RCW 9A.82.080 (1) and (2))
6 Vehicular Assault (RCW 46.61.522)
7 Willful Failure to Return from Furlough
8 (RCW 72.66.060)

9 III Abandonment of dependent person 2 (RCW
10 9A.42.070)
11 Assault 3 (RCW 9A.36.031)
12 Assault of a Child 3 (RCW 9A.36.140)
13 Bail Jumping with class B or C Felony (RCW
14 9A.76.170(2)(c))
15 Burglary 2 (RCW 9A.52.030)
16 Communication with a Minor for Immoral
17 Purposes (RCW 9.68A.090)
18 Criminal Gang Intimidation (RCW 9A.46.120)
19 Criminal Mistreatment 2 (RCW 9A.42.030)
20 Custodial Assault (RCW 9A.36.100)
21 Delivery of a material in lieu of a
22 controlled substance (RCW
23 69.50.401(c))
24 Escape 2 (RCW 9A.76.120)
25 Extortion 2 (RCW 9A.56.130)
26 Harassment (RCW 9A.46.020)
27 Intimidating a Public Servant (RCW
28 9A.76.180)
29 Introducing Contraband 2 (RCW 9A.76.150)
30 Maintaining a Dwelling or Place for
31 Controlled Substances (RCW
32 69.50.402(a)(6))
33 Malicious Injury to Railroad Property (RCW
34 81.60.070)
35 Manufacture, deliver, or possess with
36 intent to deliver marijuana (RCW
37 69.50.401(a)(1)(iii))
38 Manufacture, distribute, or possess with
39 intent to distribute an imitation

1 controlled substance (RCW
2 69.52.030(1))
3 Patronizing a Juvenile Prostitute (RCW
4 9.68A.100)
5 Perjury 2 (RCW 9A.72.030)
6 Possession of Incendiary Device (RCW
7 9.40.120)
8 Possession of Machine Gun or Short-Barreled
9 Shotgun or Rifle (RCW 9.41.190)
10 Promoting Prostitution 2 (RCW 9A.88.080)
11 Recklessly Trafficking in Stolen Property
12 (RCW 9A.82.050(1))
13 Securities Act violation (RCW 21.20.400)
14 Tampering with a Witness (RCW 9A.72.120)
15 Telephone Harassment (subsequent conviction
16 or threat of death) (RCW 9.61.230)
17 Theft of Livestock 2 (RCW 9A.56.080)
18 Unlawful Imprisonment (RCW 9A.40.040)
19 Unlawful possession of firearm in the
20 second degree (RCW 9.41.040(1)(b))
21 Unlawful Use of Building for Drug Purposes
22 (RCW 69.53.010)
23 Willful Failure to Return from Work Release
24 (RCW 72.65.070)

25 II Computer Trespass 1 (RCW 9A.52.110)
26 Counterfeiting (RCW 9.16.035(3))
27 Create, deliver, or possess a counterfeit
28 controlled substance (RCW
29 69.50.401(b))
30 Escape from Community Custody (RCW
31 72.09.310)
32 Health Care False Claims (RCW 48.80.030)
33 Malicious Mischief 1 (RCW 9A.48.070)
34 Possession of controlled substance that is
35 either heroin or narcotics from
36 Schedule I or II or flunitrazepam from
37 Schedule IV (RCW 69.50.401(d))
38 Possession of phencyclidine (PCP) (RCW
39 69.50.401(d))

