

2 **HB 2595** - S COMM AMD  
3 By Committee on Judiciary

4 NOT ADOPTED 3/2/00

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

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

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

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

17 (1) An order for protection of a vulnerable adult issued under this  
18 chapter which restrains the respondent or another person from  
19 committing acts of abuse, prohibits contact with the petitioner,  
20 excludes the person from any specified location, or prohibits the  
21 person from knowingly coming within, or knowingly remaining within a  
22 specified distance from 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 26.50 RCW AND  
25 WILL SUBJECT A VIOLATOR TO ARREST.

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

1       **Sec. 3.** RCW 10.31.100 and 1999 c 184 s 14 are each amended to read  
2 as follows:

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

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

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

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

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

1 violation of any provision for which the foreign protection order  
2 specifically indicates that a violation will be a crime; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 **Sec. 4.** RCW 10.99.020 and 1997 c 338 s 53 are each amended to read  
37 as follows:

1 Unless the context clearly requires otherwise, the definitions in  
2 this section apply throughout this chapter.

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

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

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

- 18 (a) Assault in the first degree (RCW 9A.36.011);
- 19 (b) Assault in the second degree (RCW 9A.36.021);
- 20 (c) Assault in the third degree (RCW 9A.36.031);
- 21 (d) Assault in the fourth degree (RCW 9A.36.041);
- 22 (e) Drive-by shooting (RCW 9A.36.045);
- 23 (f) Reckless endangerment (RCW 9A.36.050);
- 24 (g) Coercion (RCW 9A.36.070);
- 25 (h) Burglary in the first degree (RCW 9A.52.020);
- 26 (i) Burglary in the second degree (RCW 9A.52.030);
- 27 (j) Criminal trespass in the first degree (RCW 9A.52.070);
- 28 (k) Criminal trespass in the second degree (RCW 9A.52.080);
- 29 (l) Malicious mischief in the first degree (RCW 9A.48.070);
- 30 (m) Malicious mischief in the second degree (RCW 9A.48.080);
- 31 (n) Malicious mischief in the third degree (RCW 9A.48.090);
- 32 (o) Kidnapping in the first degree (RCW 9A.40.020);
- 33 (p) Kidnapping in the second degree (RCW 9A.40.030);
- 34 (q) Unlawful imprisonment (RCW 9A.40.040);
- 35 (r) Violation of the provisions of a restraining order, no-contact  
36 order, or protection order restraining the person or restraining the  
37 person from going onto the grounds of or entering a residence,  
38 workplace, school, or day care, or prohibiting the person from  
39 knowingly coming within, or knowingly remaining within a specified

1 distance of a location (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220,  
2 ~~((or))~~ 26.26.138, 26.50.060, 26.50.070, 26.50.130, 26.52.070, or  
3 section 2 of this act);

4 ~~(s) ((Violation of the provisions of a protection order or no-~~  
5 ~~contact order restraining the person or restraining the person from~~  
6 ~~going onto the grounds of or entering a residence, workplace, school,~~  
7 ~~or day care (RCW 26.50.060, 26.50.070, 26.50.130, 10.99.040, or~~  
8 ~~10.99.050));~~

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

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

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

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

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

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

17 **Sec. 5.** RCW 26.09.050 and 1995 c 93 s 2 are each amended to read  
18 as follows:

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

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

1 order the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS  
2 TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER ((26.09)) 26.50 RCW AND WILL  
3 SUBJECT A VIOLATOR TO ARREST.

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

15 **Sec. 6.** RCW 26.09.060 and 1995 c 246 s 26 are each amended to read  
16 as follows:

17 (1) In a proceeding for:

18 (a) Dissolution of marriage, legal separation, or a declaration of  
19 invalidity; or

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

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

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

36 (b) Molesting or disturbing the peace of the other party or of any  
37 child;

1 (c) 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 upon  
3 a showing of the necessity therefor;

4 (d) Knowingly coming within, or knowingly remaining within a  
5 specified distance from a specified location;

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

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

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

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

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

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

38 (8) The court shall order that any temporary restraining order  
39 bearing a criminal offense legend, any domestic violence protection



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

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

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

15 (b) May be revoked or modified;

16 (c) Terminates when the final decree is entered, except as provided  
17 under subsection (10) of this section, or when the petition for  
18 dissolution, legal separation, or declaration of invalidity is  
19 dismissed;

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

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

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

30 (b) The temporary order directs the obligor to make support  
31 payments to the office of support enforcement or the Washington state  
32 support registry.

