
SUBSTITUTE HOUSE BILL 2464

State of Washington

62nd Legislature

2012 Regular Session

By House Judiciary (originally sponsored by Representatives Goodman, Rodne, Pedersen, Pearson, Hurst, Darneille, Kelley, Fagan, and Dahlquist; by request of Attorney General)

READ FIRST TIME 01/31/12.

1 AN ACT Relating to stalking protection orders; amending RCW
2 9.94A.535, 9A.46.040, 9A.46.110, 10.14.070, and 10.31.100; reenacting
3 and amending RCW 26.50.110; adding a new section to chapter 9A.46 RCW;
4 adding a new chapter to Title 7 RCW; and prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** Stalking is a crime that affects 3.4 million
7 people over the age of eighteen each year in the United States. Almost
8 half of those victims experience at least one unwanted contact per
9 week. Twenty-nine percent of stalking victims fear that the stalking
10 will never stop. The prevalence of anxiety, insomnia, social
11 dysfunction, and severe depression is much higher among stalking
12 victims than the general population. Three in four stalking victims
13 are stalked by someone they know, and at least thirty percent of
14 stalking victims are stalked by a current or former intimate partner.
15 For many of those victims, the domestic violence protection order is a
16 tool they can access to help them stay safer. For those who have not
17 had an intimate relationship with the person stalking them, there are
18 few remedies for them under the law. Victims who do not report the
19 crime still desire safety and protection from future interactions with

1 the offender. Some cases in which the stalking is reported are not
2 prosecuted. In these situations, the victim should be able to seek a
3 civil remedy requiring that the offender stay away from the victim. It
4 is the intent of the legislature that the stalking protection order
5 created by this chapter be a remedy for victims who do not qualify for
6 a domestic violence order of protection. Moreover, the legislature
7 finds that preventing the issuance of conflicting orders is in the
8 interest of both petitioners and respondents. It is the intent of the
9 legislature that the court shall be expressly authorized to consult
10 with the judicial information system prior to entering an order under
11 this chapter.

12 NEW SECTION. **Sec. 2.** The definitions in this section apply
13 throughout this chapter unless the context clearly requires otherwise.

14 (1) "Petitioner" means any named petitioner for the stalking
15 protection order or any named victim of stalking conduct on whose
16 behalf the petition is brought.

17 (2) "Stalking conduct" means any of the following:

18 (a) Any act of stalking as defined under RCW 9A.46.110;

19 (b) Any act of cyberstalking as defined under RCW 9.61.260.

20 (3) "Stalking protection order" means an ex parte temporary order
21 or a final order granted under this chapter, which includes a remedy
22 authorized in section 10 of this act.

23 NEW SECTION. **Sec. 3.** There shall exist an action known as a
24 petition for a stalking protection order.

25 (1) A petition for relief shall allege the existence of stalking
26 conduct and shall be accompanied by an affidavit made under oath
27 stating the specific reasons that have caused the petitioner to become
28 reasonably fearful that the respondent intends to injure the petitioner
29 or another person, or the petitioner's property or the property of
30 another. Petitioner and respondent shall disclose the existence of any
31 other litigation or of any other restraining, protection, or no-contact
32 orders between the parties.

33 (2) A petition for relief may be made regardless of whether or not
34 there is a pending lawsuit, complaint, petition, or other action
35 between the parties.

1 (3) Forms and instructional brochures and the necessary number of
2 certified copies shall be provided free of charge.

3 (4) A person is not required to post a bond to obtain relief in any
4 proceeding under this section.

5 (5) If the petition states that disclosure of the petitioner's
6 address would risk abuse of the petitioner or any member of the
7 petitioner's family or household, that address may be omitted from all
8 documents filed with the court. If the petitioner has not disclosed an
9 address under this subsection, the petitioner shall designate an
10 alternative address at which the respondent may serve notice of any
11 motions.

12 NEW SECTION. **Sec. 4.** A petition for a stalking protection order
13 may be filed by a person:

14 (1) Who does not qualify for a protection order under chapter 26.50
15 RCW and who is a victim of stalking conduct; or

16 (2) On behalf of any of the following persons who is a victim of
17 stalking conduct and who does not qualify for a protection order under
18 chapter 26.50 RCW:

19 (a) A minor child;

20 (b) A vulnerable adult as defined in RCW 74.34.020 and where the
21 petitioner is an interested person as defined in RCW 74.34.020(10); or

22 (c) Any other adult who, because of age, disability, health, or
23 inaccessibility, cannot file the petition.

24 NEW SECTION. **Sec. 5.** (1) Any person may seek relief under this
25 chapter by filing a petition with a court alleging that the person has
26 been the victim of stalking conduct committed by the respondent.

27 (2) A person under eighteen years of age who is sixteen years of
28 age or older may seek relief under this chapter and is not required to
29 seek relief by a guardian or next friend.

30 (3) No guardian or guardian ad litem need be appointed on behalf of
31 a respondent to an action under this chapter who is under eighteen
32 years of age if such respondent is fourteen years of age or older.

33 (4) The court may, if it deems necessary, appoint a guardian ad
34 litem for a petitioner or respondent who is a party to an action under
35 this chapter.

1 (5) Jurisdiction of the courts over proceedings under this chapter
2 shall be the same as jurisdiction over domestic violence protection
3 orders under RCW 26.50.020(5).

4 (6) An action under this chapter may be filed in the county or the
5 municipality where the petitioner resides.

6 NEW SECTION. **Sec. 6.** Upon receipt of the petition, the court
7 shall order a hearing which shall be held not later than fourteen days
8 from the date of the order. The court may schedule a hearing by
9 telephone pursuant to local court rule, to reasonably accommodate a
10 disability, or in exceptional circumstances to protect a petitioner
11 from further stalking behavior. The court shall require assurances of
12 the petitioner's identity before conducting a telephonic hearing.
13 Except as provided in section 15 of this act, personal service shall be
14 made upon the respondent not less than five court days prior to the
15 hearing. If timely personal service cannot be made, the court shall
16 set a new hearing date and shall require additional attempts at
17 obtaining personal service or other service as permitted under section
18 15 of this act. The court may issue an ex parte temporary stalking
19 order pending the hearing as provided in section 12 of this act.

