

SSB 5452 - H COMM AMD  
By Committee on Judiciary

NOT CONSIDERED

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** Stalking is a crime that affects 3.4  
4 million people over the age of eighteen each year in the United States.  
5 Almost half of those victims experience at least one unwanted contact  
6 per week. Twenty-nine percent of stalking victims fear that the  
7 stalking will never stop. The prevalence of anxiety, insomnia, social  
8 dysfunction, and severe depression is much higher among stalking  
9 victims than the general population. Three in four stalking victims  
10 are stalked by someone they know, and at least thirty percent of  
11 stalking victims are stalked by a current or former intimate partner.  
12 For many of those victims, the domestic violence protection order is a  
13 tool they can access to help them stay safer. For those who have not  
14 had an intimate relationship with the person stalking them, there are  
15 few remedies for them under the law. Victims who do not report the  
16 crime still desire safety and protection from future interactions with  
17 the offender. Some cases in which the stalking is reported are not  
18 prosecuted. In these situations, the victim should be able to seek a  
19 civil remedy requiring that the offender stay away from the victim. It  
20 is the intent of the legislature that the stalking protection order  
21 created by this chapter be a remedy for victims who do not qualify for  
22 a domestic violence order of protection. Moreover, it is the intent of  
23 the legislature that courts specifically distinguish stalking conduct  
24 covered by the stalking protection order from common acts of harassment  
25 or nuisance covered by antiharassment orders. Law enforcement agencies  
26 need to be able to rely on orders that distinguish stalking conduct  
27 from common acts of harassment or nuisance. Victims of stalking  
28 conduct deserve the same protection and access to the court system as  
29 victims of domestic violence and sexual assault, and this protection  
30 can be accomplished without infringing on constitutionally protected

1 speech or activity. The legislature finds that preventing the issuance  
2 of conflicting orders is in the interest of both petitioners and  
3 respondents.

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

6 (1) "Minor" means a person who is under eighteen years of age.

7 (2) "Petitioner" means any named petitioner for the stalking  
8 protection order or any named victim of stalking conduct on whose  
9 behalf the petition is brought.

10 (3) "Stalking conduct" means any of the following:

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

12 (b) Any act of cyberstalking as defined under RCW 9.61.260;

13 (c) Any course of conduct involving repeated or continuing  
14 contacts, attempts to contact, monitoring, tracking, keeping under  
15 observation, or following of another that:

16 (i) Would cause a reasonable person to feel intimidated,  
17 frightened, or threatened and that actually causes such a feeling;

18 (ii) Serves no lawful purpose; and

19 (iii) The stalker knows or reasonably should know threatens,  
20 frightens, or intimidates the person, even if the stalker did not  
21 intend to intimidate, frighten, or threaten the person.

22 (4) "Stalking no-contact order" means a temporary order or a final  
23 order granted under this chapter against a person charged with or  
24 arrested for stalking, which includes a remedy authorized under section  
25 16 of this act.

26 (5) "Stalking protection order" means an ex parte temporary order  
27 or a final order granted under this chapter, which includes a remedy  
28 authorized in section 10 of this act.

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

31 (1) A petition for relief shall allege the existence of stalking  
32 conduct and shall be accompanied by an affidavit made under oath  
33 stating the specific reasons that have caused the petitioner to become  
34 reasonably fearful that the respondent intends to injure the petitioner  
35 or another person, or the petitioner's property or the property of

1 another. The petition shall disclose the existence of any other  
2 litigation or of any other restraining, protection, or no-contact  
3 orders between the parties.

4 (2) A petition for relief shall be filed as a separate, stand-alone  
5 civil case and a petition for relief may be made regardless of whether  
6 or not there is a pending lawsuit, complaint, petition, or other action  
7 between the parties.

8 (3) Forms and instructional brochures and the necessary number of  
9 certified copies shall be provided to the petitioner free of charge.

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

12 (5) If the petition states that disclosure of the petitioner's  
13 address would risk abuse of the petitioner or any member of the  
14 petitioner's family or household, that address may be omitted from all  
15 documents filed with the court. If the petitioner has not disclosed an  
16 address under this subsection, the petitioner shall designate an  
17 alternative address at which the respondent may serve notice of any  
18 motions.

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

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

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

26 (a) A minor child, where the petitioner is a parent, a legal  
27 custodian, or, where the respondent is not a parent, an adult with whom  
28 the child is currently residing; or

29 (b) A vulnerable adult as defined in RCW 74.34.020 and where the  
30 petitioner is an interested person as defined in RCW 74.34.020(10).

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

34 (2) A minor sixteen years of age or older may seek relief under  
35 this chapter and is not required to seek relief through a guardian or

1 next friend. This does not preclude a parent or legal custodian of a  
2 victim sixteen or seventeen years of age from seeking relief on behalf  
3 of the minor.

4 (3) The district courts shall have original jurisdiction and  
5 cognizance of any civil actions and proceedings brought under this  
6 chapter, except a district court shall transfer such actions and  
7 proceedings to the superior court when it is shown that (a) the  
8 petitioner, victim, or respondent to the petition is under eighteen  
9 years of age; (b) the action involves title or possession of real  
10 property; (c) a superior court has exercised or is exercising  
11 jurisdiction over a proceeding involving the parties; or (d) the action  
12 would have the effect of interfering with a respondent's care, control,  
13 or custody of the respondent's minor child.

14 (4) Municipal courts may exercise jurisdiction and cognizance of  
15 any civil actions and proceedings brought under this chapter by  
16 adoption of local court rule, except a municipal court shall transfer  
17 such actions and proceedings to the superior court when it is shown  
18 that (a) the petitioner, victim, or respondent to the petition is under  
19 eighteen years of age; (b) the action involves title or possession of  
20 real property; (c) a superior court has exercised or is exercising  
21 jurisdiction over a proceeding involving the parties; or (d) the action  
22 would have the effect of interfering with a respondent's care, control,  
23 or custody of the respondent's minor child.