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

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

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

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

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

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

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

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

30 **Sec. 8.** RCW 26.10.115 and 1995 c 246 s 29 are each amended to read  
31 as follows:

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

36 (2) In a proceeding under this chapter either party may file a  
37 motion for a temporary restraining order or preliminary injunction,

1 providing relief proper in the circumstances, and restraining or  
2 enjoining any person from:

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

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

7 (c) Knowingly coming within, or knowingly remaining within a  
8 specified distance from a specified location;

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

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

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

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

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

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

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

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

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

17 (b) May be revoked or modified;

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

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

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

1       **Sec. 9.** RCW 26.26.130 and 1997 c 58 s 947 are each amended to read  
2 as follows:

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

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

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

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

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

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

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

36       (8) In any dispute between the natural parents of a child and a  
37 person or persons who have (a) commenced adoption proceedings or who  
38 have been granted an order of adoption, and (b) pursuant to a court  
39 order, or placement by the department of social and health services or

1 by a licensed agency, have had actual custody of the child for a period  
2 of one year or more before court action is commenced by the natural  
3 parent or parents, the court shall consider the best welfare and  
4 interests of the child, including the child's need for situation  
5 stability, in determining the matter of custody, and the parent or  
6 person who is more fit shall have the superior right to custody.

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

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

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

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

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

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

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

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

7 (c) Knowingly coming within, or knowingly remaining within a  
8 specified distance from a specified location; or

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

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

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

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

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

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

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

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

15 (b) May be revoked or modified;

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

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

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

36 **Sec. 11.** RCW 26.50.060 and 1999 c 147 s 2 are each amended to read  
37 as follows:



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 protection order for another fixed time period or may enter a permanent  
2 order as provided in this section. The court may award court costs,  
3 service fees, and reasonable attorneys' fees as provided in subsection  
4 (1)(f) of this section.

5 (4) In providing relief under this chapter, the court may realign  
6 the designation of the parties as "petitioner" and "respondent" where  
7 the court finds that the original petitioner is the abuser and the  
8 original respondent is the victim of domestic violence and may issue an  
9 ex parte temporary order for protection in accordance with RCW  
10 26.50.070 on behalf of the victim until the victim is able to prepare  
11 a petition for an order for protection in accordance with RCW  
12 26.50.030.

13 (5) Except as provided in subsection (4) of this section, no order  
14 for protection shall grant relief to any party except upon notice to  
15 the respondent and hearing pursuant to a petition or counter-petition  
16 filed and served by the party seeking relief in accordance with RCW  
17 26.50.050.

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

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

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

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

34 (a) Restraining any party from committing acts of domestic  
35 violence;

36 (b) Restraining any party from going onto the grounds of or  
37 entering the dwelling that the parties share, from the residence,

1 workplace, or school of the other, or from the day care or school of a  
2 child until further order of the court;

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

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

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

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

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

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

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

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

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



1 IX Assault of a Child 2 (RCW 9A.36.130)  
2 Controlled Substance Homicide (RCW  
3 69.50.415)  
4 Explosive devices prohibited (RCW  
5 70.74.180)  
6 Homicide by Watercraft, by being under the  
7 influence of intoxicating liquor or  
8 any drug (RCW ((88.12.029))  
9 79A.60.050)  
10 Inciting Criminal Profiteering (RCW  
11 9A.82.060(1)(b))  
12 Malicious placement of an explosive 2 (RCW  
13 70.74.270(2))  
14 Over 18 and deliver narcotic from Schedule  
15 III, IV, or V or a nonnarcotic, except  
16 flunitrazepam or methamphetamine, from  
17 Schedule I-V to someone under 18 and 3  
18 years junior (RCW 69.50.406)  
19 Robbery 1 (RCW 9A.56.200)  
20 Sexual Exploitation (RCW 9.68A.040)  
21 Vehicular Homicide, by being under the  
22 influence of intoxicating liquor or  
23 any drug (RCW 46.61.520)  
24 VIII Arson 1 (RCW 9A.48.020)  
25 Deliver or possess with intent to deliver  
26 m e t h a m p h e t a m i n e ( R C W  
27 69.50.401(a)(1)(ii))  
28 Homicide by Watercraft, by the operation of  
29 any vessel in a reckless manner (RCW  
30 ((88.12.029)) 79A.60.050)  
31 Manslaughter 2 (RCW 9A.32.070)  
32 Manufacture, deliver, or possess with  
33 intent to deliver amphetamine (RCW  
34 69.50.401(a)(1)(ii))  
35 Manufacture, deliver, or possess with  
36 intent to deliver heroin or cocaine  
37 (RCW 69.50.401(a)(1)(i))

