
HOUSE BILL 1383

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By Representatives Goodman, Fey, Kirby, Orwall, O'Ban, Roberts, Jinkins, Hope, Angel, Smith, Dahlquist, Wilcox, and Kristiansen

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1 AN ACT Relating to protection orders for stalking and harassment;
2 amending RCW 9.41.800, 9.94A.535, 9A.46.040, 9A.46.110, 10.14.065,
3 10.14.070, and 10.31.100; reenacting and amending RCW 26.50.110; adding
4 new sections to chapter 10.14 RCW; adding a new section to chapter
5 9A.46 RCW; adding a new chapter to Title 7 RCW; and prescribing
6 penalties.

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

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

1 few remedies for them under the law. Victims who do not report the
2 crime still desire safety and protection from future interactions with
3 the offender. Some cases in which the stalking is reported are not
4 prosecuted. In these situations, the victim should be able to seek a
5 civil remedy requiring that the offender stay away from the victim. It
6 is the intent of the legislature that the stalking protection order
7 created by this chapter be a remedy for victims who do not qualify for
8 a domestic violence order of protection. Moreover, it is the intent of
9 the legislature that courts specifically distinguish stalking conduct
10 covered by the stalking protection order from common acts of harassment
11 or nuisance covered by antiharassment orders. Law enforcement agencies
12 need to be able to rely on orders that distinguish stalking conduct
13 from common acts of harassment or nuisance. Victims of stalking
14 conduct deserve the same protection and access to the court system as
15 victims of domestic violence and sexual assault. The legislature finds
16 that preventing the issuance of conflicting orders is in the interest
17 of both petitioners and respondents.

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

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

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

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

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

26 (c) Any course of conduct involving repeated or continuing
27 contacts, attempts to contact, monitoring, tracking, keeping under
28 observation, or following of another that would cause a reasonable
29 person to feel intimidated or threatened and that actually causes such
30 feeling and serves no lawful purpose.

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

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

1 (1) A petition for relief shall allege the existence of stalking
2 conduct and shall be accompanied by an affidavit made under oath
3 stating the specific reasons that have caused the petitioner to become
4 reasonably fearful that the respondent intends to injure the petitioner
5 or another person, or the petitioner's property or the property of
6 another. The petition shall disclose the existence of any other
7 litigation or of any other restraining, protection, or no-contact
8 orders between the parties.

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

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

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

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

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

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

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

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

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

35 NEW SECTION. **Sec. 5.** (1) Any person may seek relief under this

1 chapter by filing a petition with a court alleging that the person has
2 been the victim of stalking conduct committed by the respondent.

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

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

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

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

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

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

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

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

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

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

30 NEW SECTION. **Sec. 9.** Victim advocates shall be allowed to
31 accompany the victim and confer with the victim, unless otherwise
32 directed by the court. Court administrators shall allow advocates to
33 assist victims of stalking conduct in the preparation of petitions for

1 stalking protection orders. Advocates are not engaged in the
2 unauthorized practice of law when providing assistance of the types
3 specified in this section.

4 NEW SECTION. **Sec. 10.** (1)(a) If the court finds by a
5 preponderance of the evidence that the petitioner has been a victim of
6 stalking conduct by the respondent, the court shall issue a stalking
7 protection order; provided that the petitioner must also satisfy the
8 requirements of 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, or school, or from the day care, workplace, or school of the
24 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;

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

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; and

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

1 (3) 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 (3) 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 each 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.

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

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

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

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

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

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

35 (a) The sheriff or municipal officer files an affidavit stating
36 that the officer was unable to complete personal service upon the

1 respondent. The affidavit must describe the number and types of
2 attempts the officer made to complete service;

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

7 (c) The server has deposited a copy of the summons, in
8 substantially the form prescribed in (f) of this subsection, notice of
9 hearing, and the ex parte order of protection in the post office,
10 directed to the respondent at the respondent's last known address,
11 unless the server states that the server does not know the respondent's
12 address;