24 (5) Superior courts shall have concurrent jurisdiction to receive  
25 transfer of stalking petitions in cases where a district or municipal  
26 court judge makes findings of fact and conclusions of law showing that  
27 meritorious reasons exist for the transfer. The jurisdiction of  
28 district and municipal courts is limited to enforcement of RCW  
29 26.50.110(1), or the equivalent municipal ordinance, and the issuance  
30 and enforcement of temporary orders provided for in section 12 of this  
31 act if the superior court is exercising jurisdiction over a proceeding  
32 under this chapter involving the parties.

33 (6) No guardian or guardian ad litem need be appointed on behalf of  
34 a respondent to an action under this chapter if such respondent is  
35 sixteen years of age or older.

36 (7) If a guardian ad litem is appointed for the petitioner or  
37 respondent, the petitioner shall not be required to pay any fee  
38 associated with such appointment.

1 (8) An action under this chapter shall be filed in the county or  
2 the municipality where the petitioner resides, unless the petitioner  
3 has left the residence or household to avoid stalking conduct. In that  
4 case, the petitioner may bring an action in the county or municipality  
5 of the previous or the new residence or household.

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, to reasonably accommodate a disability, or in exceptional  
10 circumstances to protect a petitioner from further stalking behavior.  
11 The court shall require assurances of the petitioner's identity before  
12 conducting a telephonic hearing. Except as provided in section 15 of  
13 this act, personal service shall be made upon the respondent not less  
14 than five court days prior to the hearing. If timely personal service  
15 cannot be made, the court shall set a new hearing date and shall  
16 require additional attempts at obtaining personal service or other  
17 service as permitted under section 15 of this act. The court may issue  
18 an ex parte temporary stalking order pending the hearing as provided in  
19 section 12 of this act.

20 NEW SECTION. **Sec. 7.** Before granting an order under this chapter,  
21 the court may consult the judicial information system, if available, to  
22 determine criminal history or the pendency of other proceedings  
23 involving the parties.

24 NEW SECTION. **Sec. 8.** No fees for filing or service of process may  
25 be charged by a public agency to petitioners seeking relief under this  
26 chapter.

27 NEW SECTION. **Sec. 9.** Victim advocates shall be allowed to  
28 accompany the victim and confer with the victim, unless otherwise  
29 directed by the court. Court administrators shall allow advocates to  
30 assist victims of stalking conduct in the preparation of petitions for  
31 stalking protection orders. Advocates are not engaged in the  
32 unauthorized practice of law when providing assistance of the types  
33 specified in this section.

1        NEW SECTION.        **Sec. 10.**        (1)(a) If the court finds by a  
2 preponderance of the evidence that the petitioner has been a victim of  
3 stalking conduct by the respondent, the court shall issue a stalking  
4 protection order.

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

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

14        (a) Restrain the respondent from having any contact, including  
15 nonphysical contact, with the petitioner directly, indirectly, or  
16 through third parties regardless of whether those third parties know of  
17 the order;

18        (b) Exclude the respondent from the petitioner's residence,  
19 workplace, or school, or from the day care, workplace, or school of the  
20 petitioner's minor children;

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

24        (d) Prohibit the respondent from keeping the petitioner and/or the  
25 petitioner's minor children under surveillance, to include electronic  
26 surveillance;

27        (e) Order any other injunctive relief as necessary or appropriate  
28 for the protection of the petitioner, to include a mental health and/or  
29 chemical dependency evaluation; and

30        (f) Require the respondent to pay the administrative court costs  
31 and service fees, as established by the county or municipality  
32 incurring the expense and to reimburse the petitioner for costs  
33 incurred in bringing the action, including reasonable attorneys' fees.

34        (3) Unless otherwise stated in the order, when a person is  
35 petitioning on behalf of a minor child or vulnerable adult, the relief  
36 authorized in this section shall apply only for the protection of the  
37 victim, and not the petitioner.

1 (4) In cases where the petitioner and the respondent attend the  
2 same public or private elementary, middle, or high school, the court,  
3 when issuing a protection order and providing relief, shall consider,  
4 among the other facts of the case, the severity of the act, any  
5 continuing physical danger or emotional distress to the petitioner, and  
6 the expense difficulty, and educational disruption that would be caused  
7 by a transfer of the respondent to another school. The court may order  
8 that the person restrained in the order not attend the public or  
9 approved private elementary, middle, or high school attended by the  
10 person protected by the order. In the event the court orders a  
11 transfer of the restrained person to another school, the parents or  
12 legal guardians of the person restrained in the order are responsible  
13 for transportation and other costs associated with the change of school  
14 by the person restrained in the order. The court shall send notice of  
15 the restriction on attending the same school as the person protected by  
16 the order to the public or approved private school the person  
17 restrained by the order will attend and to the school the person  
18 protected by the order attends.

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

23 NEW SECTION. **Sec. 12.** (1) Where it appears from the petition and  
24 any additional evidence that the respondent has engaged in stalking  
25 conduct and that irreparable injury could result if an order is not  
26 issued immediately without prior notice, the court may grant an ex  
27 parte temporary order for protection, pending a full hearing and grant  
28 such injunctive relief as it deems proper, including the relief as  
29 specified under section 10 (2)(a) through (d) and (4) of this act.

30 (2) Irreparable injury under this section includes, but is not  
31 limited to, situations in which the respondent has recently threatened  
32 the petitioner with bodily injury or has engaged in acts of stalking  
33 conduct against the petitioner.

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

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

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

15 (6) If the court declines to issue an ex parte temporary stalking  
16 protection order, the court shall state the particular reasons for the  
17 court's denial. The court's denial of a motion for an ex parte  
18 temporary order shall be filed with the court.

19 (7) A knowing violation of a court order issued under this section  
20 is punishable under RCW 26.50.110.

21 NEW SECTION. **Sec. 13.** (1) Except as otherwise provided in this  
22 section or section 16 of this act, a final stalking protection order  
23 shall be effective for a fixed period of time or be permanent.