1 Possession of Stolen Property 1 (RCW
2 9A.56.150)
3 Theft 1 (RCW 9A.56.030)
4 Theft of Rental, Leased, or Lease-purchased
5 Property (valued at one thousand five
6 hundred dollars or more) (RCW
7 9A.56.096(4))
8 Trafficking in Insurance Claims (RCW
9 48.30A.015)
10 Unlawful Practice of Law (RCW 2.48.180)
11 Unlicensed Practice of a Profession or
12 Business (RCW 18.130.190(7))
13 I Attempting to Elude a Pursuing Police
14 Vehicle (RCW 46.61.024)
15 False Verification for Welfare (RCW
16 74.08.055)
17 Forged Prescription (RCW 69.41.020)
18 Forged Prescription for a Controlled
19 Substance (RCW 69.50.403)
20 Forgery (RCW 9A.60.020)
21 Malicious Mischief 2 (RCW 9A.48.080)
22 Possess Controlled Substance that is a
23 Narcotic from Schedule III, IV, or V
24 or Non-narcotic from Schedule I-V
25 (except phencyclidine or
26 flunitrazepam) (RCW 69.50.401(d))
27 Possession of Stolen Property 2 (RCW
28 9A.56.160)
29 Reckless Burning 1 (RCW 9A.48.040)
30 Taking Motor Vehicle Without Permission
31 (RCW 9A.56.070)
32 Theft 2 (RCW 9A.56.040)
33 Theft of Rental, Leased, or Lease-purchased
34 Property (valued at two hundred fifty
35 dollars or more but less than one
36 thousand five hundred dollars) (RCW
37 9A.56.096(4))
38 Unlawful Issuance of Checks or Drafts (RCW
39 9A.56.060)

1 Unlawful Use of Food Stamps (RCW 9.91.140
2 (2) and (3))
3 Vehicle Prowl 1 (RCW 9A.52.095)

4 **Sec. 19.** RCW 10.99.040 and 1997 c 338 s 54 are each amended to
5 read as follows:

6 (1) Because of the serious nature of domestic violence, the court
7 in domestic violence actions:

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

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

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

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

20 (2)(a) Because of the likelihood of repeated violence directed at
21 those who have been victims of domestic violence in the past, when any
22 person charged with or arrested for a crime involving domestic violence
23 is released from custody before arraignment or trial on bail or
24 personal recognizance, the court authorizing the release may prohibit
25 that person from having any contact with the victim. The jurisdiction
26 authorizing the release shall determine whether that person should be
27 prohibited from having any contact with the victim. If there is no
28 outstanding restraining or protective order prohibiting that person
29 from having contact with the victim, the court authorizing release may
30 issue, by telephone, a no-contact order prohibiting the person charged
31 or arrested from having contact with the victim or from knowingly
32 coming within, or knowingly remaining within, a specified distance of
33 a location.

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

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

1 (3) At the time of arraignment the court shall determine whether a
2 no-contact order shall be issued or extended. The no-contact order
3 shall terminate if the defendant is acquitted or the charges are
4 dismissed. If a no-contact order is issued or extended, the court may
5 also include in the conditions of release a requirement that the
6 defendant submit to electronic monitoring. If electronic monitoring is
7 ordered, the court shall specify who shall provide the monitoring
8 services, and the terms under which the monitoring shall be performed.
9 Upon conviction, the court may require as a condition of the sentence
10 that the defendant reimburse the providing agency for the costs of the
11 electronic monitoring.

12 (4)(a) ~~Willful violation of a court order issued under subsection~~
13 ~~(2) or (3) of this section is ((a gross misdemeanor except as provided~~
14 ~~in (b) and (c) of this subsection (4). Upon conviction and in addition~~
15 ~~to other penalties provided by law, the court may require that the~~
16 ~~defendant submit to electronic monitoring. The court shall specify who~~
17 ~~shall provide the electronic monitoring services and the terms under~~
18 ~~which the monitoring must be performed. The court also may include a~~
19 ~~requirement that the defendant pay the costs of the monitoring. The~~
20 ~~court shall consider the ability of the convicted person to pay for~~
21 ~~electronic monitoring.~~

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

29 (c) ~~A willful violation of a court order issued under this section~~
30 ~~is a class C felony if the offender has at least two previous~~
31 ~~convictions for violating the provisions of a no-contact order issued~~
32 ~~under this chapter, a domestic violence protection order issued under~~
33 ~~chapter 26.09, 26.10, 26.26, or 26.50 RCW, or any federal or out-of-~~
34 ~~state order that is comparable to a no-contact order or protection~~
35 ~~order issued under Washington law. The previous convictions may~~
36 ~~involve the same victim or other victims specifically protected by the~~
37 ~~no-contact orders or protection orders the offender violated))~~
38 punishable under RCW 26.50.110.