20 NEW SECTION. **Sec. 7.** No fees for filing or service of process may
21 be charged by a public agency to petitioners seeking relief under this
22 chapter. Petitioners shall be provided the necessary number of
23 certified copies at no cost.

24 NEW SECTION. **Sec. 8.** Victim advocates shall be allowed to
25 accompany the victim and confer with the victim, unless otherwise
26 directed by the court. Court administrators shall allow advocates to
27 assist victims of stalking conduct in the preparation of petitions for
28 stalking protection orders. Advocates are not engaged in the
29 unauthorized practice of law when providing assistance of the types
30 specified in this section.

31 NEW SECTION. **Sec. 9.** The court may appoint counsel to represent
32 the petitioner if the respondent is represented by counsel.

1 NEW SECTION.

2 **Sec. 10.**

3 (1)(a) If the court finds by a
4 preponderance of the evidence that the petitioner has been a victim of
5 stalking conduct by the respondent, the court shall issue a stalking
6 protection order; provided that the petitioner must also satisfy the
7 requirements of section 12 of this act for ex parte temporary orders or
8 section 13 of this act for final orders.

9 (b) The petitioner shall not be denied a stalking protection order
10 because the petitioner or the respondent is a minor or because the
11 petitioner did not report the stalking conduct to law enforcement. The
12 court, when determining whether or not to issue a stalking protection
13 order, may not require proof of the respondent's intentions regarding
14 the acts alleged by the petitioner. Modification and extension of
15 prior stalking protection orders shall be in accordance with this
16 chapter.

17 (2) The court may provide relief as follows:

18 (a) Restrain the respondent from having any contact, including
19 nonphysical contact, with the petitioner directly, indirectly, or
20 through third parties regardless of whether those third parties know of
21 the order;

22 (b) Exclude the respondent from the petitioner's residence,
23 workplace, school, or from the day care or school of the petitioner
24 and/or the petitioner's minor children;

25 (c) Prohibit the respondent from knowingly coming within, or
26 knowingly remaining within, a specified distance from a specified
27 location; and

28 (d) Prohibit the respondent from keeping the petitioner and/or the
29 petitioner's minor children under surveillance, to include electronic
30 surveillance; and

31 (e) Order any other injunctive relief as necessary or appropriate
32 for the protection of the petitioner, to include a mental health and/or
33 chemical dependency evaluation.

34 (3) In cases where the petitioner and the respondent attend the
35 same public or private elementary, middle, or high school, the court,
36 when issuing a protection order and providing relief, shall consider,
37 among the other facts of the case, the severity of the act, any
38 continuing physical danger or emotional distress to the petitioner, and
the expense difficulty, and educational disruption that would be caused
by a transfer of the respondent to another school. The court may order

1 that the person restrained in the order not attend the public or
2 approved private elementary, middle, or high school attended by the
3 person protected by the order. In the event the court orders a
4 transfer of the restrained person to another school, the parents or
5 legal guardians of the person restrained in the order are responsible
6 for transportation and other costs associated with the change of school
7 by the person restrained in the order. The court shall send notice of
8 the restriction on attending the same school as the person protected by
9 the order to the public or approved private school the person
10 restrained by the order will attend and to the school the person
11 protected by the order attends.

12 NEW SECTION. **Sec. 11.** For the purposes of issuing a stalking
13 protection order, deciding what relief should be included in the order,
14 and enforcing the order, RCW 9A.08.020 shall govern whether the
15 respondent is legally accountable for the conduct of another person.

16 NEW SECTION. **Sec. 12.** (1) An ex parte temporary stalking
17 protection order shall be issued if the petitioner satisfies the
18 requirements of this subsection by a preponderance of the evidence.
19 The petitioner shall establish that:

20 (a) The petitioner has been a victim of stalking conduct by the
21 respondent; and

22 (b) There is good cause to grant the remedy, regardless of the lack
23 of prior service of process or of notice upon the respondent, because
24 the harm which that remedy is intended to prevent would be likely to
25 occur if the respondent were given any prior notice, or greater notice
26 than was actually given, of the petitioner's efforts to obtain judicial
27 relief.

28 (2) If the respondent appears in court for this hearing for an ex
29 parte temporary order, he or she may elect to file a general appearance
30 and testify. Any resulting order may be an ex parte temporary order,
31 governed by this section.

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

1 (4) A knowing violation of a court order issued under this section
2 is punishable under RCW 26.50.110.

3 NEW SECTION. **Sec. 13.** (1)(a) An ex parte temporary stalking
4 protection order shall be effective for a fixed period not to exceed
5 fourteen days. A full hearing, as provided in this chapter, shall be
6 set for not later than fourteen days from the issuance of the temporary
7 order. Except as provided in sections 6 and 15 of this act, the
8 respondent shall be personally served with a copy of the ex parte
9 temporary stalking protection order along with a copy of the petition
10 and notice of the date set for the hearing.

11 (b) Any ex parte temporary order issued under this section shall
12 contain the date and time of issuance and the expiration date and shall
13 be entered into a statewide judicial information system by the clerk of
14 the court within one judicial day after issuance.

15 (2) Except as otherwise provided in this section or section 16 of
16 this act, a final stalking protection order shall be effective for a
17 fixed period of time, not to exceed five years.

18 (3) Any ex parte temporary or final stalking protection order may
19 be renewed one or more times. The petitioner may apply for renewal of
20 the order by filing a petition for renewal at any time within the three
21 months before the order expires. If the motion for renewal is
22 uncontested and the petitioner seeks no modification of the order, the
23 order may be renewed on the basis of the petitioner's motion or
24 affidavit stating that there has been no material change in relevant
25 circumstances since entry of the order and stating the reason for the
26 requested renewal. Renewals may be granted only in open court.

27 (4) Any stalking protection order which would expire on a court
28 holiday shall instead expire at the close of the next court business
29 day.

30 (5) The practice of dismissing or suspending a criminal prosecution
31 in exchange for the issuance of a stalking protection order undermines
32 the purposes of this chapter. This section shall not be construed as
33 encouraging that practice.

34 NEW SECTION. **Sec. 14.** (1) Any stalking protection order shall
35 describe each remedy granted by the court, in reasonable detail and not

1 by reference to any other document, so that the respondent may clearly
2 understand what he or she must do or refrain from doing.