1 Possession of ephedrine or pseudoephedrine  
2 with intent to manufacture  
3 methamphetamine (RCW 69.50.440)  
4 Promoting Prostitution 1 (RCW 9A.88.070)  
5 Selling for profit (controlled or  
6 counterfeit) any controlled substance  
7 (RCW 69.50.410)  
8 Vehicular Homicide, by the operation of any  
9 vehicle in a reckless manner (RCW  
10 46.61.520)

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

37 VI Bail Jumping with Murder 1 (RCW  
38 9A.76.170(2)(a))

1 Bribery (RCW 9A.68.010)  
2 Incest 1 (RCW 9A.64.020(1))  
3 Intimidating a Judge (RCW 9A.72.160)  
4 Intimidating a Juror/Witness (RCW  
5 9A.72.110, 9A.72.130)  
6 Malicious placement of an imitation device  
7 2 (RCW 70.74.272(1)(b))  
8 Manufacture, deliver, or possess with  
9 intent to deliver narcotics from  
10 Schedule I or II (except heroin or  
11 cocaine) or flunitrazepam from  
12 Schedule IV (RCW 69.50.401(a)(1)(i))  
13 Rape of a Child 3 (RCW 9A.44.079)  
14 Theft of a Firearm (RCW 9A.56.300)

15 V Abandonment of dependent person 1 (RCW  
16 9A.42.060)  
17 Advancing money or property for  
18 extortionate extension of credit (RCW  
19 9A.82.030)  
20 Bail Jumping with class A Felony (RCW  
21 9A.76.170(2)(b))  
22 Child Molestation 3 (RCW 9A.44.089)  
23 Criminal Mistreatment 1 (RCW 9A.42.020)  
24 Custodial Sexual Misconduct 1 (RCW  
25 9A.44.160)  
26 Delivery of imitation controlled substance  
27 by person eighteen or over to person  
28 under eighteen (RCW 69.52.030(2))  
29 Domestic Violence Court Order Violation  
30 (RCW 10.99.040, 10.99.050, 26.09.300,  
31 26.10.220, 26.26.138, 26.50.110,  
32 26.52.070, or section 2 of this act)  
33 Extortion 1 (RCW 9A.56.120)  
34 Extortionate Extension of Credit (RCW  
35 9A.82.020)  
36 Extortionate Means to Collect Extensions of  
37 Credit (RCW 9A.82.040)  
38 Incest 2 (RCW 9A.64.020(2))  
39 Kidnapping 2 (RCW 9A.40.030)



1           (~~On and after July 1, 2000: No Contact~~  
2           ~~Order Violation: Domestic Violence~~  
3           ~~Pretrial Condition (RCW 10.99.040(4)~~  
4           ~~(b) and (c))~~  
5           ~~On and after July 1, 2000: No Contact~~  
6           ~~Order Violation: Domestic Violence~~  
7           ~~Sentence Condition (RCW 10.99.050(2))~~  
8           ~~On and after July 1, 2000: Protection~~  
9           ~~Order Violation: Domestic Violence~~  
10           ~~Civil Action (RCW 26.50.110 (4) and~~  
11           ~~(5))~~  
12           ~~On and after July 1, 2000: Stalking (RCW~~  
13           ~~9A.46.110))~~  
14           Perjury 1 (RCW 9A.72.020)  
15           Persistent prison misbehavior (RCW  
16           9.94.070)  
17           Possession of a Stolen Firearm (RCW  
18           9A.56.310)  
19           Rape 3 (RCW 9A.44.060)  
20           Rendering Criminal Assistance 1 (RCW  
21           9A.76.070)  
22           Sexual Misconduct with a Minor 1 (RCW  
23           9A.44.093)  
24           Sexually Violating Human Remains (RCW  
25           9A.44.105)  
26           Stalking (RCW 9A.46.110)  
  