1 ~~((d))~~ (b) The written order releasing the person charged or
2 arrested shall contain the court's directives and shall bear the
3 legend: "Violation of this order is a criminal offense under chapter
4 ~~((10.99))~~ 26.50 RCW and will subject a violator to arrest; any assault,
5 drive-by shooting, or reckless endangerment that is a violation of this
6 order is a felony. You can be arrested even if any person protected by
7 the order invites or allows you to violate the order's prohibitions.
8 You have the sole responsibility to avoid or refrain from violating the
9 order's provisions. Only the court can change the order."

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

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

16 ~~((5))~~ (6) Whenever ~~((an))~~ a no-contact order ~~((prohibiting~~
17 ~~contact))~~ is issued, modified, or terminated under subsection (2) or
18 (3) of this section, the clerk of the court shall forward a copy of the
19 order on or before the next judicial day to the appropriate law
20 enforcement agency specified in the order. Upon receipt of the copy of
21 the order the law enforcement agency shall ~~((forthwith))~~ enter the
22 order for one year or until the expiration date specified on the order
23 into any computer-based criminal intelligence information system
24 available in this state used by law enforcement agencies to list
25 outstanding warrants. Entry into the ~~((law enforcement))~~ computer-
26 based criminal intelligence information system constitutes notice to
27 all law enforcement agencies of the existence of the order. The order
28 is fully enforceable in any jurisdiction in the state. Upon receipt of
29 notice that an order has been terminated under subsection (3) of this
30 section, the law enforcement agency shall remove the order from the
31 computer-based criminal intelligence information system.

32 **Sec. 20.** RCW 10.99.045 and 1998 c 55 s 2 are each amended to read
33 as follows:

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

37 (2) A defendant who is charged by citation, complaint, or
38 information with an offense involving domestic violence as defined by

1 RCW 10.99.020 and not arrested shall appear in court for arraignment in
2 person as soon as practicable, but in no event later than fourteen days
3 after the next day on which court is in session following the issuance
4 of the citation or the filing of the complaint or information.

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

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

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

16 **Sec. 21.** RCW 10.99.050 and 1997 c 338 s 55 are each amended to
17 read as follows:

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

22 (2)(a) ~~Willful violation of a court order issued under this section~~
23 ~~is ((a gross misdemeanor. Any assault that is a violation of an order~~
24 ~~issued under this section and that does not amount to assault in the~~
25 ~~first or second degree under RCW 9A.36.011 or 9A.36.021 is a class C~~
26 ~~felony, and any conduct in violation of a protective order issued under~~
27 ~~this section that is reckless and creates a substantial risk of death~~
28 ~~or serious physical injury to another person is a class C felony. A~~
29 ~~willful violation of a court order issued under this section is also a~~
30 ~~class C felony if the offender has at least two previous convictions~~
31 ~~for violating the provisions of a no-contact order issued under this~~
32 ~~chapter, or a domestic violence protection order issued under chapter~~
33 ~~26.09, 26.10, 26.26, or 26.50 RCW, or any federal or out-of-state order~~
34 ~~that is comparable to a no-contact order or protection order that is~~
35 ~~issued under Washington law. The previous convictions may involve the~~
36 ~~same victim or other victims specifically protected by the no-contact~~
37 ~~orders or protection orders the offender violated)) punishable under~~
38 RCW 26.50.110.

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

6 (3) Whenever an order prohibiting contact is issued pursuant to
7 this section, the clerk of the court shall forward a copy of the order
8 on or before the next judicial day to the appropriate law enforcement
9 agency specified in the order. Upon receipt of the copy of the order
10 the law enforcement agency shall ~~((forthwith))~~ enter the order for one
11 year or until the expiration date specified on the order into any
12 computer-based criminal intelligence information system available in
13 this state used by law enforcement agencies to list outstanding
14 warrants. Entry into the ~~((law enforcement))~~ computer-based criminal
15 intelligence information system constitutes notice to all law
16 enforcement agencies of the existence of the order. The order is fully
17 enforceable in any jurisdiction in the state.