3 (2) A stalking protection order shall further state the following:

4 (a) The name of each petitioner that the court finds was the victim
5 of stalking by the respondent;

6 (b) The date and time the stalking protection order was issued,
7 whether it is an ex parte temporary or final order, and the duration of
8 the order;

9 (c) The date, time, and place for any scheduled hearing for renewal
10 of that stalking protection order or for another order of greater
11 duration or scope;

12 (d) For each remedy in an ex parte temporary stalking protection
13 order, the reason for entering that remedy without prior notice to the
14 respondent or greater notice than was actually given;

15 (e) For ex parte temporary stalking protection orders, that the
16 respondent may petition the court, to reopen the order if he or she did
17 not receive actual prior notice of the hearing and if the respondent
18 alleges that he or she had a meritorious defense to the order or that
19 the order or its remedy is not authorized by this chapter.

20 (3) A stalking protection order shall include the following notice,
21 printed in conspicuous type: "A knowing violation of this stalking
22 protection order is a criminal offense under chapter 26.50 RCW and will
23 subject a violator to arrest. You can be arrested even if any person
24 protected by the order invites or allows you to violate the order's
25 prohibitions. You have the sole responsibility to avoid or refrain
26 from violating the order's provisions. Only the court can change the
27 order."

28 NEW SECTION. **Sec. 15.** (1) An order issued under this chapter
29 shall be personally served upon the respondent, except as provided in
30 subsection (6), (7), or (8) of this section.

31 (2) The sheriff of the county or the peace officers of the
32 municipality in which the respondent resides shall serve the respondent
33 personally unless the petitioner elects to have the respondent served
34 by a private party.

35 (3) If service by a sheriff or municipal peace officer is to be
36 used, the clerk of the court shall have a copy of any order issued
37 under this chapter forwarded on or before the next judicial day to the

1 appropriate law enforcement agency specified in the order for service
2 upon the respondent. Service of an order issued under this chapter
3 shall take precedence over the service of other documents unless they
4 are of a similar emergency nature.

5 (4) If the sheriff or municipal peace officer cannot complete
6 service upon the respondent within ten days, the sheriff or municipal
7 peace officer shall notify the petitioner. The petitioner shall
8 provide information sufficient to permit notification.

9 (5) Returns of service under this chapter shall be made in
10 accordance with the applicable court rules.

11 (6) If an order entered by the court recites that the respondent
12 appeared in person before the court, the necessity for further service
13 is waived and proof of service of that order is not necessary.

14 (7) If the respondent was not personally served with the petition,
15 notice of hearing, and ex parte order before the hearing, the court
16 shall reset the hearing for twenty-four days from the date of entry of
17 the order and may order service by publication instead of personal
18 service under the following circumstances:

19 (a) The sheriff or municipal officer files an affidavit stating
20 that the officer was unable to complete personal service upon the
21 respondent. The affidavit must describe the number and types of
22 attempts the officer made to complete service;

23 (b) The petitioner files an affidavit stating that the petitioner
24 believes that the respondent is hiding from the server to avoid
25 service. The petitioner's affidavit must state the reasons for the
26 belief that the respondent is avoiding service;

27 (c) The server has deposited a copy of the summons, in
28 substantially the form prescribed in subsection (3) of this section,
29 notice of hearing, and the ex parte order of protection in the post
30 office, directed to the respondent at the respondent's last known
31 address, unless the server states that the server does not know the
32 respondent's address;

33 (d) The court finds reasonable grounds exist to believe that the
34 respondent is concealing himself or herself to avoid service, and that
35 further attempts to personally serve the respondent would be futile or
36 unduly burdensome;

37 (e) The court shall reissue the temporary order of protection not

1 to exceed another twenty-four days from the date of reissuing the ex
2 parte protection order and order to provide service by publication; and
3 (f) The publication shall be made in a newspaper of general
4 circulation in the county where the petition was brought and in the
5 county of the last known address of the respondent once a week for
6 three consecutive weeks. The newspaper selected must be one of the
7 three most widely circulated papers in the county. The publication of
8 summons shall not be made until the court orders service by publication
9 under this section. Service of the summons shall be considered
10 complete when the publication has been made for three consecutive
11 weeks. The summons must be signed by the petitioner. The summons
12 shall contain the date of the first publication, and shall require the
13 respondent upon whom service by publication is desired, to appear and
14 answer the petition on the date set for the hearing. The summons shall
15 also contain a brief statement of the reason for the petition and a
16 summary of the provisions under the ex parte order. The summons shall
17 be essentially in the following form:

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In the court of the state of Washington for
the county of
....., Petitioner
vs. No.
....., Respondent
The state of Washington to (respondent):
You are hereby summoned to appear on the ... day
of, 20..., at ... a.m./p.m., and respond to the
petition. If you fail to respond, an order of protection will
be issued against you pursuant to the provisions of the
stalking protection order act, chapter 7.-- RCW (the new
chapter created in section 30 of this act), for a minimum of
one year from the date you are required to appear. A
temporary order of protection has been issued against you,
restraining you from the following: (Insert a brief statement
of the provisions of the ex parte order.) A copy of the
petition, notice of hearing, and ex parte order has been filed
with the clerk of this court.
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(8) In circumstances justifying service by publication under subsection (7) of this section, if the serving party files an affidavit stating facts from which the court determines that service by mail is just as likely to give actual notice as service by publication and that the serving party is unable to afford the cost of service by publication, the court may order that service be made by mail. Such service shall be made by any person over eighteen years of age, who is competent to be a witness, other than a party, by mailing copies of the order and other process to the party to be served at his or her last known address or any other address determined by the court to be appropriate. Two copies shall be mailed, postage prepaid, one by ordinary first-class mail and the other by a form of mail requiring a signed receipt showing when and to whom it was delivered. The envelopes must bear the return address of the sender.

(a) Proof of service under this section shall be consistent with court rules for civil proceedings.

(b) Service under this section may be used in the same manner and shall have the same jurisdictional effect as service by publication for purposes of this chapter. Service shall be deemed complete upon the mailing of two copies as prescribed in this section.