27           IV           Arson 2 (RCW 9A.48.030)  
28                        Assault 2 (RCW 9A.36.021)  
29                        Assault by Watercraft (RCW (~~88.12.032~~)  
30                        79A.60.060)  
31                        Bribing a Witness/Bribe Received by Witness  
32                        (RCW 9A.72.090, 9A.72.100)  
33                        Commercial Bribery (RCW 9A.68.060)  
34                        Counterfeiting (RCW 9.16.035(4))  
35                        Escape 1 (RCW 9A.76.110)  
36                        Hit and Run--Injury Accident (RCW  
37                        46.52.020(4))  
38                        Hit and Run with Vessel--Injury Accident  
39                        (RCW (~~88.12.155(3)~~) 79A.60.200(3))

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

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

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

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

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

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

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

22 **Sec. 14.** RCW 9.94A.440 and 1999 c 322 s 6 and 1999 c 196 s 11 are  
23 each reenacted and amended to read as follows:

24 (1) Decision not to prosecute.

25 STANDARD: A prosecuting attorney may decline to prosecute, even  
26 though technically sufficient evidence to prosecute exists, in  
27 situations where prosecution would serve no public purpose, would  
28 defeat the underlying purpose of the law in question or would result in  
29 decreased respect for the law.

30 GUIDELINE/COMMENTARY:

31 Examples

32 The following are examples of reasons not to prosecute which could  
33 satisfy the standard.

34 (a) Contrary to Legislative Intent - It may be proper to decline to  
35 charge where the application of criminal sanctions would be clearly  
36 contrary to the intent of the legislature in enacting the particular  
37 statute.

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

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

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

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

8 (iv) The statute has not been recently reconsidered by the  
9 legislature.

10 This reason is not to be construed as the basis for declining cases  
11 because the law in question is unpopular or because it is difficult to  
12 enforce.

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

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

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

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

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

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

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

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

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

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

35 (f) High Disproportionate Cost of Prosecution - It may be proper to  
36 decline to charge where the cost of locating or transporting, or the  
37 burden on, prosecution witnesses is highly disproportionate to the  
38 importance of prosecuting the offense in question. This reason should

1 be limited to minor cases and should not be relied upon in serious  
2 cases.

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

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

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

16 (i) Assault cases where the victim has suffered little or no  
17 injury;

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

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

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

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

25 Notification

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

28 (2) Decision to prosecute.

29 (a) STANDARD:

30 Crimes against persons will be filed if sufficient admissible  
31 evidence exists, which, when considered with the most plausible,  
32 reasonably foreseeable defense that could be raised under the evidence,  
33 would justify conviction by a reasonable and objective fact-finder.  
34 With regard to offenses prohibited by RCW 9A.44.040, 9A.44.050,  
35 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, 9A.44.089, and  
36 9A.64.020 the prosecutor should avoid prefiling agreements or  
37 diversions intended to place the accused in a program of treatment or  
38 counseling, so that treatment, if determined to be beneficial, can be  
39 provided pursuant to RCW 9.94A.120(8).

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

6 See table below for the crimes within these categories.

7 CATEGORIZATION OF CRIMES FOR PROSECUTING STANDARDS

8 CRIMES AGAINST PERSONS

9 Aggravated Murder  
10 1st Degree Murder  
11 2nd Degree Murder  
12 1st Degree Kidnaping  
13 1st Degree Assault  
14 1st Degree Assault of a Child  
15 1st Degree Rape  
16 1st Degree Robbery  
17 1st Degree Rape of a Child  
18 1st Degree Arson  
19 2nd Degree Kidnaping  
20 2nd Degree Assault  
21 2nd Degree Assault of a Child  
22 2nd Degree Rape  
23 2nd Degree Robbery  
24 1st Degree Burglary  
25 1st Degree Manslaughter  
26 2nd Degree Manslaughter  
27 1st Degree Extortion  
28 Indecent Liberties  
29 Incest  
30 2nd Degree Rape of a Child  
31 Vehicular Homicide  
32 Vehicular Assault  
33 3rd Degree Rape  
34 3rd Degree Rape of a Child  
35 1st Degree Child Molestation  
36 2nd Degree Child Molestation  
37 3rd Degree Child Molestation  
38 2nd Degree Extortion



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

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

17 ALL OTHER UNCLASSIFIED FELONIES

18 Selection of Charges/Degree of Charge

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

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

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

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

27 (A) Charging a higher degree;

28 (B) Charging additional counts.