24 (2) Any ex parte temporary or final stalking protection order may  
25 be renewed one or more times. The petitioner may apply for renewal of  
26 the order by filing a petition for renewal at any time within the three  
27 months before the order expires. If the motion for renewal is  
28 uncontested and the petitioner seeks no modification of the order, the  
29 order may be renewed on the basis of the petitioner's motion or  
30 affidavit stating that there has been no material change in relevant  
31 circumstances since entry of the order and stating the reason for the  
32 requested renewal. The court shall grant the petition for renewal  
33 unless the respondent proves by a preponderance of the evidence that  
34 the respondent will not resume acts of stalking conduct against the  
35 petitioner or the petitioner's children or family or household members  
36 when the order expires. The court may renew the stalking protection  
37 order for another fixed time period or may enter a permanent order as



1 provided in this section. The court may award court costs, service  
2 fees, and reasonable attorneys' fees as provided in section 10 of this  
3 act.

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

7 (4) The practice of dismissing or suspending a criminal prosecution  
8 in exchange for the issuance of a stalking protection order undermines  
9 the purposes of this chapter. This section shall not be construed as  
10 encouraging that practice.

11 (5) If the court declines to issue an order for protection or  
12 declines to renew an order for protection, the court shall state in  
13 writing on the order the particular reasons for the court's denial.

14 NEW SECTION. **Sec. 14.** (1) Any stalking protection order shall  
15 describe each remedy granted by the court, in reasonable detail and not  
16 by reference to any other document, so that the respondent may clearly  
17 understand what he or she must do or refrain from doing.

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

19 (a) The name of the petitioner that the court finds was the victim  
20 of stalking by the respondent;

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

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

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

30 (e) For ex parte temporary stalking protection orders, that the  
31 respondent may petition the court, to modify or terminate the order if  
32 he or she did not receive actual prior notice of the hearing and if the  
33 respondent alleges that he or she had a meritorious defense to the  
34 order or that the order or its remedy is not authorized by this  
35 chapter.

36 (3) A stalking protection order shall include the following notice,  
37 printed in conspicuous type: "A knowing violation of this stalking

1 protection order is a criminal offense under chapter 26.50 RCW and will  
2 subject a violator to arrest. You can be arrested even if any person  
3 protected by the order invites or allows you to violate the order's  
4 prohibitions. You have the sole responsibility to avoid or refrain  
5 from violating the order's provisions. Only the court can change the  
6 order."

7 NEW SECTION. **Sec. 15.** (1) An order issued under this chapter  
8 shall be personally served upon the respondent, except as provided in  
9 subsection (6), (7), or (8) of this section. If the respondent is a  
10 minor, the respondent's parent or legal custodian shall also be  
11 personally served.

12 (2) The sheriff of the county or the peace officers of the  
13 municipality in which the respondent resides shall serve the respondent  
14 personally unless the petitioner elects to have the respondent served  
15 by a private party.

16 (3) If service by a sheriff or municipal peace officer is to be  
17 used, the clerk of the court shall have a copy of any order issued  
18 under this chapter forwarded on or before the next judicial day to the  
19 appropriate law enforcement agency specified in the order for service  
20 upon the respondent. Service of an order issued under this chapter  
21 shall take precedence over the service of other documents unless they  
22 are of a similar emergency nature.

23 (4) If the sheriff or municipal peace officer cannot complete  
24 service upon the respondent within ten days, the sheriff or municipal  
25 peace officer shall notify the petitioner. The petitioner shall  
26 provide information sufficient to permit notification.

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

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

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

1 (a) The sheriff or municipal officer or private process server  
2 files an affidavit stating that the officer or private process server  
3 was unable to complete personal service upon the respondent. The  
4 affidavit must describe the number and types of attempts the officer or  
5 private process server made to complete service;

6 (b) The petitioner files an affidavit stating that the petitioner  
7 believes that the respondent is hiding from the server to avoid  
8 service. The petitioner's affidavit must state the reasons for the  
9 belief that the respondent is avoiding service;

10 (c) The server has deposited a copy of the petition, notice of  
11 hearing, and the ex parte order of protection in the post office,  
12 directed to the respondent at the respondent's last known address,  
13 unless the server states that the server does not know the respondent's  
14 address;

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

19 (e) The court shall reissue the temporary order of protection not  
20 to exceed another twenty-four days from the date of reissuing the ex  
21 parte protection order and order to provide service by publication; and

22 (f) The publication shall be made in a newspaper of general  
23 circulation in the county where the petition was brought and in the  
24 county of the last known address of the respondent once a week for  
25 three consecutive weeks. The newspaper selected must be one of the  
26 three most widely circulated papers in the county. The publication of  
27 summons shall not be made until the court orders service by publication  
28 under this section. Service of the summons shall be considered  
29 complete when the publication has been made for three consecutive  
30 weeks. The summons must be signed by the petitioner. The summons  
31 shall contain the date of the first publication, and shall require the  
32 respondent upon whom service by publication is desired, to appear and  
33 answer the petition on the date set for the hearing. The summons shall  
34 also contain a brief statement of the reason for the petition and a  
35 summary of the provisions under the ex parte order. The summons shall

1 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 32 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.

.....  
Petitioner .....

23 (8) In circumstances justifying service by publication under  
24 subsection (7) of this section, if the serving party files an affidavit  
25 stating facts from which the court determines that service by mail is  
26 just as likely to give actual notice as service by publication and that  
27 the serving party is unable to afford the cost of service by  
28 publication, the court may order that service be made by mail. Such  
29 service shall be made by any person over eighteen years of age, who is  
30 competent to be a witness, other than a party, by mailing copies of the  
31 order and other process to the party to be served at his or her last  
32 known address or any other address determined by the court to be  
33 appropriate. Two copies shall be mailed, postage prepaid, one by  
34 ordinary first-class mail and the other by a form of mail requiring a  
35 signed receipt showing when and to whom it was delivered. The  
36 envelopes must bear the return address of the sender.