NEW SECTION. **Sec. 16.** (1)(a) When any person charged with or arrested for stalking as defined in RCW 9A.46.110, telephone harassment as defined in RCW 9.61.230, and cyberstalking as defined in RCW 9.61.260 is released from custody before arraignment or trial on bail or personal recognizance, the court authorizing the release may prohibit that person from having any contact with the victim. The jurisdiction authorizing the release shall determine whether that person should be prohibited from having any contact with the victim. If there is no outstanding restraining or protective order prohibiting that person from having contact with the victim, the court authorizing release may issue, by telephone, a stalking protection order prohibiting the person charged or arrested from having contact with the victim or from knowingly coming within, or knowingly remaining within, a specified distance of a location.

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

3 (c) The stalking protection order shall also be issued in writing
4 as soon as possible.

5 (2)(a) At the time of arraignment or whenever a motion is brought
6 to modify the conditions of the defendant's release, the court shall
7 determine whether a stalking protection order shall be issued or
8 extended. If a stalking protection order is issued or extended, the
9 court may also include in the conditions of release a requirement that
10 the defendant submit to electronic monitoring, including real-time
11 global position satellite monitoring with victim notification. If
12 electronic monitoring is ordered, the court shall specify who shall
13 provide the monitoring services, and the terms under which the
14 monitoring shall be performed. Upon conviction, the court may require
15 as a condition of the sentence that the defendant reimburse the
16 providing agency for the costs of the electronic monitoring, including
17 costs relating to real-time global position satellite monitoring with
18 victim notification.

19 (b) A stalking protection order issued by the court in conjunction
20 with criminal charges shall terminate if the defendant is acquitted or
21 the charges are dismissed, unless the victim files an independent
22 action for a stalking protection order. If the victim files an
23 independent action for a stalking protection order, the order may be
24 continued by the court until a full hearing is conducted pursuant to
25 section 6 of this act.

26 (3)(a) The written order releasing the person charged or arrested
27 shall contain the court's directives and shall bear the legend:
28 "Violation of this order is a criminal offense under chapter 26.50 RCW
29 and will subject a violator to arrest. You can be arrested even if any
30 person protected by the order invites or allows you to violate the
31 order's prohibitions. You have the sole responsibility to avoid or
32 refrain from violating the order's provisions. Only the court can
33 change the order."

34 (b) A certified copy of the order shall be provided to the victim
35 at no charge.

36 (4) If a stalking protection order has been issued prior to
37 charging, that order shall expire at arraignment or within seventy-two
38 hours if charges are not filed.

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

13 (6)(a) When a defendant is found guilty of stalking as defined in
14 RCW 9A.46.110, harassment as defined in RCW 9A.46.020, or any other
15 stalking related offense under RCW 9A.46.060 and a condition of the
16 sentence restricts the defendant's ability to have contact with the
17 victim, the condition shall be recorded as a stalking protection order.

18 (b) The written order entered as a condition of sentencing shall
19 contain the court's directives and shall bear the legend: "Violation
20 of this order is a criminal offense under chapter 26.50 RCW and will
21 subject a violator to arrest. You can be arrested even if any person
22 protected by the order invites or allows you to violate the order's
23 prohibitions. You have the sole responsibility to avoid or refrain
24 from violating the order's provisions. Only the court can change the
25 order."

26 (c) A final stalking protection order entered in conjunction with
27 a criminal prosecution shall remain in effect for a period of five
28 years from the date of entry.

29 (d) A certified copy of the order shall be provided to the victim
30 at no charge.

31 (7) A knowing violation of a court order issued under subsection
32 (1), (2), or (6) of this section is punishable under RCW 26.50.110.

33 (8) Whenever a stalking protection order is issued, modified, or
34 terminated under subsection (1), (2), or (6) of this section, the clerk
35 of the court shall forward a copy of the order on or before the next
36 judicial day to the appropriate law enforcement agency specified in the
37 order. Upon receipt of the copy of the order, the law enforcement
38 agency shall enter the order for one year or until the expiration date

1 specified on 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. Entry into the computer-based
4 criminal intelligence information system constitutes notice to all law
5 enforcement agencies of the existence of the order. The order is fully
6 enforceable in any jurisdiction in the state. Upon receipt of notice
7 that an order has been terminated under subsection (2) of this section,
8 the law enforcement agency shall remove the order from the
9 computer-based criminal intelligence information system.

10 NEW SECTION. **Sec. 17.** (1) In a proceeding in which a petition for
11 a stalking protection order is sought under this chapter, a court of
12 this state may exercise personal jurisdiction over a nonresident
13 individual if:

14 (a) The individual is personally served with a petition within this
15 state;

16 (b) The individual submits to the jurisdiction of this state by
17 consent, entering a general appearance, or filing a responsive document
18 having the effect of waiving any objection to consent to personal
19 jurisdiction;

20 (c) The act or acts of the individual or the individual's agent
21 giving rise to the petition or enforcement of a stalking protection
22 order occurred within this state;

23 (d)(i) The act or acts of the individual or the individual's agent
24 giving rise to the petition or enforcement of a stalking protection
25 order occurred outside this state and are part of an ongoing pattern of
26 stalking behavior that has an adverse effect on the petitioner or a
27 member of the petitioner's family or household and the petitioner
28 resides in this state; or

29 (ii) As a result of acts of stalking behavior, the petitioner or a
30 member of the petitioner's family or household has sought safety or
31 protection in this state and currently resides in this state; or

32 (e) There is any other basis consistent with RCW 4.28.185 or with
33 the Constitution of this state and the Constitution of the United
34 States.

35 (2) For jurisdiction to be exercised under subsection (1)(d)(i) or
36 (ii) of this section, the individual must have communicated with the
37 petitioner or a member of the petitioner's family, directly or

1 indirectly, or made known a threat to the safety of the petitioner or
2 member of the petitioner's family while the petitioner or family member
3 resides in this state. For the purposes of subsection (1)(d)(i) or
4 (ii) of this section, "communicated or made known" includes, but is not
5 limited to, through the mail, telephonically, or a posting on an
6 electronic communication site or medium. Communication on any
7 electronic medium that is generally available to any individual
8 residing in the state shall be sufficient to exercise jurisdiction
9 under subsection (1)(d)(i) or (ii) of this section.

10 (3) For the purposes of this section, an act or acts that "occurred
11 within this state" includes, but is not limited to, an oral or written
12 statement made or published by a person outside of this state to any
13 person in this state by means of the mail, interstate commerce, or
14 foreign commerce. Oral or written statements sent by electronic mail
15 or the internet are deemed to have "occurred within this state."

