
ENGROSSED SECOND SUBSTITUTE SENATE BILL 6400

State of Washington

56th Legislature

2000 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Wojahn, Costa, Kohl-Welles, Winsley, Rasmussen and McAuliffe; by request of Governor Locke)

Read first time 02/08/2000.

1 AN ACT Relating to domestic violence; amending RCW 10.31.100,
2 10.99.020, 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26.130,
3 26.26.137, 26.50.060, 26.50.070, 10.99.040, 10.99.050, 26.09.300,
4 26.10.220, 26.26.138, 26.50.110, 26.50.150, 26.50.160, 26.52.070,
5 70.123.050, and 74.34.130; reenacting and amending RCW 9.94A.320 and
6 9.94A.440; adding a new section to chapter 3.62 RCW; adding a new
7 section to chapter 26.50 RCW; adding a new section to chapter 74.34
8 RCW; creating a new section; prescribing penalties; providing an
9 effective date; and declaring an emergency.

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

11 NEW SECTION. **Sec. 1.** A new section is added to chapter 3.62 RCW
12 to read as follows:

13 (1) When any person is found guilty, in any court organized under
14 Title 3 or 35 RCW, of a domestic violence offense as defined in RCW
15 10.99.020, or of a violation of a similar municipal ordinance, the
16 court shall impose upon the person a penalty assessment in addition to
17 any other penalty or fine imposed or authorized by law. The amount of
18 the penalty assessment shall be five hundred dollars for each case or
19 cause of action that includes one or more convictions of a gross

1 misdemeanor, and two hundred fifty dollars for each case or cause of
2 action that includes one or more convictions of only one or more
3 misdemeanors. The court may not suspend or waive the penalty
4 assessment. The assessment by this subsection shall not be subject to
5 the public safety and education assessment imposed by RCW 3.62.090.

6 (2) The court shall remit the assessments imposed and collected
7 under this section to the city treasurer, in the case of a municipal
8 court, or the county treasurer, in the case of a district court. The
9 city or county treasurer shall monthly remit fifty percent of the funds
10 received under this section to the state treasurer for deposit in the
11 public safety and education account. The remaining fifty percent of
12 the funds received under this section shall be retained by the city or
13 county for the purposes of reimbursing the city or county for the costs
14 incurred in implementing chapter . . . , Laws of 2000 (this act).
15 Moneys retained by the city or county under this subsection shall
16 constitute reimbursement for the costs of any increased levels of
17 service for the purposes of RCW 43.135.060.

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

20 The department of social and health services, in its discretion,
21 may seek the relief provided in this chapter on behalf of and with the
22 consent of any vulnerable adult as those persons are defined in RCW
23 74.34.020. Neither the department nor the state of Washington shall be
24 liable for failure to seek relief on behalf of any persons under this
25 section.

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

28 (1) An order for protection of a vulnerable adult issued under this
29 chapter which restrains the respondent or another person from
30 committing acts of abuse, prohibits contact with the petitioner,
31 excludes the person from any specified location, or prohibits the
32 person from knowingly coming within, or knowingly remaining within a
33 specified distance from a location or another person, shall prominently
34 bear on the front page of the order the legend: VIOLATION OF THIS
35 ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER
36 CHAPTER 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

1 (2) Whenever an order for protection of a vulnerable adult is
2 issued under this chapter, and the respondent or person to be
3 restrained knows of the order, a violation of a provision restraining
4 the person from committing acts of abuse, prohibiting contact with the
5 petitioner, excluding the person from any specified location, or
6 prohibiting the person from knowingly coming within, or knowingly
7 remaining within a specified distance of a location or another person,
8 shall be punishable under RCW 26.50.110, regardless of whether the
9 person is a family or household member as defined in RCW 26.50.010.

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

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

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

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

29 (a) An order has been issued of which the person has knowledge
30 under RCW (~~(10.99.040(2), 10.99.050, 26.09.050, 26.09.060, 26.10.040,~~
31 ~~26.10.115,~~) 26.44.063, or chapter 10.99, 26.09, 26.10, 26.26 (~~(RCW, or~~
32 ~~chapter)~~), 26.50, or 74.34 RCW restraining the person and the person
33 has violated the terms of the order restraining the person from acts or
34 threats of violence, or restraining the person from going onto the
35 grounds of or entering a residence, workplace, school, or day care, or
36 prohibiting the person from knowingly coming within, or knowingly
37 remaining within a specified distance of a location or another person,

1 or, in the case of an order issued under RCW 26.44.063, imposing any
2 other restrictions or conditions upon the person; or

3 (b) A foreign protection order, as defined in RCW 26.52.010, has
4 been issued of which the person under restraint has knowledge and the
5 person under restraint has violated a provision of the foreign
6 protection order prohibiting the person under restraint from contacting
7 or communicating with another person, or ~~((of a provision))~~ excluding
8 the person under restraint from a residence, workplace, school, or day
9 care, or prohibiting the person from knowingly coming within, or
10 knowingly remaining within a specified distance of a location or
11 another person, or a violation of any provision for which the foreign
12 protection order specifically indicates that a violation will be a
13 crime; or

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

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

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

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

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

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

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

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

9 (4) A law enforcement officer investigating at the scene of a motor
10 vehicle accident may arrest the driver of a motor vehicle involved in
11 the accident if the officer has probable cause to believe that the
12 driver has committed in connection with the accident a violation of any
13 traffic law or regulation.

14 (5) Any police officer having probable cause to believe that a
15 person has committed or is committing a violation of RCW ((88.12.025))
16 79A.60.040 shall have the authority to arrest the person.

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

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

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

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

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

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

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

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

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

12 Unless the context clearly requires otherwise, the definitions in
13 this section apply throughout this chapter.

14 (1) "Family or household members" means spouses, former spouses,
15 persons who have a child in common regardless of whether they have been
16 married or have lived together at any time, adult persons related by
17 blood or marriage, adult persons who are presently residing together or
18 who have resided together in the past, persons sixteen years of age or
19 older who are presently residing together or who have resided together
20 in the past and who have or have had a dating relationship, persons
21 sixteen years of age or older with whom a person sixteen years of age
22 or older has or has had a dating relationship, and persons who have a
23 biological or legal parent-child relationship, including stepparents
24 and stepchildren and grandparents and grandchildren.