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

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

7 NEW SECTION. **Sec. 16.** (1)(a) When any person charged with or  
8 arrested for stalking as defined in RCW 9A.46.110 or any other stalking  
9 related offense under RCW 9A.46.060 is released from custody before  
10 arraignment or trial on bail or personal recognizance, the court  
11 authorizing the release may prohibit that person from having any  
12 contact with the victim. The jurisdiction authorizing the release  
13 shall determine whether that person should be prohibited from having  
14 any contact with the victim. If there is no outstanding restraining or  
15 protective order prohibiting that person from having contact with the  
16 victim, and the victim does not qualify for a domestic violence  
17 protection order under chapter 26.50 RCW, the court authorizing release  
18 may issue, by telephone, a stalking no-contact order prohibiting the  
19 person charged or arrested from having contact with the victim or from  
20 knowingly coming within, or knowingly remaining within, a specified  
21 distance of a location.

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

24 (c) The stalking no-contact order shall also be issued in writing  
25 as soon as possible.

26 (2)(a) At the time of arraignment or whenever a motion is brought  
27 to modify the conditions of the defendant's release, the court shall  
28 determine whether a stalking no-contact order shall be issued or  
29 extended. If a stalking no-contact order is issued or extended, the  
30 court may also include in the conditions of release a requirement that  
31 the defendant submit to electronic monitoring, including real-time  
32 global position satellite monitoring with victim notification. If  
33 electronic monitoring is ordered, the court shall specify who shall  
34 provide the monitoring services, and the terms under which the  
35 monitoring shall be performed. Upon conviction, the court may require  
36 as a condition of the sentence that the defendant reimburse the

1 providing agency for the costs of the electronic monitoring, including  
2 costs relating to real-time global position satellite monitoring with  
3 victim notification.

4 (b) A stalking no-contact order issued by the court in conjunction  
5 with criminal charges shall terminate if the defendant is acquitted or  
6 the charges are dismissed, unless the victim files an independent  
7 action for a stalking protection order. If the victim files an  
8 independent action for a civil stalking protection order, the order may  
9 be continued by the court until a full hearing is conducted pursuant to  
10 section 6 of this act.

11 (3)(a) The written order releasing the person charged or arrested  
12 shall contain the court's directives and shall bear the legend:  
13 "Violation of this order is a criminal offense under chapter 26.50 RCW  
14 and will subject a violator to arrest. You can be arrested even if any  
15 person protected by the order invites or allows you to violate the  
16 order's prohibitions. You have the sole responsibility to avoid or  
17 refrain from violating the order's provisions. Only the court can  
18 change the order."

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

21 (4) If a stalking no-contact order has been issued prior to  
22 charging, that order shall expire at arraignment or within seventy-two  
23 hours if charges are not filed.

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

36 (6)(a) When a defendant is found guilty of stalking as defined in  
37 RCW 9A.46.110 or any other stalking related offense under RCW 9A.46.060  
38 and a condition of the sentence restricts the defendant's ability to

1 have contact with the victim, and the victim does not qualify for a  
2 domestic violence protection order under chapter 26.50 RCW, the  
3 condition shall be recorded as a stalking no-contact order.

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

12 (c) A final stalking no-contact order entered in conjunction with  
13 a criminal prosecution shall remain in effect for a period of five  
14 years from the date of entry.

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

17 (7) A knowing violation of a court order issued under subsection  
18 (1), (2), or (6) of this section is punishable under RCW 26.50.110.

19 (8) Whenever a stalking no-contact order is issued, modified, or  
20 terminated under subsection (1), (2), or (6) of this section, the clerk  
21 of the court shall forward a copy of the order on or before the next  
22 judicial day to the appropriate law enforcement agency specified in the  
23 order. Upon receipt of the copy of the order, the law enforcement  
24 agency shall enter the order for one year unless a different expiration  
25 date is specified on the order into any computer-based criminal  
26 intelligence information system available in this state used by law  
27 enforcement agencies to list outstanding warrants. Entry into the  
28 computer-based criminal intelligence information system constitutes  
29 notice to all law enforcement agencies of the existence of the order.  
30 The order is fully enforceable in any jurisdiction in the state. Upon  
31 receipt of notice that an order has been terminated under subsection  
32 (2) of this section, the law enforcement agency shall remove the order  
33 from the computer-based criminal intelligence information system.

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

1 (a) The individual is personally served with a petition within this  
2 state;

3 (b) The individual submits to the jurisdiction of this state by  
4 consent, entering a general appearance, or filing a responsive document  
5 having the effect of waiving any objection to consent to personal  
6 jurisdiction;

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

10 (d)(i) The act or acts of the individual or the individual's agent  
11 giving rise to the petition or enforcement of a stalking protection  
12 order occurred outside this state and are part of an ongoing pattern of  
13 stalking behavior that has an adverse effect on the petitioner or a  
14 member of the petitioner's family or household and the petitioner  
15 resides in this state; or

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

19 (e) There is any other basis consistent with RCW 4.28.185 or with  
20 the Constitution of this state and the Constitution of the United  
21 States.

22 (2) For jurisdiction to be exercised under subsection (1)(d)(i) or  
23 (ii) of this section, the individual must have communicated with the  
24 petitioner or a member of the petitioner's family, directly or  
25 indirectly, or made known a threat to the safety of the petitioner or  
26 member of the petitioner's family while the petitioner or family member  
27 resides in this state. For the purposes of subsection (1)(d)(i) or  
28 (ii) of this section, "communicated or made known" includes, but is not  
29 limited to, through the mail, telephonically, or a posting on an  
30 electronic communication site or medium. Communication on any  
31 electronic medium that is generally available to any individual  
32 residing in the state shall be sufficient to exercise jurisdiction  
33 under subsection (1)(d)(i) or (ii) of this section.

34 (3) For the purposes of this section, an act or acts that "occurred  
35 within this state" includes, but is not limited to, an oral or written  
36 statement made or published by a person outside of this state to any  
37 person in this state by means of the mail, interstate commerce, or



1 foreign commerce. Oral or written statements sent by electronic mail  
2 or the internet are deemed to have "occurred within this state."