16 NEW SECTION. **Sec. 18.** (1) A copy of a stalking protection order
17 granted under this chapter shall be forwarded by the clerk of the court
18 on or before the next judicial day to the appropriate law enforcement
19 agency specified in the order. Upon receipt of the order, the law
20 enforcement agency shall immediately enter the order into any
21 computer-based criminal intelligence information system available in
22 this state used by law enforcement agencies to list outstanding
23 warrants. The order shall remain in the computer for one year or until
24 the expiration date specified on the order. Upon receipt of notice
25 that an order has been terminated, the law enforcement agency shall
26 remove the order from the computer-based criminal intelligence
27 information system. The law enforcement agency shall only expunge from
28 the computer-based criminal intelligence information system orders that
29 are expired, vacated, terminated, or superseded. Entry into the law
30 enforcement information system constitutes notice to all law
31 enforcement agencies of the existence of the order. The order is fully
32 enforceable in any county in the state.

33 (2) The information entered into the computer-based criminal
34 intelligence information system shall include notice to law enforcement
35 whether the order was personally served, served by publication, or
36 served by mail.

1 NEW SECTION. **Sec. 19.** Upon application with notice to all parties
2 and after a hearing, the court may modify the terms of an existing
3 stalking protection order. In any situation where an order is
4 terminated or modified before its expiration date, the clerk of the
5 court shall forward on or before the next judicial day a true copy of
6 the modified order or the termination order to the appropriate law
7 enforcement agency specified in the modified or termination order.
8 Upon receipt of the order, the law enforcement agency shall promptly
9 enter it in the computer-based criminal intelligence information
10 system, or if the order is terminated, remove the order from the
11 computer-based criminal intelligence information system.

12 NEW SECTION. **Sec. 20.** An ex parte temporary order issued under
13 this chapter shall not be admissible as evidence in any subsequent
14 civil action for damages arising from the conduct alleged in the
15 petition or the order.

16 NEW SECTION. **Sec. 21.** Nothing in this chapter shall be construed
17 as requiring criminal charges to be filed as a condition of a stalking
18 protection order being issued.

19 NEW SECTION. **Sec. 22.** This act may be known and cited as the
20 stalking protection order act.

21 **Sec. 23.** RCW 9.94A.535 and 2011 c 87 s 1 are each amended to read
22 as follows:

23 The court may impose a sentence outside the standard sentence range
24 for an offense if it finds, considering the purpose of this chapter,
25 that there are substantial and compelling reasons justifying an
26 exceptional sentence. Facts supporting aggravated sentences, other
27 than the fact of a prior conviction, shall be determined pursuant to
28 the provisions of RCW 9.94A.537.

29 Whenever a sentence outside the standard sentence range is imposed,
30 the court shall set forth the reasons for its decision in written
31 findings of fact and conclusions of law. A sentence outside the
32 standard sentence range shall be a determinate sentence.

33 If the sentencing court finds that an exceptional sentence outside

1 the standard sentence range should be imposed, the sentence is subject
2 to review only as provided for in RCW 9.94A.585(4).

3 A departure from the standards in RCW 9.94A.589 (1) and (2)
4 governing whether sentences are to be served consecutively or
5 concurrently is an exceptional sentence subject to the limitations in
6 this section, and may be appealed by the offender or the state as set
7 forth in RCW 9.94A.585 (2) through (6).

8 (1) Mitigating Circumstances - Court to Consider

9 The court may impose an exceptional sentence below the standard
10 range if it finds that mitigating circumstances are established by a
11 preponderance of the evidence. The following are illustrative only and
12 are not intended to be exclusive reasons for exceptional sentences.

13 (a) To a significant degree, the victim was an initiator, willing
14 participant, aggressor, or provoker of the incident.

15 (b) Before detection, the defendant compensated, or made a good
16 faith effort to compensate, the victim of the criminal conduct for any
17 damage or injury sustained.

18 (c) The defendant committed the crime under duress, coercion,
19 threat, or compulsion insufficient to constitute a complete defense but
20 which significantly affected his or her conduct.

21 (d) The defendant, with no apparent predisposition to do so, was
22 induced by others to participate in the crime.

23 (e) The defendant's capacity to appreciate the wrongfulness of his
24 or her conduct, or to conform his or her conduct to the requirements of
25 the law, was significantly impaired. Voluntary use of drugs or alcohol
26 is excluded.

27 (f) The offense was principally accomplished by another person and
28 the defendant manifested extreme caution or sincere concern for the
29 safety or well-being of the victim.

30 (g) The operation of the multiple offense policy of RCW 9.94A.589
31 results in a presumptive sentence that is clearly excessive in light of
32 the purpose of this chapter, as expressed in RCW 9.94A.010.

33 (h) The defendant or the defendant's children suffered a continuing
34 pattern of physical or sexual abuse by the victim of the offense and
35 the offense is a response to that abuse.

36 (i) The defendant was making a good faith effort to obtain or
37 provide medical assistance for someone who is experiencing a drug-
38 related overdose.

1 (j) The current offense involved domestic violence, as defined in
2 RCW 10.99.020, and the defendant suffered a continuing pattern of
3 coercion, control, or abuse by the victim of the offense and the
4 offense is a response to that coercion, control, or abuse.

5 (2) Aggravating Circumstances - Considered and Imposed by the Court

6 The trial court may impose an aggravated exceptional sentence
7 without a finding of fact by a jury under the following circumstances:

8 (a) The defendant and the state both stipulate that justice is best
9 served by the imposition of an exceptional sentence outside the
10 standard range, and the court finds the exceptional sentence to be
11 consistent with and in furtherance of the interests of justice and the
12 purposes of the sentencing reform act.

13 (b) The defendant's prior unscored misdemeanor or prior unscored
14 foreign criminal history results in a presumptive sentence that is
15 clearly too lenient in light of the purpose of this chapter, as
16 expressed in RCW 9.94A.010.

17 (c) The defendant has committed multiple current offenses and the
18 defendant's high offender score results in some of the current offenses
19 going unpunished.

20 (d) The failure to consider the defendant's prior criminal history
21 which was omitted from the offender score calculation pursuant to RCW
22 9.94A.525 results in a presumptive sentence that is clearly too
23 lenient.