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

35 (b) GUIDELINES/COMMENTARY:

36 (i) Police Investigation

37 A prosecuting attorney is dependent upon law enforcement agencies  
38 to conduct the necessary factual investigation which must precede the

1 decision to prosecute. The prosecuting attorney shall ensure that a  
2 thorough factual investigation has been conducted before a decision to  
3 prosecute is made. In ordinary circumstances the investigation should  
4 include the following:

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

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

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

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

13 (ii) Exceptions

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

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

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

19 (C) The arrest of the suspect is necessary to complete the  
20 investigation of the crime.

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

26 (iii) Investigation Techniques

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

29 (A) Polygraph testing;

30 (B) Hypnosis;

31 (C) Electronic surveillance;

32 (D) Use of informants.

33 (iv) Pre-Filing Discussions with Defendant

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

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

38 Discussions with the victim(s) or victims' representatives  
39 regarding the selection or disposition of charges may occur before the

1 filing of charges. The discussions may be considered by the prosecutor  
2 in charging and disposition decisions, and should be considered before  
3 reaching any agreement with the defendant regarding these decisions.

4 **Sec. 15.** 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) 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. In issuing the order,  
32 the court shall consider the provisions of RCW 9.41.800. The no-  
33 contact order shall also be issued in writing as soon as possible.

34 (3) At the time of arraignment the court shall determine whether a  
35 no-contact order shall be issued or extended. If a no-contact order is  
36 issued or extended, the court may also include in the conditions of  
37 release a requirement that the defendant submit to electronic  
38 monitoring. If electronic monitoring is ordered, the court shall

1 specify who shall provide the monitoring services, and the terms under  
2 which the monitoring shall be performed. Upon conviction, the court  
3 may require as a condition of the sentence that the defendant reimburse  
4 the providing agency for the costs of the electronic monitoring.

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

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

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

32 ~~((d))~~ (b) The written order releasing the person charged or  
33 arrested shall contain the court's directives and shall bear the  
34 legend: "Violation of this order is a criminal offense under chapter  
35 ~~((10.99))~~ 26.50 RCW and will subject a violator to arrest; any assault,  
36 drive-by shooting, or reckless endangerment that is a violation of this  
37 order is a felony. You can be arrested even if any person protected by  
38 the order invites or allows you to violate the order's prohibitions.  
39 You have the sole responsibility to avoid or refrain from violating the

1 order's provisions. Only the court can change the order." A certified  
2 copy of the order shall be provided to the victim. If a no-contact  
3 order has been issued prior to charging, that order shall expire at  
4 arraignment or within seventy-two hours if charges are not filed. Such  
5 orders need not be entered into the computer-based criminal  
6 intelligence information system in this state which is used by law  
7 enforcement agencies to list outstanding warrants.

8 (5) Whenever an order prohibiting contact is issued, modified, or  
9 terminated under subsection (2) or (3) of this section, the clerk of  
10 the court shall forward a copy of the order on or before the next  
11 judicial day to the appropriate law enforcement agency specified in the  
12 order. Upon receipt of the copy of the order the law enforcement  
13 agency shall forthwith enter the order for one year or until the  
14 expiration date specified on 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. Entry into the law  
17 enforcement information system constitutes notice to all law  
18 enforcement agencies of the existence of the order. The order is fully  
19 enforceable in any jurisdiction in the state.

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

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

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

1 issued under Washington law. The previous convictions may involve the  
2 same victim or other victims specifically protected by the no-contact  
3 orders or protection orders the offender violated)) punishable under  
4 RCW 26.50.110.

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

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

21 **Sec. 17.** RCW 26.09.300 and 1996 c 248 s 9 are each amended to read  
22 as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 **Sec. 18.** RCW 26.10.220 and 1999 c 184 s 11 are each amended to  
28 read as follows:

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

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



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

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

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

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

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

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

14 (b) Obtaining a certified copy of the order, certified to be an  
15 accurate copy of the original by a notary public or by the clerk of the  
16 court.