3 NEW SECTION. **Sec. 18.** (1) A copy of a stalking protection order  
4 or stalking no-contact order granted under this chapter shall be  
5 forwarded by the clerk of the court on or before the next judicial day  
6 to the appropriate law enforcement agency specified in the order. Upon  
7 receipt of the order, the law enforcement agency shall immediately  
8 enter the order into any computer-based criminal intelligence  
9 information system available in this state used by law enforcement  
10 agencies to list outstanding warrants. The order shall remain in the  
11 computer for one year unless a different expiration date is specified  
12 on the order. Upon receipt of notice that an order has been  
13 terminated, the law enforcement agency shall remove the order from the  
14 computer-based criminal intelligence information system. The law  
15 enforcement agency shall only expunge from the computer-based criminal  
16 intelligence information system orders that are expired, vacated,  
17 terminated, or superseded. Entry into the law enforcement information  
18 system constitutes notice to all law enforcement agencies of the  
19 existence of the order. The order is fully enforceable in any county  
20 in the state.

21 (2) The information entered into the computer-based criminal  
22 intelligence information system shall include notice to law enforcement  
23 whether the order was personally served, served by publication, or  
24 served by mail.

25 NEW SECTION. **Sec. 19.** (1) Upon application with notice to all  
26 parties and after a hearing, the court may modify the terms of an  
27 existing stalking protection order.

28 (2) A respondent's motion to modify or terminate an existing  
29 stalking protection order must include a declaration setting forth  
30 facts supporting the requested order for termination or modification.  
31 The nonmoving parties to the proceeding may file opposing declarations.  
32 The court shall deny the motion unless it finds that adequate cause for  
33 hearing the motion is established by the declarations. If the court  
34 finds that the respondent established adequate cause, the court shall  
35 set a date for hearing the respondent's motion.

1 (3) The court may not terminate or modify an existing stalking  
2 protection order unless the respondent proves by a preponderance of the  
3 evidence that there has been a substantial change in circumstances such  
4 that the respondent will not resume acts of stalking conduct against  
5 the petitioner or those persons protected by the protection order if  
6 the order is terminated or modified. The petitioner bears no burden of  
7 proving that he or she has a current reasonable fear of harm by the  
8 respondent.

9 (4) A court may require the respondent to pay the petitioner for  
10 costs incurred in responding to a motion to terminate or modify a  
11 stalking protection order, including reasonable attorneys' fees.

12 (5) In any situation where an order is terminated or modified  
13 before its expiration date, the clerk of the court shall forward on or  
14 before the next judicial day a true copy of the modified order or the  
15 termination order to the appropriate law enforcement agency specified  
16 in the modified or termination order. Upon receipt of the order, the  
17 law enforcement agency shall promptly enter it in the computer-based  
18 criminal intelligence information system, or if the order is  
19 terminated, remove the order from the computer-based criminal  
20 intelligence information system.

21 NEW SECTION. **Sec. 20.** A new section is added to chapter 10.14 RCW  
22 to read as follows:

23 In each county, the superior court may appoint one or more  
24 attorneys to act as protection order commissioners pursuant to this  
25 chapter to exercise all powers and perform all duties of a court  
26 commissioner appointed pursuant to RCW 2.24.010 provided that such  
27 positions may not be created without prior consent of the county  
28 legislative authority. A person appointed as a protection order  
29 commissioner under this chapter may also be appointed to any other  
30 commissioner position authorized by law.

31 NEW SECTION. **Sec. 21.** A new section is added to chapter 10.14 RCW  
32 to read as follows:

33 The legislature respectfully requests that:

34 (1) By January 1, 2014, the administrative office of the courts  
35 shall develop a single master petition pattern form for all  
36 antiharassment and stalking protection orders issued under chapter 7.--

1 RCW (the new chapter created in section 32 of this act) and this  
2 chapter. The master petition must prompt petitioners to disclose on  
3 the form whether the petitioner who is seeking an ex parte order has  
4 experienced stalking conduct as defined in section 2 of this act. An  
5 antiharassment order and stalking protection order issued under chapter  
6 7.-- RCW (the new chapter created in section 32 of this act) and this  
7 chapter must substantially comply with the pattern form developed by  
8 the administrative office of the courts.

9 (2) The Washington state supreme court gender and justice  
10 commission, to the extent that it is able, and in consultation with  
11 Washington coalition of sexual assault programs, Washington state  
12 coalition against domestic violence, Washington association of  
13 prosecuting attorneys, Washington association of criminal defense  
14 lawyers, and Washington association of sheriffs and police chiefs,  
15 consider other potential solutions to reduce confusion about which type  
16 of protection order a petitioner should seek and provide any  
17 recommendations to the legislature by January 1, 2014.

18 NEW SECTION. **Sec. 22.** An ex parte temporary order issued under  
19 this chapter shall not be admissible as evidence in any subsequent  
20 civil action for damages arising from the conduct alleged in the  
21 petition or the order.

22 NEW SECTION. **Sec. 23.** Nothing in this chapter shall be construed  
23 as requiring criminal charges to be filed as a condition of a stalking  
24 protection order being issued.

25 **Sec. 24.** RCW 9.41.800 and 2002 c 302 s 704 are each amended to  
26 read as follows:

27 (1) Any court when entering an order authorized under chapter 7.--  
28 RCW (the new chapter created in section 32 of this act), RCW 9A.46.080,  
29 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040,  
30 26.10.115, 26.26.130, 26.50.060, 26.50.070, or 26.26.590 shall, upon a  
31 showing by clear and convincing evidence, that a party has: Used,  
32 displayed, or threatened to use a firearm or other dangerous weapon in  
33 a felony, or previously committed any offense that makes him or her  
34 ineligible to possess a firearm under the provisions of RCW 9.41.040:

1 (a) Require the party to surrender any firearm or other dangerous  
2 weapon;

3 (b) Require the party to surrender any concealed pistol license  
4 issued under RCW 9.41.070;

5 (c) Prohibit the party from obtaining or possessing a firearm or  
6 other dangerous weapon;

7 (d) Prohibit the party from obtaining or possessing a concealed  
8 pistol license.