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

24 **Sec. 22.** RCW 26.09.300 and 1996 c 248 s 9 are each amended to read
25 as follows:

26 (1) Whenever a restraining order is issued under this chapter, and
27 the person to be restrained knows of the order, a violation of the
28 provisions restricting the person from acts or threats of violence or
29 of a provision restraining the person from going onto the grounds of or
30 entering the residence, workplace, school, or day care of another, or
31 prohibiting the person from knowingly coming within, or knowingly
32 remaining within, a specified distance of a location, is ((a
33 ~~misdemeanor~~)) punishable under RCW 26.50.110.

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

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

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

1 (c) The order was served upon the person to be restrained; or
2 (d) The peace officer gives the person oral or written evidence of
3 the order by reading from it or handing to the person a certified copy
4 of the original order, certified to be an accurate copy of the original
5 by a notary public or by the clerk of the court.

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

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

10 (b) Obtaining a certified copy of the order, certified to be an
11 accurate copy of the original by a notary public or by the clerk of the
12 court.

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

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

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

19 (c) The person to be arrested has violated the terms of the order
20 restraining the person from acts or threats of violence or restraining
21 the person from going onto the grounds of or entering the residence,
22 workplace, school, or day care of another, or prohibiting the person
23 from knowingly coming within, or knowingly remaining within, a
24 specified distance of a location.

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

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

30 **Sec. 23.** RCW 26.10.220 and 1999 c 184 s 11 are each amended to
31 read as follows:

32 (1) Whenever a restraining order is issued under this chapter, and
33 the person to be restrained knows of the order, a violation of the
34 provisions restricting the person from acts or threats of violence or
35 of a provision restraining the person from going onto the grounds of or
36 entering the residence, workplace, school, or day care of another, or
37 prohibiting the person from knowingly coming within, or knowingly

1 remaining within, a specified distance of a location, is ((a gross
2 misdemeanor)) punishable under RCW 26.50.110.

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

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

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

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

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

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

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

17 (b) Obtaining a certified copy of the order, certified to be an
18 accurate copy of the original by a notary public or by the clerk of the
19 court.

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

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

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

26 (c) The person to be arrested has violated the terms of the order
27 restraining the person from acts or threats of violence or restraining
28 the person from going onto the grounds of or entering the residence,
29 workplace, school, or day care of another, or prohibiting the person
30 from knowingly coming within, or knowingly remaining within, a
31 specified distance of a location.

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

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

37 **Sec. 24.** RCW 26.26.138 and 1999 c 184 s 12 are each amended to
38 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

32 (c) The person to be arrested has violated the terms of the order
33 restraining the person from acts or threats of violence or restraining
34 the person from going onto the grounds of or entering the residence,
35 workplace, school, or day care of another, or prohibiting the person
36 from knowingly coming within, or knowingly remaining within, a
37 specified distance of a location.

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

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

4 **Sec. 25.** RCW 26.50.110 and 1996 c 248 s 16 are each amended to
5 read as follows:

6 (1) Whenever an order (~~(for protection)~~) is granted under this
7 chapter, chapter 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or there is
8 a valid foreign protection order as defined in RCW 26.52.020, and the
9 respondent or person to be restrained knows of the order, a violation
10 of the restraint provisions, or of a provision excluding the person
11 from a residence, workplace, school, or day care, or of a provision
12 prohibiting a person from knowingly coming within, or knowingly
13 remaining within, a specified distance of a location, or of a provision
14 of a foreign protection order specifically indicating that a violation
15 will be a crime, for which an arrest is required under RCW 10.31.100(2)
16 (a) or (b), is a gross misdemeanor except as provided in subsections
17 (4) and (5) of this section. Upon conviction, and in addition to any
18 other penalties provided by law, the court may require that the
19 respondent submit to electronic monitoring. The court shall specify
20 who shall provide the electronic monitoring services, and the terms
21 under which the monitoring shall be performed. The order also may
22 include a requirement that the respondent pay the costs of the
23 monitoring. The court shall consider the ability of the convicted
24 person to pay for electronic monitoring.

25 (2) A peace officer shall arrest without a warrant and take into
26 custody a person whom the peace officer has probable cause to believe
27 has violated an order issued under this chapter, chapter 10.99, 26.09,
28 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order as
29 defined in RCW 26.52.020, that restrains the person or excludes the
30 person from a residence, workplace, school, or day care, or prohibits
31 the person from knowingly coming within, or knowingly remaining within,
32 a specified distance of a location, if the person restrained knows of
33 the order. Presence of the order in the law enforcement computer-based
34 criminal intelligence information system is not the only means of
35 establishing knowledge of the order.