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (k) Criminal trespass in the second degree (RCW 9A.52.080);
2 (l) Malicious mischief in the first degree (RCW 9A.48.070);
3 (m) Malicious mischief in the second degree (RCW 9A.48.080);
4 (n) Malicious mischief in the third degree (RCW 9A.48.090);
5 (o) Kidnapping in the first degree (RCW 9A.40.020);
6 (p) Kidnapping in the second degree (RCW 9A.40.030);
7 (q) Unlawful imprisonment (RCW 9A.40.040);
8 (r) Violation of the provisions of a restraining order, no-contact
9 order, or protection order restraining the person or restraining the
10 person from going onto the grounds of or entering a residence,
11 workplace, school, or day care, or prohibiting the person from
12 knowingly coming within, or knowingly remaining within a specified
13 distance of a location or another person (RCW 10.99.040, 10.99.050,
14 26.09.300, 26.10.220, ~~((o))~~ 26.26.138, 26.50.060, 26.50.070,
15 26.50.130, 26.52.070, or section 3 of this act);
16 ~~((s))~~ ~~((Violation of the provisions of a protection order or no-~~
17 ~~contact order restraining the person or restraining the person from~~
18 ~~going onto the grounds of or entering a residence, workplace, school,~~
19 ~~or day care~~ (RCW 26.50.060, 26.50.070, 26.50.130, 10.99.040, or
20 10.99.050);
21 ~~((t))~~ Rape in the first degree (RCW 9A.44.040);
22 ~~((u))~~ (t) Rape in the second degree (RCW 9A.44.050);
23 ~~((v))~~ (u) Residential burglary (RCW 9A.52.025);
24 ~~((w))~~ (v) Stalking (RCW 9A.46.110); and
25 ~~((x))~~ (w) Interference with the reporting of domestic violence
26 (RCW 9A.36.150).
27 (4) "Victim" means a family or household member who has been
28 subjected to domestic violence.

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

- 31 (1) In entering a decree of dissolution of marriage, legal
32 separation, or declaration of invalidity, the court shall determine the
33 marital status of the parties, make provision for a parenting plan for
34 any minor child of the marriage, make provision for the support of any
35 child of the marriage entitled to support, consider or approve
36 provision for the maintenance of either spouse, make provision for the
37 disposition of property and liabilities of the parties, make provision
38 for the allocation of the children as federal tax exemptions, make

1 provision for any necessary continuing restraining orders including the
2 provisions contained in RCW 9.41.800, make provision for the issuance
3 within this action of the restraint provisions of a domestic violence
4 protection order under chapter 26.50 RCW or an antiharassment
5 protection order under chapter 10.14 RCW, and make provision for the
6 change of name of any party.

7 (2) Restraining orders issued under this section restraining the
8 person from molesting or disturbing another party, or from going onto
9 the grounds of or entering the home, workplace, or school of the other
10 party or the day care or school of any child, or prohibiting the person
11 from knowingly coming within, or knowingly remaining within a specified
12 distance of a location or another person, shall prominently bear on the
13 front page of the order the legend: VIOLATION OF THIS ORDER WITH
14 ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER
15 ((26.09)) 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

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

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

29 (1) In a proceeding for:

30 (a) Dissolution of marriage, legal separation, or a declaration of
31 invalidity; or

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

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

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

11 (b) Molesting or disturbing the peace of the other party or of any
12 child;

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

16 (d) Knowingly coming within, or knowingly remaining within a
17 specified distance from a specified location, or within a specified
18 distance from a specified other person;

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

20 (3) Either party may request a domestic violence protection order
21 under chapter 26.50 RCW or an antiharassment protection order under
22 chapter 10.14 RCW on a temporary basis. The court may grant any of the
23 relief provided in RCW 26.50.060 except relief pertaining to
24 residential provisions for the children which provisions shall be
25 provided for under this chapter, and any of the relief provided in RCW
26 10.14.080. Ex parte orders issued under this subsection shall be
27 effective for a fixed period not to exceed fourteen days, or upon court
28 order, not to exceed twenty-four days if necessary to ensure that all
29 temporary motions in the case can be heard at the same time.

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

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

37 (6) The court may issue a temporary restraining order or
38 preliminary injunction and an order for temporary maintenance or
39 support in such amounts and on such terms as are just and proper in the

1 circumstances. The court may in its discretion waive the filing of the
2 bond or the posting of security.

3 (7) Restraining orders issued under this section restraining the
4 person from molesting or disturbing another party, or from going onto
5 the grounds of or entering the home, workplace, or school of the other
6 party or the day care or school of any child, or prohibiting the person
7 from knowingly coming within, or knowingly remaining within a specified
8 distance of a location or another person, shall prominently bear on the
9 front page of the order the legend: VIOLATION OF THIS ORDER WITH
10 ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER
11 ((26.09)) 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

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

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

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

28 (b) May be revoked or modified;

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

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

35 (10) Delinquent support payments accrued under an order for
36 temporary support remain collectible and are not extinguished when a
37 final decree is entered unless the decree contains specific language to
38 the contrary. A support debt under a temporary order owed to the state

1 for public assistance expenditures shall not be extinguished by the
2 final decree if:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (a) Molesting or disturbing the peace of the other party or of any
16 child;

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

19 (c) Knowingly coming within, or knowingly remaining within a
20 specified distance from a specified location, or within a specified
21 distance from a specified other person;

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

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

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

35 (5) The court may issue a temporary restraining order without
36 requiring notice to the other party only if it finds on the basis of
37 the moving affidavit or other evidence that irreparable injury could

1 result if an order is not issued until the time for responding has
2 elapsed.