9 (2) Any court when entering an order authorized under chapter 7.--  
10 RCW (the new chapter created in section 32 of this act), RCW 9A.46.080,  
11 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040,  
12 26.10.115, 26.26.130, 26.50.060, 26.50.070, or 26.26.590 may, upon a  
13 showing by a preponderance of the evidence but not by clear and  
14 convincing evidence, that a party has: Used, displayed, or threatened  
15 to use a firearm or other dangerous weapon in a felony, or previously  
16 committed any offense that makes him or her ineligible to possess a  
17 pistol under the provisions of RCW 9.41.040:

18 (a) Require the party to surrender any firearm or other dangerous  
19 weapon;

20 (b) Require the party to surrender a concealed pistol license  
21 issued under RCW 9.41.070;

22 (c) Prohibit the party from obtaining or possessing a firearm or  
23 other dangerous weapon;

24 (d) Prohibit the party from obtaining or possessing a concealed  
25 pistol license.

26 (3) The court may order temporary surrender of a firearm or other  
27 dangerous weapon without notice to the other party if it finds, on the  
28 basis of the moving affidavit or other evidence, that irreparable  
29 injury could result if an order is not issued until the time for  
30 response has elapsed.

31 (4) In addition to the provisions of subsections (1), (2), and (3)  
32 of this section, the court may enter an order requiring a party to  
33 comply with the provisions in subsection (1) of this section if it  
34 finds that the possession of a firearm or other dangerous weapon by any  
35 party presents a serious and imminent threat to public health or  
36 safety, or to the health or safety of any individual.

37 (5) The requirements of subsections (1), (2), and (4) of this

1 section may be for a period of time less than the duration of the  
2 order.

3 (6) The court may require the party to surrender any firearm or  
4 other dangerous weapon in his or her immediate possession or control or  
5 subject to his or her immediate possession or control to the sheriff of  
6 the county having jurisdiction of the proceeding, the chief of police  
7 of the municipality having jurisdiction, or to the restrained or  
8 enjoined party's counsel or to any person designated by the court.

9 **Sec. 25.** RCW 9.94A.535 and 2011 c 87 s 1 are each amended to read  
10 as follows:

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

17 Whenever a sentence outside the standard sentence range is imposed,  
18 the court shall set forth the reasons for its decision in written  
19 findings of fact and conclusions of law. A sentence outside the  
20 standard sentence range shall be a determinate sentence.

21 If the sentencing court finds that an exceptional sentence outside  
22 the standard sentence range should be imposed, the sentence is subject  
23 to review only as provided for in RCW 9.94A.585(4).

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

29 (1) Mitigating Circumstances - Court to Consider

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

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

36 (b) Before detection, the defendant compensated, or made a good

1 faith effort to compensate, the victim of the criminal conduct for any  
2 damage or injury sustained.

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

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

8 (e) The defendant's capacity to appreciate the wrongfulness of his  
9 or her conduct, or to conform his or her conduct to the requirements of  
10 the law, was significantly impaired. Voluntary use of drugs or alcohol  
11 is excluded.

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

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

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

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

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

28 (2) Aggravating Circumstances - Considered and Imposed by the Court  
29 The trial court may impose an aggravated exceptional sentence  
30 without a finding of fact by a jury under the following circumstances:

31 (a) The defendant and the state both stipulate that justice is best  
32 served by the imposition of an exceptional sentence outside the  
33 standard range, and the court finds the exceptional sentence to be  
34 consistent with and in furtherance of the interests of justice and the  
35 purposes of the sentencing reform act.

36 (b) The defendant's prior unscored misdemeanor or prior unscored  
37 foreign criminal history results in a presumptive sentence that is

1 clearly too lenient in light of the purpose of this chapter, as  
2 expressed in RCW 9.94A.010.

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

6 (d) The failure to consider the defendant's prior criminal history  
7 which was omitted from the offender score calculation pursuant to RCW  
8 9.94A.525 results in a presumptive sentence that is clearly too  
9 lenient.

10 (3) Aggravating Circumstances - Considered by a Jury -Imposed by  
11 the Court

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

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

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

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

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

25 (i) The current offense involved multiple victims or multiple  
26 incidents per victim;

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

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

31 (iv) The defendant used his or her position of trust, confidence,  
32 or fiduciary responsibility to facilitate the commission of the current  
33 offense.

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

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

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

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

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

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

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

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

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

23 (h) The current offense involved domestic violence, as defined in  
24 RCW 10.99.020, or stalking, as defined in RCW 9A.46.110, and one or  
25 more of the following was present:

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

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

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

33 (i) The offense resulted in the pregnancy of a child victim of  
34 rape.

35 (j) The defendant knew that the victim of the current offense was  
36 a youth who was not residing with a legal custodian and the defendant  
37 established or promoted the relationship for the primary purpose of  
38 victimization.



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

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

7 (m) The offense involved a high degree of sophistication or  
8 planning.

9 (n) The defendant used his or her position of trust, confidence, or  
10 fiduciary responsibility to facilitate the commission of the current  
11 offense.

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

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

15 (q) The defendant demonstrated or displayed an egregious lack of  
16 remorse.

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

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

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

24 (u) The current offense is a burglary and the victim of the  
25 burglary was present in the building or residence when the crime was  
26 committed.

27 (v) The offense was committed against a law enforcement officer who  
28 was performing his or her official duties at the time of the offense,  
29 the offender knew that the victim was a law enforcement officer, and  
30 the victim's status as a law enforcement officer is not an element of  
31 the offense.

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

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

37 (y) The victim's injuries substantially exceed the level of bodily

1 harm necessary to satisfy the elements of the offense. This aggravator  
2 is not an exception to RCW 9.94A.530(2).

3 (z)(i)(A) The current offense is theft in the first degree, theft  
4 in the second degree, possession of stolen property in the first  
5 degree, or possession of stolen property in the second degree; (B) the  
6 stolen property involved is metal property; and (C) the property damage  
7 to the victim caused in the course of the theft of metal property is  
8 more than three times the value of the stolen metal property, or the  
9 theft of the metal property creates a public hazard.