36 (3) A violation of an order (~~(for protection)~~) issued under this
37 chapter, chapter 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a
38 valid foreign protection order as defined in RCW 26.52.020, shall also

1 constitute contempt of court, and is subject to the penalties
2 prescribed by law.

3 (4) Any assault that is a violation of an order issued under this
4 chapter, chapter 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a
5 valid foreign protection order as defined in RCW 26.52.020, and that
6 does not amount to assault in the first or second degree under RCW
7 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in
8 violation of ~~((a protective))~~ such an order ~~((issued under this~~
9 ~~chapter))~~ that is reckless and creates a substantial risk of death or
10 serious physical injury to another person is a class C felony.

11 (5) A violation of a court order issued under this chapter, chapter
12 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign
13 protection order as defined in RCW 26.52.020, is a class C felony if
14 the offender has at least two previous convictions for violating the
15 provisions of ~~((a no-contact))~~ an order issued under chapter 10.99
16 ~~((RCW, a domestic violence protection order issued under chapter 26.09,~~
17 ~~26.10, or 26.26 RCW or this chapter, or any federal or out-of-state~~
18 ~~order that is comparable to a no-contact or protection order issued~~
19 ~~under Washington law)),~~ 26.09, 26.10, 26.26, or 74.34 RCW, or a valid
20 foreign protection order as defined in RCW 26.52.020. The previous
21 convictions may involve the same victim or other victims specifically
22 protected by the ~~((no-contact orders or protection))~~ orders the
23 offender violated.

24 (6) Upon the filing of an affidavit by the petitioner or any peace
25 officer alleging that the respondent has violated an order ~~((for~~
26 ~~protection))~~ granted under this chapter, chapter 10.99, 26.09, 26.10,
27 26.26, or 74.34 RCW, or a valid foreign protection order as defined in
28 RCW 26.52.020, the court may issue an order to the respondent,
29 requiring the respondent to appear and show cause within fourteen days
30 why the respondent should not be found in contempt of court and
31 punished accordingly. The hearing may be held in the court of any
32 county or municipality in which the petitioner or respondent
33 temporarily or permanently resides at the time of the alleged
34 violation.

35 **Sec. 26.** RCW 26.50.150 and 1999 c 147 s 1 are each amended to read
36 as follows:

37 (1) The department of social and health services shall adopt rules
38 for standards of approval of domestic violence perpetrator programs

1 that accept perpetrators of domestic violence into treatment to satisfy
2 court orders or that represent the programs as ones that treat domestic
3 violence perpetrators. The treatment must meet the following minimum
4 qualifications:

5 ~~((1))~~ (a) All treatment must be based upon a full, complete
6 clinical intake including: Current and past violence history; a
7 lethality risk assessment; a complete diagnostic evaluation; a
8 substance abuse assessment; criminal history; assessment of cultural
9 issues, learning disabilities, literacy, and special language needs;
10 and a treatment plan that adequately and appropriately addresses the
11 treatment needs of the individual.

12 ~~((2))~~ (b) To facilitate communication necessary for periodic
13 safety checks and case monitoring, the program must require the
14 perpetrator to sign the following releases:

15 ~~((a))~~ (i) A release for the program to inform the victim and
16 victim's community and legal advocates that the perpetrator is in
17 treatment with the program, and to provide information, for safety
18 purposes, to the victim and victim's community and legal advocates;

19 ~~((b))~~ (ii) A release to prior and current treatment agencies to
20 provide information on the perpetrator to the program; and

21 ~~((c))~~ (iii) A release for the program to provide information on
22 the perpetrator to relevant legal entities including: Lawyers, courts,
23 parole, probation, child protective services, and child welfare
24 services.

25 ~~((3))~~ (c) Treatment must be for a minimum treatment period
26 defined by the secretary of the department by rule. The weekly
27 treatment sessions must be in a group unless there is a documented,
28 clinical reason for another modality. Any other therapies, such as
29 individual, marital, or family therapy, substance abuse evaluations or
30 therapy, medication reviews, or psychiatric interviews, may be
31 concomitant with the weekly group treatment sessions described in this
32 section but not a substitute for it.