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

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

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

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

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

31 (b) May be revoked or modified;

32 (c) Terminates when the final order is entered or when the motion
33 is dismissed;

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

36 (10) A support debt owed to the state for public assistance
37 expenditures which has been charged against a party pursuant to RCW
38 74.20A.040 and/or 74.20A.055 shall not be merged in, or otherwise
39 extinguished by, the final decree or order, unless the office of

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

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

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

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

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

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

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

1 Washington to seek reimbursement for support and other services
2 previously furnished to the child.

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

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

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

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

24 (10) Restraining orders issued under this section restraining the
25 person from molesting or disturbing another party, or from going onto
26 the grounds of or entering the home, workplace, or school of the other
27 party or the day care or school of any child, or prohibiting the person
28 from knowingly coming within, or knowingly remaining within a specified
29 distance of a location or another person, shall prominently bear on the
30 front page of the order the legend: VIOLATION OF THIS ORDER WITH
31 ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER
32 ((26.26)) 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

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

1 system available in this state used by law enforcement agencies to list
2 outstanding warrants. The order is fully enforceable in any county in
3 the state.

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

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

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

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

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

19 (c) Knowingly coming within, or knowingly remaining within a
20 specified distance from a specified location, or within a specified
21 distance from a specified other person; or

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

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

33 (4) 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 or another person, shall prominently bear on the

1 front page of the order the legend: VIOLATION OF THIS ORDER WITH
2 ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER
3 ((26.26)) 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

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

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

19 (7) The court may issue a temporary restraining order or
20 preliminary injunction and an order for temporary support in such
21 amounts and on such terms as are just and proper in the circumstances.
22 In issuing the order, the court shall consider the provisions of RCW
23 9.41.800.

24 (8) A temporary order, temporary restraining order, or preliminary
25 injunction:

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

28 (b) May be revoked or modified;

29 (c) Terminates when the final order is entered or when the petition
30 is dismissed; and

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

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

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

10 **Sec. 12.** RCW 26.50.060 and 1999 c 147 s 2 are each amended to read
11 as follows:

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

14 (a) Restrain the respondent from committing acts of domestic
15 violence;

16 (b) Exclude the respondent from the dwelling which the parties
17 share, from the residence, workplace, or school of the petitioner, or
18 from the day care or school of a child;

19 (c) Prohibit the respondent from knowingly coming within, or
20 knowingly remaining within a specified distance from a specified
21 location;

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

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

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

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

36 ~~((g))~~ (h) Restrain the respondent from having any contact with
37 the victim of domestic violence or the victim's children or members of
38 the victim's household or from knowingly coming within, or knowingly

1 remaining within a specified distance from the victim or the victim's
2 children or members of the victim's household;

3 ((~~h~~)) (i) Require the respondent to submit to electronic
4 monitoring. The order shall specify who shall provide the electronic
5 monitoring services and the terms under which the monitoring must be
6 performed. The order also may include a requirement that the
7 respondent pay the costs of the monitoring. The court shall consider
8 the ability of the respondent to pay for electronic monitoring;

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

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

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

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

26 If the petitioner has petitioned for relief on behalf of the
27 respondent's minor children, the court shall advise the petitioner that
28 if the petitioner wants to continue protection for a period beyond one
29 year the petitioner may either petition for renewal pursuant to the
30 provisions of this chapter or may seek relief pursuant to the
31 provisions of chapter 26.09 or 26.26 RCW.

32 (3) If the court grants an order for a fixed time period, the
33 petitioner may apply for renewal of the order by filing a petition for
34 renewal at any time within the three months before the order expires.
35 The petition for renewal shall state the reasons why the petitioner
36 seeks to renew the protection order. Upon receipt of the petition for
37 renewal the court shall order a hearing which shall be not later than
38 fourteen days from the date of the order. Except as provided in RCW
39 26.50.085, personal service shall be made on the respondent not less

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

18 (4) In providing relief under this chapter, the court may realign
19 the designation of the parties as "petitioner" and "respondent" where
20 the court finds that the original petitioner is the abuser and the
21 original respondent is the victim of domestic violence and may issue an
22 ex parte temporary order for protection in accordance with RCW
23 26.50.070 on behalf of the victim until the victim is able to prepare
24 a petition for an order for protection in accordance with RCW
25 26.50.030.

26 (5) Except as provided in subsection (4) of this section, no order
27 for protection shall grant relief to any party except upon notice to
28 the respondent and hearing pursuant to a petition or counter-petition
29 filed and served by the party seeking relief in accordance with RCW
30 26.50.050.

31 (6) The court order shall specify the date the order expires if
32 any. The court order shall also state whether the court issued the
33 protection order following personal service, service by publication, or
34 service by mail and whether the court has approved service by
35 publication or mail of an order issued under this section.

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

1 **Sec. 13.** RCW 26.50.070 and 1996 c 248 s 14 are each amended to
2 read as follows:

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

9 (a) Restraining any party from committing acts of domestic
10 violence;

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

15 (c) Prohibiting any party from knowingly coming within, or
16 knowingly remaining within a specified distance from a specified
17 location;

18 (d) Restraining any party from interfering with the other's custody
19 of the minor children or from removing the children from the
20 jurisdiction of the court;

21 ~~((d))~~ (e) Restraining any party from having any contact with the
22 victim of domestic violence or the victim's children or members of the
23 victim's household, or from knowingly coming within, or knowingly
24 remaining within a specified distance of the victim or the victim's
25 children or members of the victim's household; and

26 (e) Considering the provisions of RCW 9.41.800.

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

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

34 (4) An ex parte temporary order for protection shall be effective
35 for a fixed period not to exceed fourteen days or twenty-four days if
36 the court has permitted service by publication under RCW 26.50.085 or
37 by mail under RCW 26.50.123. The ex parte order may be reissued. A
38 full hearing, as provided in this chapter, shall be set for not later
39 than fourteen days from the issuance of the temporary order or not

1 later than twenty-four days if service by publication or by mail is
2 permitted. Except as provided in RCW 26.50.050, 26.50.085, and
3 26.50.123, the respondent shall be personally served with a copy of the
4 ex parte order along with a copy of the petition and notice of the date
5 set for the hearing.

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

10 (6) If the court declines to issue an ex parte temporary order for
11 protection the court shall state the particular reasons for the court's
12 denial. The court's denial of a motion for an ex parte order of
13 protection shall be filed with the court.