10 (ii) For purposes of this subsection, "metal property" means  
11 commercial metal property, private metal property, or nonferrous metal  
12 property, as defined in RCW 19.290.010.

13 (aa) The defendant committed the offense with the intent to  
14 directly or indirectly cause any benefit, aggrandizement, gain, profit,  
15 or other advantage to or for a criminal street gang as defined in RCW  
16 9.94A.030, its reputation, influence, or membership.

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

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

23 **Sec. 26.** RCW 9A.46.040 and 2012 c 223 s 1 are each amended to read  
24 as follows:

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

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

34 (b) Refrain from contacting, intimidating, threatening, or  
35 otherwise interfering with the victim or victims of the alleged offense  
36 and such other persons, including but not limited to members of the

1 family or household of the victim, as shall be specifically named by  
2 the court in the order.

3 (2) Willful violation of a court order issued under this section or  
4 an equivalent local ordinance is a gross misdemeanor. The written  
5 order releasing the defendant shall contain the court's directives and  
6 shall bear the legend: Violation of this order is a criminal offense  
7 under chapter 9A.46 RCW. A certified copy of the order shall be  
8 provided to the victim by the clerk of the court.

9 (3) If the defendant is charged with the crime of stalking or any  
10 other stalking related offense under RCW 9A.46.060, and the court  
11 issues an order protecting the victim, the court shall issue a stalking  
12 no-contact order pursuant to chapter 7.-- RCW (the new chapter created  
13 in section 32 of this act).

14 NEW SECTION. Sec. 27. A new section is added to chapter 9A.46 RCW  
15 to read as follows:

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

19 (2) At the time of appearance provided in subsection (1) of this  
20 section the court shall determine the necessity of imposing a stalking  
21 no-contact order under chapter 7.-- RCW (the new chapter created in  
22 section 32 of this act).

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

25 (4) The stalking no-contact order shall be issued and entered with  
26 the appropriate law enforcement agency pursuant to the procedures  
27 outlined in chapter 7.-- RCW (the new chapter created in section 32 of  
28 this act).

29 **Sec. 28.** RCW 9A.46.110 and 2007 c 201 s 1 are each amended to read  
30 as follows:

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

34 (a) He or she intentionally and repeatedly harasses or repeatedly  
35 follows another person; and

1 (b) The person being harassed or followed is placed in fear that  
2 the stalker intends to injure the person, another person, or property  
3 of the person or of another person. The feeling of fear must be one  
4 that a reasonable person in the same situation would experience under  
5 all the circumstances; and

6 (c) The stalker either:

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

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

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

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

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

21 (4) Attempts to contact or follow the person after being given  
22 actual notice that the person does not want to be contacted or followed  
23 constitutes prima facie evidence that the stalker intends to intimidate  
24 or harass the person. "Contact" includes, in addition to any other  
25 form of contact or communication, the sending of an electronic  
26 communication to the person.

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

29 (b) A person who stalks another is guilty of a class ((C)) B felony  
30 if any of the following applies: (i) The stalker has previously been  
31 convicted in this state or any other state of any crime of harassment,  
32 as defined in RCW 9A.46.060, of the same victim or members of the  
33 victim's family or household or any person specifically named in a  
34 protective order; (ii) the stalking violates any protective order  
35 protecting the person being stalked; (iii) the stalker has previously  
36 been convicted of a gross misdemeanor or felony stalking offense under  
37 this section for stalking another person; (iv) the stalker was armed  
38 with a deadly weapon, as defined in RCW ((~~9.94A.602~~)) 9.94A.825, while

1 stalking the person; (v)(A) the stalker's victim is or was a law  
2 enforcement officer; judge; juror; attorney; victim advocate;  
3 legislator; community corrections' officer; an employee, contract staff  
4 person, or volunteer of a correctional agency; court employee, court  
5 clerk, or courthouse facilitator; or an employee of the child  
6 protective, child welfare, or adult protective services division within  
7 the department of social and health services; and (B) the stalker  
8 stalked the victim to retaliate against the victim for an act the  
9 victim performed during the course of official duties or to influence  
10 the victim's performance of official duties; or (vi) the stalker's  
11 victim is a current, former, or prospective witness in an adjudicative  
12 proceeding, and the stalker stalked the victim to retaliate against the  
13 victim as a result of the victim's testimony or potential testimony.

14 (6) As used in this section:

15 (a) "Correctional agency" means a person working for the department  
16 of natural resources in a correctional setting or any state, county, or  
17 municipally operated agency with the authority to direct the release of  
18 a person serving a sentence or term of confinement and includes but is  
19 not limited to the department of corrections, the indeterminate  
20 sentence review board, and the department of social and health  
21 services.

22 (b) "Follows" means deliberately maintaining visual or physical  
23 proximity to a specific person over a period of time. A finding that  
24 the alleged stalker repeatedly and deliberately appears at the person's  
25 home, school, place of employment, business, or any other location to  
26 maintain visual or physical proximity to the person is sufficient to  
27 find that the alleged stalker follows the person. It is not necessary  
28 to establish that the alleged stalker follows the person while in  
29 transit from one location to another.

30 (c) "Harasses" means unlawful harassment as defined in RCW  
31 10.14.020.

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

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

36 **Sec. 29.** RCW 10.14.070 and 2005 c 144 s 1 are each amended to read  
37 as follows:

1        Upon receipt of the petition alleging a prima facie case of  
2 harassment, other than a petition alleging a sex offense as defined in  
3 chapter 9A.44 RCW or a petition for a stalking protection order under  
4 chapter 7.-- RCW (the new chapter created in section 32 of this act),  
5 the court shall order a hearing which shall be held not later than  
6 fourteen days from the date of the order. If the petition alleges a  
7 sex offense as defined in chapter 9A.44 RCW, the court shall order a  
8 hearing which shall be held not later than fourteen days from the date  
9 of the order. Except as provided in RCW 10.14.085, personal service  
10 shall be made upon the respondent not less than five court days before  
11 the hearing. If timely personal service cannot be made, the court  
12 shall set a new hearing date and shall either require additional  
13 attempts at obtaining personal service or permit service by publication  
14 as provided by RCW 10.14.085. If the court permits service by  
15 publication, the court shall set the hearing date not later than  
16 twenty-four days from the date of the order. The court may issue an ex  
17 parte order for protection pending the hearing as provided in RCW  
18 10.14.080 and 10.14.085.