33 ~~((4))~~ (d) The treatment must focus primarily on ending the
34 violence, holding the perpetrator accountable for his or her violence,
35 and changing his or her behavior. The treatment must be based on
36 nonvictim-blaming strategies and philosophies and shall include
37 education about the individual, family, and cultural dynamics of
38 domestic violence. If the perpetrator or the victim has a minor child,
39 treatment must specifically include education regarding the effects of

1 domestic violence on children, such as the emotional impacts of
2 domestic violence on children and the long-term consequences that
3 exposure to incidents of domestic violence may have on children.

4 ~~((+5))~~ (e) Satisfactory completion of treatment must be contingent
5 upon the perpetrator meeting specific criteria, defined by rule by the
6 secretary of the department, and not just upon the end of a certain
7 period of time or a certain number of sessions.

8 ~~((+6))~~ (f) The program must have policies and procedures for
9 dealing with reoffenses and noncompliance.

10 ~~((+7))~~ (g) All evaluation and treatment services must be provided
11 by, or under the supervision of, qualified personnel.

12 (2) The department shall conduct periodic evaluations of programs
13 that have been approved under this section, to determine whether they
14 are in compliance with the standards adopted under this section.

15 ~~((+8))~~ (3) The secretary of the department may adopt rules and
16 establish fees as necessary to implement this section.

17 **Sec. 27.** RCW 26.50.160 and 1995 c 246 s 18 are each amended to
18 read as follows:

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

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

1 (2) A criminal history of the parties; and
2 (3) Other relevant information necessary to assist courts in
3 issuing orders under this chapter as determined by the judicial
4 information system committee.

5 **Sec. 28.** RCW 26.52.070 and 1999 c 184 s 9 are each amended to read
6 as follows:

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

26 (2) A peace officer shall arrest without a warrant and take into
27 custody a person when the peace officer has probable cause to believe
28 that a foreign protection order has been issued of which the person
29 under restraint has knowledge and the person under restraint has
30 violated a provision of the foreign protection order that prohibits the
31 person under restraint from contacting or communicating with another
32 person, or a provision that excludes the person under restraint from a
33 residence, workplace, school, or day care, or of a provision
34 prohibiting a person from knowingly coming within, or knowingly
35 remaining within, a specified distance of a location, or a violation of
36 any provision for which the foreign protection order specifically
37 indicates that a violation will be a crime. Presence of the order in

1 the law enforcement computer-based criminal intelligence information
2 system is not the only means of establishing knowledge of the order.

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

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

19 **Sec. 29.** RCW 70.123.050 and 1979 ex.s. c 245 s 5 are each amended
20 to read as follows:

21 The department shall contract, where appropriate, with public or
22 private nonprofit groups or organizations with experience and expertise
23 in the field of domestic violence to:

24 (1) Develop and implement an educational program designed to
25 promote public and professional awareness of the problems of domestic
26 violence and of the availability of services for victims of domestic
27 violence. Particular emphasis should be given to the education needs
28 of law enforcement agencies, the legal system, the medical profession,
29 and other relevant professions that are engaged in the prevention,
30 identification, and treatment of domestic violence;

31 (2) Maintain a directory of temporary shelters and other direct
32 service facilities for the victims of domestic violence which is
33 current, complete, detailed, and available, as necessary, to provide
34 useful referral services to persons seeking help on an emergency basis;

35 (3) Create a state-wide toll-free telephone number that would
36 provide information and referral to victims of domestic violence;

37 (4) Provide opportunities to persons working in the area of
38 domestic violence to exchange information; ~~((and))~~

1 (5) Provide training opportunities for both volunteer workers and
2 staff personnel; and

3 (6) Develop and provide advocacy, community education, and
4 specialized services to underserved victims of domestic violence.