14 **Sec. 14.** RCW 9.94A.320 and 1999 c 352 s 3, 1999 c 322 s 5, and
15 1999 c 45 s 4 are each reenacted and amended to read as follows:

16 TABLE 2

17 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

18	XVI	Aggravated Murder 1 (RCW 10.95.020)
19	XV	Homicide by abuse (RCW 9A.32.055)
20		Malicious explosion 1 (RCW 70.74.280(1))
21		Murder 1 (RCW 9A.32.030)
22	XIV	Murder 2 (RCW 9A.32.050)
23	XIII	Malicious explosion 2 (RCW 70.74.280(2))
24		Malicious placement of an explosive 1 (RCW
25		70.74.270(1))
26	XII	Assault 1 (RCW 9A.36.011)
27		Assault of a Child 1 (RCW 9A.36.120)
28		Malicious placement of an imitation device
29		1 (RCW 70.74.272(1)(a))
30		Rape 1 (RCW 9A.44.040)
31		Rape of a Child 1 (RCW 9A.44.073)
32	XI	Manslaughter 1 (RCW 9A.32.060)
33		Rape 2 (RCW 9A.44.050)
34		Rape of a Child 2 (RCW 9A.44.076)

1 X Child Molestation 1 (RCW 9A.44.083)
 2 Indecent Liberties (with forcible
 3 compulsion) (RCW 9A.44.100(1)(a))
 4 Kidnapping 1 (RCW 9A.40.020)
 5 Leading Organized Crime (RCW
 6 9A.82.060(1)(a))
 7 Malicious explosion 3 (RCW 70.74.280(3))
 8 Manufacture of methamphetamine (RCW
 9 69.50.401(a)(1)(ii))
 10 Over 18 and deliver heroin,
 11 methamphetamine, a narcotic from
 12 Schedule I or II, or flunitrazepam
 13 from Schedule IV to someone under 18
 14 (RCW 69.50.406)

 15 IX Assault of a Child 2 (RCW 9A.36.130)
 16 Controlled Substance Homicide (RCW
 17 69.50.415)
 18 Explosive devices prohibited (RCW
 19 70.74.180)
 20 Homicide by Watercraft, by being under the
 21 influence of intoxicating liquor or
 22 any drug (RCW ((88.12.029))
 23 79A.60.050)
 24 Inciting Criminal Profiteering (RCW
 25 9A.82.060(1)(b))
 26 Malicious placement of an explosive 2 (RCW
 27 70.74.270(2))
 28 Over 18 and deliver narcotic from Schedule
 29 III, IV, or V or a nonnarcotic, except
 30 flunitrazepam or methamphetamine, from
 31 Schedule I-V to someone under 18 and 3
 32 years junior (RCW 69.50.406)
 33 Robbery 1 (RCW 9A.56.200)
 34 Sexual Exploitation (RCW 9.68A.040)
 35 Vehicular Homicide, by being under the
 36 influence of intoxicating liquor or
 37 any drug (RCW 46.61.520)

 38 VIII Arson 1 (RCW 9A.48.020)

1 Deliver or possess with intent to deliver
2 methamphetamine (RCW
3 69.50.401(a)(1)(ii))
4 Homicide by Watercraft, by the operation of
5 any vessel in a reckless manner (RCW
6 ((88.12.029)) 79A.60.050)
7 Manslaughter 2 (RCW 9A.32.070)
8 Manufacture, deliver, or possess with
9 intent to deliver amphetamine (RCW
10 69.50.401(a)(1)(ii))
11 Manufacture, deliver, or possess with
12 intent to deliver heroin or cocaine
13 (RCW 69.50.401(a)(1)(i))
14 Possession of ephedrine or pseudoephedrine
15 with intent to manufacture
16 methamphetamine (RCW 69.50.440)
17 Promoting Prostitution 1 (RCW 9A.88.070)
18 Selling for profit (controlled or
19 counterfeit) any controlled substance
20 (RCW 69.50.410)
21 Vehicular Homicide, by the operation of any
22 vehicle in a reckless manner (RCW
23 46.61.520)

24 VII Burglary 1 (RCW 9A.52.020)
25 Child Molestation 2 (RCW 9A.44.086)
26 Dealing in depictions of minor engaged in
27 sexually explicit conduct (RCW
28 9.68A.050)
29 Drive-by Shooting (RCW 9A.36.045)
30 Homicide by Watercraft, by disregard for
31 the safety of others (RCW
32 ((88.12.029)) 79A.60.050)
33 Indecent Liberties (without forcible
34 compulsion) (RCW 9A.44.100(1) (b) and
35 (c))
36 Introducing Contraband 1 (RCW 9A.76.140)
37 Involving a minor in drug dealing (RCW
38 69.50.401(f))

1 Malicious placement of an explosive 3 (RCW
2 70.74.270(3))
3 Sending, bringing into state depictions of
4 minor engaged in sexually explicit
5 conduct (RCW 9.68A.060)
6 Unlawful Possession of a Firearm in the
7 first degree (RCW 9.41.040(1)(a))
8 Use of a Machine Gun in Commission of a
9 Felony (RCW 9.41.225)
10 Vehicular Homicide, by disregard for the
11 safety of others (RCW 46.61.520)

12 VI Bail Jumping with Murder 1 (RCW
13 9A.76.170(2)(a))
14 Bribery (RCW 9A.68.010)
15 Incest 1 (RCW 9A.64.020(1))
16 Intimidating a Judge (RCW 9A.72.160)
17 Intimidating a Juror/Witness (RCW
18 9A.72.110, 9A.72.130)
19 Malicious placement of an imitation device
20 2 (RCW 70.74.272(1)(b))
21 Manufacture, deliver, or possess with
22 intent to deliver narcotics from
23 Schedule I or II (except heroin or
24 cocaine) or flunitrazepam from
25 Schedule IV (RCW 69.50.401(a)(1)(i))
26 Rape of a Child 3 (RCW 9A.44.079)
27 Theft of a Firearm (RCW 9A.56.300)