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

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

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

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

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

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

34 **Sec. 19.** RCW 26.26.138 and 1999 c 184 s 12 are each amended to  
35 read as follows:

36 (1) Whenever a restraining order is issued under this chapter, and  
37 the person to be restrained knows of the order, a violation of the  
38 provisions restricting the person from acts or threats of violence or

1 of a provision restraining the person from going onto the grounds of or  
2 entering the residence, workplace, school, or day care of another, or  
3 prohibiting the person from knowingly coming within, or knowingly  
4 remaining within a specified distance of a location, is ((~~a gross~~  
5 ~~misdemeanor~~)) punishable under RCW 26.50.110.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1       **Sec. 20.** RCW 26.50.110 and 1996 c 248 s 16 are each amended to  
2 read as follows:

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

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

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

38       (4) Any assault that is a violation of an order issued under this  
39 chapter, chapter 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a

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

7 (5) A violation of a court order issued under this chapter, chapter  
8 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign  
9 protection order as defined in RCW 26.52.020, is a class C felony if  
10 the offender has at least two previous convictions for violating the  
11 provisions of ~~((a no-contact))~~ an order issued under chapter 10.99  
12 ~~((RCW, a domestic violence protection order issued under chapter 26.09,~~  
13 ~~26.10, or 26.26 RCW or this chapter, or any federal or out-of-state~~  
14 ~~order that is comparable to a no-contact or protection order issued~~  
15 ~~under Washington law)),~~ 26.09, 26.10, 26.26, or 74.34 RCW, or a valid  
16 foreign protection order as defined in RCW 26.52.020. The previous  
17 convictions may involve the same victim or other victims specifically  
18 protected by the ~~((no-contact orders or protection))~~ orders the  
19 offender violated.

20 (6) Upon the filing of an affidavit by the petitioner or any peace  
21 officer alleging that the respondent has violated an order ~~((for~~  
22 ~~protection))~~ granted under this chapter, chapter 10.99, 26.09, 26.10,  
23 26.26, or 74.34 RCW, or a valid foreign protection order as defined in  
24 RCW 26.52.020, the court may issue an order to the respondent,  
25 requiring the respondent to appear and show cause within fourteen days  
26 why the respondent should not be found in contempt of court and  
27 punished accordingly. The hearing may be held in the court of any  
28 county or municipality in which the petitioner or respondent  
29 temporarily or permanently resides at the time of the alleged  
30 violation.

31 **Sec. 21.** RCW 26.50.160 and 1995 c 246 s 18 are each amended to  
32 read as follows:

33 (1) To prevent the issuance of competing protection orders in  
34 different courts and to give courts needed information for issuance of  
35 orders, the judicial information system shall be available in each  
36 district, municipal, and superior court by July 1, 1997, and shall  
37 include a data base containing the following information:

1       ~~((1))~~ (a) The names of the parties and the cause number for every  
2 order of protection issued under this title, every criminal no-contact  
3 order issued under chapter 10.99 RCW, every antiharassment order issued  
4 under chapter 10.14 RCW, every dissolution action under chapter 26.09  
5 RCW, every third-party custody action under chapter 26.10 RCW, ~~((and))~~  
6 every parentage action under chapter ~~((26.10))~~ 26.26 RCW, every foreign  
7 protection order filed under chapter 26.52 RCW, and every order for  
8 protection of a vulnerable adult under chapter 74.34 RCW. When a  
9 guardian or the department of social and health services has petitioned  
10 for relief on behalf of a vulnerable adult, the name of the vulnerable  
11 adult shall be included in the data base as a party rather than the  
12 guardian or department;

13       ~~((2))~~ (b) A criminal history of the parties; ~~((and~~  
14       ~~(3) Other relevant information necessary to assist courts in~~  
15 ~~issuing orders under this chapter as determined by the judicial~~  
16 ~~information system committee))~~

17       (c) The date of birth of the parties;

18       (d) The contact addresses of the parties. When collecting this  
19 information, each party must be given notice that the contact address  
20 becomes a public record and that the party may use an address other  
21 than the party's personal residence. Addresses assigned through the  
22 state's address confidentiality program under chapter 40.24 RCW may be  
23 used for this purpose; and

24       (e) Driver's license number and state of issue.

25       (2) In no case shall any other personally identifying information  
26 be entered into the data base.