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

21        (1)(a) Whenever an order is granted under this chapter, chapter  
22 7.-- (the new chapter created in section 32 of this act), 7.90, 9A.46,  
23 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or there is a valid  
24 foreign protection order as defined in RCW 26.52.020, and the  
25 respondent or person to be restrained knows of the order, a violation  
26 of any of the following provisions of the order is a gross misdemeanor,  
27 except as provided in subsections (4) and (5) of this section:

28        (i) The restraint provisions prohibiting acts or threats of  
29 violence against, or stalking of, a protected party, or restraint  
30 provisions prohibiting contact with a protected party;

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

33        (iii) A provision prohibiting a person from knowingly coming  
34 within, or knowingly remaining within, a specified distance of a  
35 location;

36        (iv) A provision prohibiting interfering with the protected party's

1 efforts to remove a pet owned, possessed, leased, kept, or held by the  
2 petitioner, respondent, or a minor child residing with either the  
3 petitioner or the respondent; or

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

6 (b) Upon conviction, and in addition to any other penalties  
7 provided by law, the court may require that the respondent submit to  
8 electronic monitoring. The court shall specify who shall provide the  
9 electronic monitoring services, and the terms under which the  
10 monitoring shall be performed. The order also may include a  
11 requirement that the respondent pay the costs of the monitoring. The  
12 court shall consider the ability of the convicted person to pay for  
13 electronic monitoring.

14 (2) A peace officer shall arrest without a warrant and take into  
15 custody a person whom the peace officer has probable cause to believe  
16 has violated an order issued under this chapter, chapter 7.-- (the new  
17 chapter created in section 32 of this act), 7.90, 9A.46 9.94A, 10.99,  
18 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order  
19 as defined in RCW 26.52.020, that restrains the person or excludes the  
20 person from a residence, workplace, school, or day care, or prohibits  
21 the person from knowingly coming within, or knowingly remaining within,  
22 a specified distance of a location, if the person restrained knows of  
23 the order. Presence of the order in the law enforcement computer-based  
24 criminal intelligence information system is not the only means of  
25 establishing knowledge of the order.

26 (3) A violation of an order issued under this chapter, chapter 7.--  
27 (the new chapter created in section 32 of this act), 7.90, 9A.46,  
28 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign  
29 protection order as defined in RCW 26.52.020, shall also constitute  
30 contempt of court, and is subject to the penalties prescribed by law.

31 (4) Any assault that is a violation of an order issued under this  
32 chapter, chapter 7.-- (the new chapter created in section 32 of this  
33 act), 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or  
34 of a valid foreign protection order as defined in RCW 26.52.020, and  
35 that does not amount to assault in the first or second degree under RCW  
36 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in  
37 violation of such an order that is reckless and creates a substantial

1 risk of death or serious physical injury to another person is a class  
2 C felony.

3 (5) A violation of a court order issued under this chapter, chapter  
4 7.-- (the new chapter created in section 32 of this act), 7.90, 9A.46,  
5 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign  
6 protection order as defined in RCW 26.52.020, is a class C felony if  
7 the offender has at least two previous convictions for violating the  
8 provisions of an order issued under this chapter, chapter 7.90, 9A.46,  
9 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign  
10 protection order as defined in RCW 26.52.020. The previous convictions  
11 may involve the same victim or other victims specifically protected by  
12 the orders the offender violated.

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

24 **Sec. 31.** RCW 10.31.100 and 2010 c 274 s 201 are each amended to  
25 read as follows:

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

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



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

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

7 (a) An order has been issued of which the person has knowledge  
8 under RCW 26.44.063, or chapter 7.-- (the new chapter created in  
9 section 32 of this act), 7.90, 9A.46, 10.99, 26.09, 26.10, 26.26,  
10 26.50, or 74.34 RCW restraining the person and the person has violated  
11 the terms of the order restraining the person from acts or threats of  
12 violence, or restraining the person from going onto the grounds of or  
13 entering a residence, workplace, school, or day care, or prohibiting  
14 the person from knowingly coming within, or knowingly remaining within,  
15 a specified distance of a location or, in the case of an order issued  
16 under RCW 26.44.063, imposing any other restrictions or conditions upon  
17 the person; or

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

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

1 persons. The officer shall arrest the person whom the officer believes  
2 to be the primary physical aggressor. In making this determination,  
3 the officer shall make every reasonable effort to consider: (i) The  
4 intent to protect victims of domestic violence under RCW 10.99.010;  
5 (ii) the comparative extent of injuries inflicted or serious threats  
6 creating fear of physical injury; and (iii) the history of domestic  
7 violence of each person involved, including whether the conduct was  
8 part of an ongoing pattern of abuse.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 NEW SECTION. **Sec. 32.** Sections 1 through 19, 22, and 23 of this  
26 act constitute a new chapter in Title 7 RCW."

27 Correct the title.

EFFECT: Includes in the intent section a statement that  
protection of victims of stalking conduct can be accomplished without  
infringing on constitutionally protected speech or activity.

Removes the provision that specifically states that commissioners  
may consult the Judicial Information System before granting  
antiharassment protection orders.

Lists certain organizations for the Gender and Justice Commission

to consult with in producing recommendations for the legislature regarding reducing the confusion over what type of order petitioners should seek.

Specifies that the request that the Administrative Office of the Courts develop a master petition pattern form is a respectful request by the legislature, and that the request that the Gender and Justice Commission consider solutions and provide recommendations is a request that it do so to the extent that it is able.

--- END ---