28 V Abandonment of dependent person 1 (RCW
29 9A.42.060)
30 Advancing money or property for
31 extortionate extension of credit (RCW
32 9A.82.030)
33 Bail Jumping with class A Felony (RCW
34 9A.76.170(2)(b))
35 Child Molestation 3 (RCW 9A.44.089)
36 Criminal Mistreatment 1 (RCW 9A.42.020)
37 Custodial Sexual Misconduct 1 (RCW
38 9A.44.160)

1 Delivery of imitation controlled substance
2 by person eighteen or over to person
3 under eighteen (RCW 69.52.030(2))
4 Domestic Violence Court Order Violation
5 (RCW 10.99.040, 10.99.050, 26.09.300,
6 26.10.220, 26.26.138, 26.50.110,
7 26.52.070, or section 3 of this act)
8 Extortion 1 (RCW 9A.56.120)
9 Extortionate Extension of Credit (RCW
10 9A.82.020)
11 Extortionate Means to Collect Extensions of
12 Credit (RCW 9A.82.040)
13 Incest 2 (RCW 9A.64.020(2))
14 Kidnapping 2 (RCW 9A.40.030)
15 ~~((On and after July 1, 2000: No Contact~~
16 ~~Order Violation: Domestic Violence~~
17 ~~Pretrial Condition (RCW 10.99.040(4)~~
18 ~~(b) and (c))~~
19 ~~On and after July 1, 2000: No Contact~~
20 ~~Order Violation: Domestic Violence~~
21 ~~Sentence Condition (RCW 10.99.050(2))~~
22 ~~On and after July 1, 2000: Protection~~
23 ~~Order Violation: Domestic Violence~~
24 ~~Civil Action (RCW 26.50.110 (4) and~~
25 ~~(5))~~
26 ~~On and after July 1, 2000: Stalking (RCW~~
27 ~~9A.46.110))~~
28 Perjury 1 (RCW 9A.72.020)
29 Persistent prison misbehavior (RCW
30 9.94.070)
31 Possession of a Stolen Firearm (RCW
32 9A.56.310)
33 Rape 3 (RCW 9A.44.060)
34 Rendering Criminal Assistance 1 (RCW
35 9A.76.070)
36 Sexual Misconduct with a Minor 1 (RCW
37 9A.44.093)
38 Sexually Violating Human Remains (RCW
39 9A.44.105)

1 Stalking (RCW 9A.46.110)

2 IV Arson 2 (RCW 9A.48.030)

3 Assault 2 (RCW 9A.36.021)

4 Assault by Watercraft (RCW ((~~88.12.032~~))

5 79A.60.060)

6 Bribing a Witness/Bribe Received by Witness

7 (RCW 9A.72.090, 9A.72.100)

8 Commercial Bribery (RCW 9A.68.060)

9 Counterfeiting (RCW 9.16.035(4))

10 Escape 1 (RCW 9A.76.110)

11 Hit and Run--Injury Accident (RCW

12 46.52.020(4))

13 Hit and Run with Vessel--Injury Accident

14 (RCW ((~~88.12.155(3)~~)) 79A.60.200(3))

15 Indecent Exposure to Person Under Age

16 Fourteen (subsequent sex offense) (RCW

17 9A.88.010)

18 Influencing Outcome of Sporting Event (RCW

19 9A.82.070)

20 Knowingly Trafficking in Stolen Property

21 (RCW 9A.82.050(2))

22 Malicious Harassment (RCW 9A.36.080)

23 Manufacture, deliver, or possess with

24 intent to deliver narcotics from

25 Schedule III, IV, or V or nonnarcotics

26 from Schedule I-V (except marijuana,

27 amphetamine, methamphetamines, or

28 flunitrazepam) (RCW 69.50.401(a)(1)

29 (iii) through (v))

30 Residential Burglary (RCW 9A.52.025)

31 Robbery 2 (RCW 9A.56.210)

32 Theft of Livestock 1 (RCW 9A.56.080)

33 Threats to Bomb (RCW 9.61.160)

34 Use of Proceeds of Criminal Profiteering

35 (RCW 9A.82.080 (1) and (2))

36 Vehicular Assault (RCW 46.61.522)

37 Willful Failure to Return from Furlough

38 (RCW 72.66.060)

1 III Abandonment of dependent person 2 (RCW
2 9A.42.070)
3 Assault 3 (RCW 9A.36.031)
4 Assault of a Child 3 (RCW 9A.36.140)
5 Bail Jumping with class B or C Felony (RCW
6 9A.76.170(2)(c))
7 Burglary 2 (RCW 9A.52.030)
8 Communication with a Minor for Immoral
9 Purposes (RCW 9.68A.090)
10 Criminal Gang Intimidation (RCW 9A.46.120)
11 Criminal Mistreatment 2 (RCW 9A.42.030)
12 Custodial Assault (RCW 9A.36.100)
13 Delivery of a material in lieu of a
14 controlled substance (RCW
15 69.50.401(c))
16 Escape 2 (RCW 9A.76.120)
17 Extortion 2 (RCW 9A.56.130)
18 Harassment (RCW 9A.46.020)
19 Intimidating a Public Servant (RCW
20 9A.76.180)
21 Introducing Contraband 2 (RCW 9A.76.150)
22 Maintaining a Dwelling or Place for
23 Controlled Substances (RCW
24 69.50.402(a)(6))
25 Malicious Injury to Railroad Property (RCW
26 81.60.070)
27 Manufacture, deliver, or possess with
28 intent to deliver marijuana (RCW
29 69.50.401(a)(1)(iii))
30 Manufacture, distribute, or possess with
31 intent to distribute an imitation
32 controlled substance (RCW
33 69.52.030(1))
34 Patronizing a Juvenile Prostitute (RCW
35 9.68A.100)
36 Perjury 2 (RCW 9A.72.030)
37 Possession of Incendiary Device (RCW
38 9.40.120)