5 **Sec. 30.** RCW 74.34.130 and 1999 c 176 s 13 are each amended to
6 read as follows:

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

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

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

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

15 (4) Prohibiting the respondent from knowingly coming within, or
16 knowingly remaining within, a specified distance from a specified
17 location;

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

20 ~~((+5))~~ (6) Restraining the transfer of property for a specified
21 period not exceeding ninety days; and

22 ~~((+6))~~ (7) Requiring the respondent to pay the filing fee and
23 court costs, including service fees, and to reimburse the petitioner
24 for costs incurred in bringing the action, including a reasonable
25 attorney's fee.

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

28 **Sec. 31.** RCW 9.94A.440 and 1999 c 322 s 6 and 1999 c 196 s 11 are
29 each reenacted and amended to read as follows:

30 (1) Decision not to prosecute.

31 STANDARD: A prosecuting attorney may decline to prosecute, even
32 though technically sufficient evidence to prosecute exists, in
33 situations where prosecution would serve no public purpose, would
34 defeat the underlying purpose of the law in question or would result in
35 decreased respect for the law.

36 GUIDELINE/COMMENTARY:

37 Examples

1 The following are examples of reasons not to prosecute which could
2 satisfy the standard.

3 (a) Contrary to Legislative Intent - It may be proper to decline to
4 charge where the application of criminal sanctions would be clearly
5 contrary to the intent of the legislature in enacting the particular
6 statute.

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

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

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

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

14 (iv) The statute has not been recently reconsidered by the
15 legislature.

16 This reason is not to be construed as the basis for declining cases
17 because the law in question is unpopular or because it is difficult to
18 enforce.

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

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

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

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

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

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

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

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

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

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

3 (f) High Disproportionate Cost of Prosecution - It may be proper to
4 decline to charge where the cost of locating or transporting, or the
5 burden on, prosecution witnesses is highly disproportionate to the
6 importance of prosecuting the offense in question. This reason should
7 be limited to minor cases and should not be relied upon in serious
8 cases.

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

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

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

22 (i) Assault cases where the victim has suffered little or no
23 injury;

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

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

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

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

31 Notification

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

34 (2) Decision to prosecute.

35 (a) STANDARD:

36 Crimes against persons will be filed if sufficient admissible
37 evidence exists, which, when considered with the most plausible,
38 reasonably foreseeable defense that could be raised under the evidence,
39 would justify conviction by a reasonable and objective fact-finder.

1 With regard to offenses prohibited by RCW 9A.44.040, 9A.44.050,
2 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, 9A.44.089, and
3 9A.64.020 the prosecutor should avoid pre-filing agreements or
4 diversions intended to place the accused in a program of treatment or
5 counseling, so that treatment, if determined to be beneficial, can be
6 provided pursuant to RCW 9.94A.120(8).

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

12 See table below for the crimes within these categories.

13 CATEGORIZATION OF CRIMES FOR PROSECUTING STANDARDS

14 CRIMES AGAINST PERSONS

- 15 Aggravated Murder
- 16 1st Degree Murder
- 17 2nd Degree Murder
- 18 1st Degree Kidnaping
- 19 1st Degree Assault
- 20 1st Degree Assault of a Child
- 21 1st Degree Rape
- 22 1st Degree Robbery
- 23 1st Degree Rape of a Child
- 24 1st Degree Arson
- 25 2nd Degree Kidnaping
- 26 2nd Degree Assault
- 27 2nd Degree Assault of a Child
- 28 2nd Degree Rape
- 29 2nd Degree Robbery
- 30 1st Degree Burglary
- 31 1st Degree Manslaughter
- 32 2nd Degree Manslaughter
- 33 1st Degree Extortion
- 34 Indecent Liberties
- 35 Incest
- 36 2nd Degree Rape of a Child
- 37 Vehicular Homicide
- 38 Vehicular Assault