24 (3) Aggravating Circumstances - Considered by a Jury -Imposed by
25 the Court

26 Except for circumstances listed in subsection (2) of this section,
27 the following circumstances are an exclusive list of factors that can
28 support a sentence above the standard range. Such facts should be
29 determined by procedures specified in RCW 9.94A.537.

30 (a) The defendant's conduct during the commission of the current
31 offense manifested deliberate cruelty to the victim.

32 (b) The defendant knew or should have known that the victim of the
33 current offense was particularly vulnerable or incapable of resistance.

34 (c) The current offense was a violent offense, and the defendant
35 knew that the victim of the current offense was pregnant.

36 (d) The current offense was a major economic offense or series of
37 offenses, so identified by a consideration of any of the following
38 factors:

1 (i) The current offense involved multiple victims or multiple
2 incidents per victim;

3 (ii) The current offense involved attempted or actual monetary loss
4 substantially greater than typical for the offense;

5 (iii) The current offense involved a high degree of sophistication
6 or planning or occurred over a lengthy period of time; or

7 (iv) The defendant used his or her position of trust, confidence,
8 or fiduciary responsibility to facilitate the commission of the current
9 offense.

10 (e) The current offense was a major violation of the Uniform
11 Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to
12 trafficking in controlled substances, which was more onerous than the
13 typical offense of its statutory definition: The presence of ANY of
14 the following may identify a current offense as a major VUCSA:

15 (i) The current offense involved at least three separate
16 transactions in which controlled substances were sold, transferred, or
17 possessed with intent to do so;

18 (ii) The current offense involved an attempted or actual sale or
19 transfer of controlled substances in quantities substantially larger
20 than for personal use;

21 (iii) The current offense involved the manufacture of controlled
22 substances for use by other parties;

23 (iv) The circumstances of the current offense reveal the offender
24 to have occupied a high position in the drug distribution hierarchy;

25 (v) The current offense involved a high degree of sophistication or
26 planning, occurred over a lengthy period of time, or involved a broad
27 geographic area of disbursement; or

28 (vi) The offender used his or her position or status to facilitate
29 the commission of the current offense, including positions of trust,
30 confidence or fiduciary responsibility (e.g., pharmacist, physician, or
31 other medical professional).

32 (f) The current offense included a finding of sexual motivation
33 pursuant to RCW 9.94A.835.

34 (g) The offense was part of an ongoing pattern of sexual abuse of
35 the same victim under the age of eighteen years manifested by multiple
36 incidents over a prolonged period of time.

37 (h) The current offense involved domestic violence, as defined in

1 RCW 10.99.020, or stalking, as defined in RCW 9A.46.110, and one or
2 more of the following was present:

3 (i) The offense was part of an ongoing pattern of psychological,
4 physical, or sexual abuse of a victim or multiple victims manifested by
5 multiple incidents over a prolonged period of time;

6 (ii) The offense occurred within sight or sound of the victim's or
7 the offender's minor children under the age of eighteen years; or

8 (iii) The offender's conduct during the commission of the current
9 offense manifested deliberate cruelty or intimidation of the victim.

10 (i) The offense resulted in the pregnancy of a child victim of
11 rape.

12 (j) The defendant knew that the victim of the current offense was
13 a youth who was not residing with a legal custodian and the defendant
14 established or promoted the relationship for the primary purpose of
15 victimization.

16 (k) The offense was committed with the intent to obstruct or impair
17 human or animal health care or agricultural or forestry research or
18 commercial production.

19 (l) The current offense is trafficking in the first degree or
20 trafficking in the second degree and any victim was a minor at the time
21 of the offense.

22 (m) The offense involved a high degree of sophistication or
23 planning.

24 (n) The defendant used his or her position of trust, confidence, or
25 fiduciary responsibility to facilitate the commission of the current
26 offense.

27 (o) The defendant committed a current sex offense, has a history of
28 sex offenses, and is not amenable to treatment.

29 (p) The offense involved an invasion of the victim's privacy.

30 (q) The defendant demonstrated or displayed an egregious lack of
31 remorse.

32 (r) The offense involved a destructive and foreseeable impact on
33 persons other than the victim.

34 (s) The defendant committed the offense to obtain or maintain his
35 or her membership or to advance his or her position in the hierarchy of
36 an organization, association, or identifiable group.

37 (t) The defendant committed the current offense shortly after being
38 released from incarceration.

1 (u) The current offense is a burglary and the victim of the
2 burglary was present in the building or residence when the crime was
3 committed.

4 (v) The offense was committed against a law enforcement officer who
5 was performing his or her official duties at the time of the offense,
6 the offender knew that the victim was a law enforcement officer, and
7 the victim's status as a law enforcement officer is not an element of
8 the offense.

9 (w) The defendant committed the offense against a victim who was
10 acting as a good samaritan.

11 (x) The defendant committed the offense against a public official
12 or officer of the court in retaliation of the public official's
13 performance of his or her duty to the criminal justice system.

14 (y) The victim's injuries substantially exceed the level of bodily
15 harm necessary to satisfy the elements of the offense. This aggravator
16 is not an exception to RCW 9.94A.530(2).

17 (z)(i)(A) The current offense is theft in the first degree, theft
18 in the second degree, possession of stolen property in the first
19 degree, or possession of stolen property in the second degree; (B) the
20 stolen property involved is metal property; and (C) the property damage
21 to the victim caused in the course of the theft of metal property is
22 more than three times the value of the stolen metal property, or the
23 theft of the metal property creates a public hazard.

24 (ii) For purposes of this subsection, "metal property" means
25 commercial metal property, private metal property, or nonferrous metal
26 property, as defined in RCW 19.290.010.

27 (aa) The defendant committed the offense with the intent to
28 directly or indirectly cause any benefit, aggrandizement, gain, profit,
29 or other advantage to or for a criminal street gang as defined in RCW
30 9.94A.030, its reputation, influence, or membership.

31 (bb) The current offense involved paying to view, over the internet
32 in violation of RCW 9.68A.075, depictions of a minor engaged in an act
33 of sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through
34 (g).

35 (cc) The offense was intentionally committed because the defendant
36 perceived the victim to be homeless, as defined in RCW 9.94A.030.