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

18 II Computer Trespass 1 (RCW 9A.52.110)
19 Counterfeiting (RCW 9.16.035(3))
20 Create, deliver, or possess a counterfeit
21 controlled substance (RCW
22 69.50.401(b))
23 Escape from Community Custody (RCW
24 72.09.310)
25 Health Care False Claims (RCW 48.80.030)
26 Malicious Mischief 1 (RCW 9A.48.070)
27 Possession of controlled substance that is
28 either heroin or narcotics from
29 Schedule I or II or flunitrazepam from
30 Schedule IV (RCW 69.50.401(d))
31 Possession of phencyclidine (PCP) (RCW
32 69.50.401(d))
33 Possession of Stolen Property 1 (RCW
34 9A.56.150)
35 Theft 1 (RCW 9A.56.030)
36 Theft of Rental, Leased, or Lease-purchased
37 Property (valued at one thousand five
38 hundred dollars or more) (RCW
39 9A.56.096(4))

1 Trafficking in Insurance Claims (RCW
2 48.30A.015)
3 Unlawful Practice of Law (RCW 2.48.180)
4 Unlicensed Practice of a Profession or
5 Business (RCW 18.130.190(7))
6 I Attempting to Elude a Pursuing Police
7 Vehicle (RCW 46.61.024)
8 False Verification for Welfare (RCW
9 74.08.055)
10 Forged Prescription (RCW 69.41.020)
11 Forged Prescription for a Controlled
12 Substance (RCW 69.50.403)
13 Forgery (RCW 9A.60.020)
14 Malicious Mischief 2 (RCW 9A.48.080)
15 Possess Controlled Substance that is a
16 Narcotic from Schedule III, IV, or V
17 or Non-narcotic from Schedule I-V
18 (except phencyclidine or
19 flunitrazepam) (RCW 69.50.401(d))
20 Possession of Stolen Property 2 (RCW
21 9A.56.160)
22 Reckless Burning 1 (RCW 9A.48.040)
23 Taking Motor Vehicle Without Permission
24 (RCW 9A.56.070)
25 Theft 2 (RCW 9A.56.040)
26 Theft of Rental, Leased, or Lease-purchased
27 Property (valued at two hundred fifty
28 dollars or more but less than one
29 thousand five hundred dollars) (RCW
30 9A.56.096(4))
31 Unlawful Issuance of Checks or Drafts (RCW
32 9A.56.060)
33 Unlawful Use of Food Stamps (RCW 9.91.140
34 (2) and (3))
35 Vehicle Prowl 1 (RCW 9A.52.095)

36 **Sec. 15.** RCW 9.94A.440 and 1999 c 322 s 6 and 1999 c 196 s 11 are
37 each reenacted and amended to read as follows:

38 (1) Decision not to prosecute.

1 STANDARD: A prosecuting attorney may decline to prosecute, even
2 though technically sufficient evidence to prosecute exists, in
3 situations where prosecution would serve no public purpose, would
4 defeat the underlying purpose of the law in question or would result in
5 decreased respect for the law.

6 GUIDELINE/COMMENTARY:

7 Examples

8 The following are examples of reasons not to prosecute which could
9 satisfy the standard.

10 (a) Contrary to Legislative Intent - It may be proper to decline to
11 charge where the application of criminal sanctions would be clearly
12 contrary to the intent of the legislature in enacting the particular
13 statute.

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

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

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

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

21 (iv) The statute has not been recently reconsidered by the
22 legislature.

23 This reason is not to be construed as the basis for declining cases
24 because the law in question is unpopular or because it is difficult to
25 enforce.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (i) Assault cases where the victim has suffered little or no
31 injury;

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

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

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

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

39 Notification

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

3 (2) Decision to prosecute.

4 (a) STANDARD:

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

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

20 See table below for the crimes within these categories.

21 CATEGORIZATION OF CRIMES FOR PROSECUTING STANDARDS

22 CRIMES AGAINST PERSONS

23 Aggravated Murder

24 1st Degree Murder

25 2nd Degree Murder

26 1st Degree Kidnaping

27 1st Degree Assault

28 1st Degree Assault of a Child

29 1st Degree Rape

30 1st Degree Robbery

31 1st Degree Rape of a Child

32 1st Degree Arson

33 2nd Degree Kidnaping

34 2nd Degree Assault

35 2nd Degree Assault of a Child

36 2nd Degree Rape

37 2nd Degree Robbery

38 1st Degree Burglary

1 1st Degree Manslaughter
2 2nd Degree Manslaughter
3 1st Degree Extortion
4 Indecent Liberties
5 Incest
6 2nd Degree Rape of a Child
7 Vehicular Homicide
8 Vehicular Assault
9 3rd Degree Rape
10 3rd Degree Rape of a Child
11 1st Degree Child Molestation
12 2nd Degree Child Molestation
13 3rd Degree Child Molestation
14 2nd Degree Extortion
15 1st Degree Promoting Prostitution
16 Intimidating a Juror
17 Communication with a Minor
18 Intimidating a Witness
19 Intimidating a Public Servant
20 Bomb Threat (if against person)
21 3rd Degree Assault
22 3rd Degree Assault of a Child
23 Unlawful Imprisonment
24 Promoting a Suicide Attempt
25 Riot (if against person)
26 Stalking
27 Custodial Assault
28 ~~((No Contact Order Domestic Violence Pretrial (RCW 10.99.040(4) (b)~~
29 ~~and (c))~~
30 ~~No Contact Order Domestic Violence Sentence (RCW 10.99.050(2))~~
31 ~~Protection Order Domestic Violence Civil (RCW 26.50.110 (4) and~~
32 ~~(5))~~
33 Domestic Violence Court Order Violation (RCW 10.99.040, 10.99.050,
34 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or section 3 of
35 this act)
36 Counterfeiting (if a violation of RCW 9.16.035(4))

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

34 ALL OTHER UNCLASSIFIED FELONIES

35 Selection of Charges/Degree of Charge

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

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

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

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

6 (A) Charging a higher degree;

7 (B) Charging additional counts.

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

14 (b) GUIDELINES/COMMENTARY:

15 (i) Police Investigation

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

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

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

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

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

30 (ii) Exceptions

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

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

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

36 (C) The arrest of the suspect is necessary to complete the
37 investigation of the crime.