1 3rd Degree Rape
2 3rd Degree Rape of a Child
3 1st Degree Child Molestation
4 2nd Degree Child Molestation
5 3rd Degree Child Molestation
6 2nd Degree Extortion
7 1st Degree Promoting Prostitution
8 Intimidating a Juror
9 Communication with a Minor
10 Intimidating a Witness
11 Intimidating a Public Servant
12 Bomb Threat (if against person)
13 3rd Degree Assault
14 3rd Degree Assault of a Child
15 Unlawful Imprisonment
16 Promoting a Suicide Attempt
17 Riot (if against person)
18 Stalking
19 Custodial Assault
20 (~~(No Contact Order Domestic Violence Pretrial (RCW 10.99.040(4) (b)~~
21 ~~and (c))~~
22 ~~No Contact Order Domestic Violence Sentence (RCW 10.99.050(2))~~
23 ~~Protection Order Domestic Violence Civil (RCW 26.50.110 (4) and~~
24 ~~(5))~~) Domestic Violence Court Order Violation (RCW 10.99.040,
25 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or
26 section 3 of this act)
27 Counterfeiting (if a violation of RCW 9.16.035(4))
28 CRIMES AGAINST PROPERTY/OTHER CRIMES
29 2nd Degree Arson
30 1st Degree Escape
31 2nd Degree Burglary
32 1st Degree Theft
33 1st Degree Perjury
34 1st Degree Introducing Contraband
35 1st Degree Possession of Stolen Property
36 Bribery
37 Bribing a Witness
38 Bribe received by a Witness
39 Bomb Threat (if against property)

1 1st Degree Malicious Mischief
2 2nd Degree Theft
3 2nd Degree Escape
4 2nd Degree Introducing Contraband
5 2nd Degree Possession of Stolen Property
6 2nd Degree Malicious Mischief
7 1st Degree Reckless Burning
8 Taking a Motor Vehicle without Authorization
9 Forgery
10 2nd Degree Perjury
11 2nd Degree Promoting Prostitution
12 Tampering with a Witness
13 Trading in Public Office
14 Trading in Special Influence
15 Receiving/Granting Unlawful Compensation
16 Bigamy
17 Eluding a Pursuing Police Vehicle
18 Willful Failure to Return from Furlough
19 Escape from Community Custody
20 Riot (if against property)
21 Thefts of Livestock

22 ALL OTHER UNCLASSIFIED FELONIES

23 Selection of Charges/Degree of Charge

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

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

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

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

32 (A) Charging a higher degree;

33 (B) Charging additional counts.

34 This standard is intended to direct prosecutors to charge those
35 crimes which demonstrate the nature and seriousness of a defendant's
36 criminal conduct, but to decline to charge crimes which are not
37 necessary to such an indication. Crimes which do not merge as a matter
38 of law, but which arise from the same course of conduct, do not all
39 have to be charged.

1 (b) GUIDELINES/COMMENTARY:

2 (i) Police Investigation

3 A prosecuting attorney is dependent upon law enforcement agencies
4 to conduct the necessary factual investigation which must precede the
5 decision to prosecute. The prosecuting attorney shall ensure that a
6 thorough factual investigation has been conducted before a decision to
7 prosecute is made. In ordinary circumstances the investigation should
8 include the following:

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

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

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

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

17 (ii) Exceptions

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

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

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

23 (C) The arrest of the suspect is necessary to complete the
24 investigation of the crime.

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

30 (iii) Investigation Techniques

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

33 (A) Polygraph testing;

34 (B) Hypnosis;

35 (C) Electronic surveillance;

36 (D) Use of informants.

37 (iv) Pre-Filing Discussions with Defendant

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

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

5 Discussions with the victim(s) or victims' representatives
6 regarding the selection or disposition of charges may occur before the
7 filing of charges. The discussions may be considered by the prosecutor
8 in charging and disposition decisions, and should be considered before
9 reaching any agreement with the defendant regarding these decisions.

10 NEW SECTION. **Sec. 32.** Section 18 of this act takes effect July 1,
11 2000.

12 NEW SECTION. **Sec. 33.** Section 1 of this act is necessary for the
13 immediate preservation of the public peace, health, or safety, or
14 support of the state government and its existing public institutions,
15 and takes effect immediately.

16 NEW SECTION. **Sec. 34.** (1) The penalties prescribed in section 1
17 of this act apply to violations of court orders which occur on or after
18 the effective date of section 1 of this act, regardless of the date the
19 court issued the order.

20 (2) The penalties prescribed in this act, other than in section 1
21 of this act, apply to violations of court orders which occur on or
22 after July 1, 2000, regardless of the date the court issued the order."

23 Correct the title.

--- END ---