1 **Sec. 24.** RCW 9A.46.040 and 2011 c 307 s 4 are each amended to read
2 as follows:

3 (1) Because of the likelihood of repeated harassment directed at
4 those who have been victims of harassment in the past, when any
5 defendant charged with a crime involving harassment is released from
6 custody before trial on bail or personal recognizance, the court
7 authorizing the release may issue an order pursuant to this chapter and
8 require that the defendant:

9 (a) Stay away from the home, school, business, or place of
10 employment of the victim or victims of the alleged offense or other
11 location, as shall be specifically named by the court in the order;

12 (b) Refrain from contacting, intimidating, threatening, or
13 otherwise interfering with the victim or victims of the alleged offense
14 and such other persons, including but not limited to members of the
15 family or household of the victim, as shall be specifically named by
16 the court in the order.

17 (2) An intentional violation of a court order issued under this
18 section or an equivalent local ordinance is a misdemeanor. The written
19 order releasing the defendant shall contain the court's directives and
20 shall bear the legend: Violation of this order is a criminal offense
21 under chapter 9A.46 RCW. A certified copy of the order shall be
22 provided to the victim by the clerk of the court.

23 (3) If the defendant is charged with the crime of stalking, and the
24 court issues an order protecting the victim, the court shall issue a
25 stalking protection order pursuant to chapter 7.-- RCW (the new chapter
26 created in section 30 of this act).

27 NEW SECTION. **Sec. 25.** A new section is added to chapter 9A.46 RCW
28 to read as follows:

29 (1) A defendant arrested for stalking as defined by RCW 9A.46.110
30 shall be required to appear in person before a magistrate within one
31 judicial day after the arrest.

32 (2) At the time of appearance provided in subsection (1) of this
33 section the court shall determine the necessity of imposing a stalking
34 protection order under chapter 7.-- RCW (the new chapter created in
35 section 30 of this act).

36 (3) Appearances required pursuant to this section are mandatory and
37 cannot be waived.

1 (4) The stalking protection order shall be issued and entered with
2 the appropriate law enforcement agency pursuant to the procedures
3 outlined in chapter 7.-- RCW (the new chapter created in section 30 of
4 this act).

5 **Sec. 26.** RCW 9A.46.110 and 2007 c 201 s 1 are each amended to read
6 as follows:

7 (1) A person commits the crime of stalking if, without lawful
8 authority and under circumstances not amounting to a felony attempt of
9 another crime:

10 (a) He or she intentionally and repeatedly harasses or repeatedly
11 follows another person; and

12 (b) The person being harassed or followed is placed in fear that
13 the stalker intends to injure the person, another person, or property
14 of the person or of another person. The feeling of fear must be one
15 that a reasonable person in the same situation would experience under
16 all the circumstances; and

17 (c) The stalker either:

18 (i) Intends to frighten, intimidate, or harass the person; or

19 (ii) Knows or reasonably should know that the person is afraid,
20 intimidated, or harassed even if the stalker did not intend to place
21 the person in fear or intimidate or harass the person.

22 (2)(a) It is not a defense to the crime of stalking under
23 subsection (1)(c)(i) of this section that the stalker was not given
24 actual notice that the person did not want the stalker to contact or
25 follow the person; and

26 (b) It is not a defense to the crime of stalking under subsection
27 (1)(c)(ii) of this section that the stalker did not intend to frighten,
28 intimidate, or harass the person.

29 (3) It shall be a defense to the crime of stalking that the
30 defendant is a licensed private investigator acting within the capacity
31 of his or her license as provided by chapter 18.165 RCW.

32 (4) Attempts to contact or follow the person after being given
33 actual notice that the person does not want to be contacted or followed
34 constitutes prima facie evidence that the stalker intends to intimidate
35 or harass the person. "Contact" includes, in addition to any other
36 form of contact or communication, the sending of an electronic
37 communication to the person.

1 (5)(a) Except as provided in (b) of this subsection, a person who
2 stalks another person is guilty of a gross misdemeanor.

3 (b) A person who stalks another is guilty of a class ((C)) B felony
4 if any of the following applies: (i) The stalker has previously been
5 convicted in this state or any other state of any crime of harassment,
6 as defined in RCW 9A.46.060, of the same victim or members of the
7 victim's family or household or any person specifically named in a
8 protective order; (ii) the stalking violates any protective order
9 protecting the person being stalked; (iii) the stalker has previously
10 been convicted of a gross misdemeanor or felony stalking offense under
11 this section for stalking another person; (iv) the stalker was armed
12 with a deadly weapon, as defined in RCW ((~~9.94A.602~~)) 9.94A.825, while
13 stalking the person; (v)(A) the stalker's victim is or was a law
14 enforcement officer; judge; juror; attorney; victim advocate;
15 legislator; community corrections' officer; an employee, contract staff
16 person, or volunteer of a correctional agency; court employee, court
17 clerk, or courthouse facilitator; or an employee of the child
18 protective, child welfare, or adult protective services division within
19 the department of social and health services; and (B) the stalker
20 stalked the victim to retaliate against the victim for an act the
21 victim performed during the course of official duties or to influence
22 the victim's performance of official duties; or (vi) the stalker's
23 victim is a current, former, or prospective witness in an adjudicative
24 proceeding, and the stalker stalked the victim to retaliate against the
25 victim as a result of the victim's testimony or potential testimony.

26 (6) As used in this section:

27 (a) "Correctional agency" means a person working for the department
28 of natural resources in a correctional setting or any state, county, or
29 municipally operated agency with the authority to direct the release of
30 a person serving a sentence or term of confinement and includes but is
31 not limited to the department of corrections, the indeterminate
32 sentence review board, and the department of social and health
33 services.

34 (b) "Follows" means deliberately maintaining visual or physical
35 proximity to a specific person over a period of time. A finding that
36 the alleged stalker repeatedly and deliberately appears at the person's
37 home, school, place of employment, business, or any other location to
38 maintain visual or physical proximity to the person is sufficient to

1 find that the alleged stalker follows the person. It is not necessary
2 to establish that the alleged stalker follows the person while in
3 transit from one location to another.

4 (c) "Harasses" means unlawful harassment as defined in RCW
5 10.14.020.

6 (d) "Protective order" means any temporary or permanent court order
7 prohibiting or limiting violence against, harassment of, contact or
8 communication with, or physical proximity to another person.