38 In the event that the exception to the standard is applied, the
39 prosecuting attorney shall obtain a commitment from the law enforcement

1 agency involved to complete the investigation in a timely manner. If
2 the subsequent investigation does not produce sufficient evidence to
3 meet the normal charging standard, the complaint should be dismissed.

4 (iii) Investigation Techniques

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

7 (A) Polygraph testing;

8 (B) Hypnosis;

9 (C) Electronic surveillance;

10 (D) Use of informants.

11 (iv) Pre-Filing Discussions with Defendant

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

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

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

21 **Sec. 16.** RCW 10.99.040 and 1997 c 338 s 54 are each amended to
22 read as follows:

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

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

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

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

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

37 (2) Because of the likelihood of repeated violence directed at
38 those who have been victims of domestic violence in the past, when any

1 person charged with or arrested for a crime involving domestic violence
2 is released from custody before arraignment or trial on bail or
3 personal recognizance, the court authorizing the release may prohibit
4 that person from having any contact with the victim. The jurisdiction
5 authorizing the release shall determine whether that person should be
6 prohibited from having any contact with the victim. If there is no
7 outstanding restraining or protective order prohibiting that person
8 from having contact with the victim, the court authorizing release may
9 issue, by telephone, a no-contact order prohibiting the person charged
10 or arrested from having contact with the victim. In issuing the order,
11 the court shall consider the provisions of RCW 9.41.800. The no-
12 contact order shall also be issued in writing as soon as possible.

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

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

32 ~~(b) Any assault that is a violation of an order issued under this~~
33 ~~section and that does not amount to assault in the first or second~~
34 ~~degree under RCW 9A.36.011 or 9A.36.021 is a class C felony punishable~~
35 ~~under chapter 9A.20 RCW, and any conduct in violation of a protective~~
36 ~~order issued under this section that is reckless and creates a~~
37 ~~substantial risk of death or serious physical injury to another person~~
38 ~~is a class C felony punishable under chapter 9A.20 RCW.~~

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

11 ~~((d))~~ (b) The written order releasing the person charged or
12 arrested shall contain the court's directives and shall bear the
13 legend: "Violation of this order is a criminal offense under chapter
14 ~~((10.99))~~ 26.50 RCW and will subject a violator to arrest; any assault,
15 drive-by shooting, or reckless endangerment that is a violation of this
16 order is a felony. You can be arrested even if any person protected by
17 the order invites or allows you to violate the order's prohibitions.
18 You have the sole responsibility to avoid or refrain from violating the
19 order's provisions. Only the court can change the order." A certified
20 copy of the order shall be provided to the victim. If a no-contact
21 order has been issued prior to charging, that order shall expire at
22 arraignment or within seventy-two hours if charges are not filed. Such
23 orders need not be entered into the computer-based criminal
24 intelligence information system in this state which is used by law
25 enforcement agencies to list outstanding warrants.

26 (5) Whenever an order prohibiting contact is issued, modified, or
27 terminated under subsection (2) or (3) of this section, the clerk of
28 the court shall forward a copy of the order on or before the next
29 judicial day to the appropriate law enforcement agency specified in the
30 order. Upon receipt of the copy of the order the law enforcement
31 agency shall forthwith enter the order for one year or until the
32 expiration date specified on the order into any computer-based criminal
33 intelligence information system available in this state used by law
34 enforcement agencies to list outstanding warrants. Entry into the law
35 enforcement information system constitutes notice to all law
36 enforcement agencies of the existence of the order. The order is fully
37 enforceable in any jurisdiction in the state.

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

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

7 (2) Willful violation of a court order issued under this section is
8 ~~((a gross misdemeanor. Any assault that is a violation of an order
9 issued under this section and that does not amount to assault in the
10 first or second degree under RCW 9A.36.011 or 9A.36.021 is a class C
11 felony, and any conduct in violation of a protective order issued under
12 this section that is reckless and creates a substantial risk of death
13 or serious physical injury to another person is a class C felony. A
14 willful violation of a court order issued under this section is also a
15 class C felony if the offender has at least two previous convictions
16 for violating the provisions of a no-contact order issued under this
17 chapter, or a domestic violence protection order issued under chapter
18 26.09, 26.10, 26.26, or 26.50 RCW, or any federal or out-of-state order
19 that is comparable to a no-contact order or protection order that is
20 issued under Washington law. The previous convictions may involve the
21 same victim or other victims specifically protected by the no-contact
22 orders or protection orders the offender violated)) punishable under
23 RCW 26.50.110.~~

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

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

1 **Sec. 18.** RCW 26.09.300 and 1996 c 248 s 9 are each amended to read
2 as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 **Sec. 19.** RCW 26.10.220 and 1999 c 184 s 11 are each amended to
7 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

38 and

1 (c) The person to be arrested has violated the terms of the order
2 restraining the person from acts or threats of violence or restraining
3 the person from going onto the grounds of or entering the residence,
4 workplace, school, or day care of another, or prohibiting the person
5 from knowingly coming within, or knowingly remaining within a specified
6 distance of a location or another person.

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

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

12 **Sec. 20.** RCW 26.26.138 and 1999 c 184 s 12 are each amended to
13 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (1) Whenever an order (~~for protection~~) is granted under this
21 chapter, chapter 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or there is
22 a valid foreign protection order as defined in RCW 26.52.020, and the
23 respondent or person to be restrained knows of the order, a violation
24 of the restraint provisions, or of a provision excluding the person
25 from a residence, workplace, school, or day care, or of a provision
26 prohibiting a person from knowingly coming within, or knowingly
27 remaining within a specified distance of a location or another person,
28 or of a provision of a foreign protection order specifically indicating
29 that a violation will be a crime, is a gross misdemeanor except as
30 provided in subsections (4) and (5) of this section. In determining
31 whether a violation occurred, the court shall consider the totality of
32 the circumstances. It shall be an affirmative defense to a charge of
33 violating an order by knowingly coming or remaining within a specified
34 distance of another person that the person charged did not initiate the
35 contact and did not unreasonably continue the contact. Upon
36 conviction, and in addition to any other penalties provided by law, the
37 court may require that the respondent submit to electronic monitoring.
38 The court shall specify who shall provide the electronic monitoring

1 services, and the terms under which the monitoring shall be performed.
2 The order also may include a requirement that the respondent pay the
3 costs of the monitoring. The court shall consider the ability of the
4 convicted person to pay for electronic monitoring.