27       **Sec. 22.** RCW 26.52.070 and 1999 c 184 s 9 are each amended to read  
28 as follows:

29       (1) Whenever a foreign protection order is granted to a person  
30 entitled to protection and the person under restraint knows of the  
31 foreign protection order, a violation of a provision prohibiting the  
32 person under restraint from contacting or communicating with another  
33 person, or of a provision excluding the person under restraint from a  
34 residence, workplace, school, or day care, or of a provision  
35 prohibiting a person from knowingly coming within, or knowingly  
36 remaining within a specified distance of a location, or a violation of  
37 any provision for which the foreign protection order specifically  
38 indicates that a violation will be a crime, is ~~((a gross misdemeanor~~

1 except as provided in subsections (3) and (4) of this section. Upon  
2 conviction, and in addition to any other penalties provided by law, the  
3 court may require the person under restraint to submit to electronic  
4 monitoring. The court shall specify who will provide the electronic  
5 monitoring services, and the terms under which the monitoring will be  
6 performed. The order also may include a requirement that the person  
7 under restraint pay the costs of the monitoring. The court shall  
8 consider the ability of the convicted person to pay for electronic  
9 monitoring)) punishable under RCW 26.50.110.

10 (2) A peace officer shall arrest without a warrant and take into  
11 custody a person when the peace officer has probable cause to believe  
12 that a foreign protection order has been issued of which the person  
13 under restraint has knowledge and the person under restraint has  
14 violated a provision of the foreign protection order that prohibits the  
15 person under restraint from contacting or communicating with another  
16 person, or a provision that excludes the person under restraint from a  
17 residence, workplace, school, or day care, or of a provision  
18 prohibiting a person from knowingly coming within, or knowingly  
19 remaining within a specified distance of a location, or a violation of  
20 any provision for which the foreign protection order specifically  
21 indicates that a violation will be a crime. Presence of the order in  
22 the law enforcement computer-based criminal intelligence information  
23 system is not the only means of establishing knowledge of the order.

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

30 (4) A violation of a valid foreign protection order is a class C  
31 felony if the offender has at least two previous convictions for  
32 violating the provisions of a no contact order issued under chapter  
33 10.99 RCW, a domestic violence protection order issued under chapter  
34 26.09, 26.10, 26.26, or 26.50 RCW, or a federal or out-of-state order  
35 that is comparable to a no contact or protection order issued under  
36 Washington law. The previous convictions may involve the same person  
37 entitled to protection or other person entitled to protection  
38 specifically protected by the no contact orders or protection orders  
39 the offender violated.))

1       **Sec. 23.** RCW 74.34.130 and 1999 c 176 s 13 are each amended to  
2 read as follows:

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

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

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

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

11       (4) Prohibiting the respondent from knowingly coming within, or  
12 knowingly remaining within a specified distance from a specified  
13 location;

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

16       (~~(5)~~) (6) Restraining the transfer of property for a specified  
17 period not exceeding ninety days;

18       (~~(6)~~) (7) Requiring the respondent to pay the filing fee and  
19 court costs, including service fees, and to reimburse the petitioner  
20 for costs incurred in bringing the action, including a reasonable  
21 attorney's fee.

22       Any relief granted by an order for protection, other than a  
23 judgment for costs, shall be for a fixed period not to exceed one year.  
24 The clerk of the court shall enter any order for protection issued  
25 under this section into the judicial information system.

26       NEW SECTION. **Sec. 24.** Section 13 of this act takes effect July 1,  
27 2000.

28       NEW SECTION. **Sec. 25.** The penalties prescribed in this act apply  
29 to violations of court orders which occur on or after July 1, 2000,  
30 regardless of the date the court issued the order."

31 **HB 2595** - S COMM AMD  
32 By Committee on Judiciary

33 NOT ADOPTED 3/2/00

34 On page 1, line 1 of the title, after "orders;" strike the  
35 remainder of the title and insert "amending RCW 10.31.100, 10.99.020,

1 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26.130, 26.26.137,  
2 26.50.060, 26.50.070, 10.99.040, 10.99.050, 26.09.300, 26.10.220,  
3 26.26.138, 26.50.110, 26.50.160, 26.52.070, and 74.34.130; reenacting  
4 and amending RCW 9.94A.320 and 9.94A.440; adding a new section to  
5 chapter 26.50 RCW; adding a new section to chapter 74.34 RCW; creating  
6 a new section; prescribing penalties; and providing an effective date."

--- END ---