9 (e) "Repeatedly" means on two or more separate occasions.

10 **Sec. 27.** RCW 10.14.070 and 2005 c 144 s 1 are each amended to read
11 as follows:

12 Upon receipt of the petition alleging a prima facie case of
13 harassment, other than a petition alleging a sex offense as defined in
14 chapter 9A.44 RCW or a petition for a stalking protection order under
15 chapter 7.-- RCW (the new chapter created in section 30 of this act),
16 the court shall order a hearing which shall be held not later than
17 fourteen days from the date of the order. If the petition alleges a
18 sex offense as defined in chapter 9A.44 RCW, the court shall order a
19 hearing which shall be held not later than fourteen days from the date
20 of the order. Except as provided in RCW 10.14.085, personal service
21 shall be made upon the respondent not less than five court days before
22 the hearing. If timely personal service cannot be made, the court
23 shall set a new hearing date and shall either require additional
24 attempts at obtaining personal service or permit service by publication
25 as provided by RCW 10.14.085. If the court permits service by
26 publication, the court shall set the hearing date not later than
27 twenty-four days from the date of the order. The court may issue an ex
28 parte order for protection pending the hearing as provided in RCW
29 10.14.080 and 10.14.085.

30 **Sec. 28.** RCW 26.50.110 and 2009 c 439 s 3 and 2009 c 288 s 3 are
31 each reenacted and amended to read as follows:

32 (1)(a) Whenever an order is granted under this chapter, chapter
33 7.-- (the new chapter created in section 30 of this act), 7.90, 9A.46,
34 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or there is a valid
35 foreign protection order as defined in RCW 26.52.020, and the

1 respondent or person to be restrained knows of the order, a violation
2 of any of the following provisions of the order is a gross misdemeanor,
3 except as provided in subsections (4) and (5) of this section:

4 (i) The restraint provisions prohibiting acts or threats of
5 violence against, or stalking of, a protected party, or restraint
6 provisions prohibiting contact with a protected party;

7 (ii) A provision excluding the person from a residence, workplace,
8 school, or day care;

9 (iii) A provision prohibiting a person from knowingly coming
10 within, or knowingly remaining within, a specified distance of a
11 location;

12 (iv) A provision prohibiting interfering with the protected party's
13 efforts to remove a pet owned, possessed, leased, kept, or held by the
14 petitioner, respondent, or a minor child residing with either the
15 petitioner or the respondent; or

16 (v) A provision of a foreign protection order specifically
17 indicating that a violation will be a crime.

18 (b) Upon conviction, and in addition to any other penalties
19 provided by law, the court may require that the respondent submit to
20 electronic monitoring. The court shall specify who shall provide the
21 electronic monitoring services, and the terms under which the
22 monitoring shall be performed. The order also may include a
23 requirement that the respondent pay the costs of the monitoring. The
24 court shall consider the ability of the convicted person to pay for
25 electronic monitoring.

26 (2) A peace officer shall arrest without a warrant and take into
27 custody a person whom the peace officer has probable cause to believe
28 has violated an order issued under this chapter, chapter 7.-- (the new
29 chapter created in section 30 of this act), 7.90, 9A.46 9.94A, 10.99,
30 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order
31 as defined in RCW 26.52.020, that restrains the person or excludes the
32 person from a residence, workplace, school, or day care, or prohibits
33 the person from knowingly coming within, or knowingly remaining within,
34 a specified distance of a location, if the person restrained knows of
35 the order. Presence of the order in the law enforcement computer-based
36 criminal intelligence information system is not the only means of
37 establishing knowledge of the order.

1 (3) A violation of an order issued under this chapter, chapter 7.--
2 (the new chapter created in section 30 of this act), 7.90, 9A.46,
3 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign
4 protection order as defined in RCW 26.52.020, shall also constitute
5 contempt of court, and is subject to the penalties prescribed by law.

6 (4) Any assault that is a violation of an order issued under this
7 chapter, chapter 7.-- (the new chapter created in section 30 of this
8 act), 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or
9 of a valid foreign protection order as defined in RCW 26.52.020, and
10 that does not amount to assault in the first or second degree under RCW
11 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in
12 violation of such an order that is reckless and creates a substantial
13 risk of death or serious physical injury to another person is a class
14 C felony.

15 (5) A violation of a court order issued under this chapter, chapter
16 7.-- (the new chapter created in section 30 of this act), 7.90, 9A.46,
17 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign
18 protection order as defined in RCW 26.52.020, is a class C felony if
19 the offender has at least two previous convictions for violating the
20 provisions of an order issued under this chapter, chapter 7.90, 9A.46,
21 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign
22 protection order as defined in RCW 26.52.020. The previous convictions
23 may involve the same victim or other victims specifically protected by
24 the orders the offender violated.

25 (6) Upon the filing of an affidavit by the petitioner or any peace
26 officer alleging that the respondent has violated an order granted
27 under this chapter, chapter 7.-- (the new chapter created in section 30
28 of this act), 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34
29 RCW, or a valid foreign protection order as defined in RCW 26.52.020,
30 the court may issue an order to the respondent, requiring the
31 respondent to appear and show cause within fourteen days why the
32 respondent should not be found in contempt of court and punished
33 accordingly. The hearing may be held in the court of any county or
34 municipality in which the petitioner or respondent temporarily or
35 permanently resides at the time of the alleged violation.

36 **Sec. 29.** RCW 10.31.100 and 2010 c 274 s 201 are each amended to
37 read as follows:

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

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

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

18 (a) An order has been issued of which the person has knowledge
19 under RCW 26.44.063, or chapter 7.-- (the new chapter created in
20 section 30 of this act), 7.90, 9A.46, 10.99, 26.09, 26.10, 26.26,
21 26.50, or 74.34 RCW restraining the person and the person has violated
22 the terms of the order restraining the person from acts or threats of
23 violence, or restraining the person from going onto the grounds of or
24 entering a residence, workplace, school, or day care, or prohibiting
25 the person from knowingly coming within, or knowingly remaining within,
26 a specified distance of a location or, in the case of an order issued
27 under RCW 26.44.063, imposing any other restrictions or conditions upon
28 the person; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 NEW SECTION. **Sec. 30.** Sections 1 through 22 of this act
2 constitute a new chapter in Title 7 RCW.

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