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

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

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

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

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

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

14 **Sec. 22.** RCW 26.50.150 and 1999 c 147 s 1 are each amended to read
15 as follows:

16 (1) The department of social and health services shall adopt rules
17 for standards of approval of domestic violence perpetrator programs
18 that accept perpetrators of domestic violence into treatment to satisfy
19 court orders or that represent the programs as ones that treat domestic
20 violence perpetrators. The treatment must meet the following minimum
21 qualifications:

22 ~~((1))~~ (a) All treatment must be based upon a full, complete
23 clinical intake including: Current and past violence history; a
24 lethality risk assessment; a complete diagnostic evaluation; a
25 substance abuse assessment; criminal history; assessment of cultural
26 issues, learning disabilities, literacy, and special language needs;
27 and a treatment plan that adequately and appropriately addresses the
28 treatment needs of the individual.

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

32 ~~((a))~~ (i) A release for the program to inform the victim and
33 victim's community and legal advocates that the perpetrator is in
34 treatment with the program, and to provide information, for safety
35 purposes, to the victim and victim's community and legal advocates;

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

1 (~~(e)~~) (iii) A release for the program to provide information on
2 the perpetrator to relevant legal entities including: Lawyers, courts,
3 parole, probation, child protective services, and child welfare
4 services.

5 (~~(3)~~) (c) Treatment must be for a minimum treatment period
6 defined by the secretary of the department by rule. The weekly
7 treatment sessions must be in a group unless there is a documented,
8 clinical reason for another modality. Any other therapies, such as
9 individual, marital, or family therapy, substance abuse evaluations or
10 therapy, medication reviews, or psychiatric interviews, may be
11 concomitant with the weekly group treatment sessions described in this
12 section but not a substitute for it.

13 (~~(4)~~) (d) The treatment must focus primarily on ending the
14 violence, holding the perpetrator accountable for his or her violence,
15 and changing his or her behavior. The treatment must be based on
16 nonvictim-blaming strategies and philosophies and shall include
17 education about the individual, family, and cultural dynamics of
18 domestic violence. If the perpetrator or the victim has a minor child,
19 treatment must specifically include education regarding the effects of
20 domestic violence on children, such as the emotional impacts of
21 domestic violence on children and the long-term consequences that
22 exposure to incidents of domestic violence may have on children.

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

27 (~~(6)~~) (f) The program must have policies and procedures for
28 dealing with reoffenses and noncompliance.

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

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

34 (~~(8)~~) (3) The secretary of the department may adopt rules and
35 establish fees as necessary to implement this section.

36 **Sec. 23.** RCW 26.50.160 and 1995 c 246 s 18 are each amended to
37 read as follows:

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

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

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

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

22 **Sec. 24.** RCW 26.52.070 and 1999 c 184 s 9 are each amended to read
23 as follows:

24 (1) Whenever a foreign protection order is granted to a person
25 entitled to protection and the person under restraint knows of the
26 foreign protection order, a violation of a provision prohibiting the
27 person under restraint from contacting or communicating with another
28 person, or of a provision excluding the person under restraint from a
29 residence, workplace, school, or day care, or of a provision
30 prohibiting a person from knowingly coming within, or knowingly
31 remaining within a specified distance of a location or another person,
32 or a violation of any provision for which the foreign protection order
33 specifically indicates that a violation will be a crime, is ~~((a gross~~
34 ~~misdemeanor except as provided in subsections (3) and (4) of this~~
35 ~~section. Upon conviction, and in addition to any other penalties~~
36 ~~provided by law, the court may require the person under restraint to~~
37 ~~submit to electronic monitoring. The court shall specify who will~~
38 ~~provide the electronic monitoring services, and the terms under which~~

1 the monitoring will be performed. The order also may include a
2 requirement that the person under restraint pay the costs of the
3 monitoring. The court shall consider the ability of the convicted
4 person to pay for electronic monitoring)) punishable under RCW
5 26.50.110.

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

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

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

37 **Sec. 25.** RCW 70.123.050 and 1979 ex.s. c 245 s 5 are each amended
38 to read as follows:

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

4 (1) Develop and implement an educational program designed to
5 promote public and professional awareness of the problems of domestic
6 violence and of the availability of services for victims of domestic
7 violence. Particular emphasis should be given to the education needs
8 of law enforcement agencies, the legal system, the medical profession,
9 and other relevant professions that are engaged in the prevention,
10 identification, and treatment of domestic violence;

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

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

17 (4) Provide opportunities to persons working in the area of
18 domestic violence to exchange information; ((and))

19 (5) Provide training opportunities for both volunteer workers and
20 staff personnel; and

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

23 **Sec. 26.** RCW 74.34.130 and 1999 c 176 s 13 are each amended to
24 read as follows:

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

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

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

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

33 (4) Prohibiting the respondent from knowingly coming within, or
34 knowingly remaining within a specified distance from a specified
35 location, or within a specified distance from a specified other person;

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

1 (~~(5)~~) (6) Restraining the transfer of property for a specified
2 period not exceeding ninety days;

3 (~~(6)~~) (7) Requiring the respondent to pay the filing fee and
4 court costs, including service fees, and to reimburse the petitioner
5 for costs incurred in bringing the action, including a reasonable
6 attorney's fee.

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

9 NEW SECTION. **Sec. 27.** Section 14 of this act takes effect July 1,
10 2000.

11 NEW SECTION. **Sec. 28.** Section 1 of this act is necessary for the
12 immediate preservation of the public peace, health, or safety, or
13 support of the state government and its existing public institutions,
14 and takes effect immediately.

15 NEW SECTION. **Sec. 29.** (1) The penalties prescribed in section 1
16 of this act apply to violations of court orders which occur on or after
17 the effective date of section 1 of this act, regardless of the date the
18 court issued the order.

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

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