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

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

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

35

36 In the court of the state of Washington for
37 the county of

1 , Petitioner
2 vs. No.
3 , Respondent

4 The state of Washington to (respondent):
5 You are hereby summoned to appear on the ... day
6 of, 20..., at ... a.m./p.m., and respond to the
7 petition. If you fail to respond, an order of protection will
8 be issued against you pursuant to the provisions of the
9 stalking protection order act, chapter 7.-- RCW (the new
10 chapter created in section 34 of this act), for a minimum of
11 one year from the date you are required to appear. A
12 temporary order of protection has been issued against you,
13 restraining you from the following: (Insert a brief statement
14 of the provisions of the ex parte order.) A copy of the
15 petition, notice of hearing, and ex parte order has been filed
16 with the clerk of this court.

17
18 Petitioner

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

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

35 (b) Service under this section may be used in the same manner and
36 shall have the same jurisdictional effect as service by publication for

1 purposes of this chapter. Service shall be deemed complete upon the
2 mailing of two copies as prescribed in this section.

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

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

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

22 (2)(a) At the time of arraignment or whenever a motion is brought
23 to modify the conditions of the defendant's release, the court shall
24 determine whether a stalking protection order shall be issued or
25 extended. If a stalking protection order is issued or extended, the
26 court may also include in the conditions of release a requirement that
27 the defendant submit to electronic monitoring, including real-time
28 global position satellite monitoring with victim notification. If
29 electronic monitoring is ordered, the court shall specify who shall
30 provide the monitoring services, and the terms under which the
31 monitoring shall be performed. Upon conviction, the court may require
32 as a condition of the sentence that the defendant reimburse the
33 providing agency for the costs of the electronic monitoring, including
34 costs relating to real-time global position satellite monitoring with
35 victim notification.

36 (b) A stalking protection order issued by the court in conjunction
37 with criminal charges shall terminate if the defendant is acquitted or

1 the charges are dismissed, unless the victim files an independent
2 action for a stalking protection order. If the victim files an
3 independent action for a stalking protection order, the order may be
4 continued by the court until a full hearing is conducted pursuant to
5 section 6 of this act.

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

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

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

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

31 (6)(a) When a defendant is found guilty of stalking as defined in
32 RCW 9A.46.110 or any other stalking related offense under RCW 9A.46.060
33 and a condition of the sentence restricts the defendant's ability to
34 have contact with the victim, and the victim does not qualify for a
35 domestic violence protection order under chapter 26.50 RCW, the
36 condition shall be recorded as a stalking protection order.

37 (b) The written order entered as a condition of sentencing shall
38 contain the court's directives and shall bear the legend: "Violation

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

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

12 (7) A knowing violation of a court order issued under subsection
13 (1), (2), or (6) of this section is punishable under RCW 26.50.110.

14 (8) Whenever a stalking protection order is issued, modified, or
15 terminated under subsection (1), (2), or (6) of this section, the clerk
16 of the court shall forward a copy of the order on or before the next
17 judicial day to the appropriate law enforcement agency specified in the
18 order. Upon receipt of the copy of the order, the law enforcement
19 agency shall enter the order for one year unless a different expiration
20 date is specified on the order into any computer-based criminal
21 intelligence information system available in this state used by law
22 enforcement agencies to list outstanding warrants. Entry into the
23 computer-based criminal intelligence information system constitutes
24 notice to all law enforcement agencies of the existence of the order.
25 The order is fully enforceable in any jurisdiction in the state. Upon
26 receipt of notice that an order has been terminated under subsection
27 (2) of this section, the law enforcement agency shall remove the order
28 from the computer-based criminal intelligence information system.

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

33 (a) The individual is personally served with a petition within this
34 state;

35 (b) The individual submits to the jurisdiction of this state by
36 consent, entering a general appearance, or filing a responsive document

1 having the effect of waiving any objection to consent to personal
2 jurisdiction;

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

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

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

15 (e) There is any other basis consistent with RCW 4.28.185 or with
16 the Constitution of this state and the Constitution of the United
17 States.

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

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

36 NEW SECTION. **Sec. 18.** (1) A copy of a stalking protection order
37 granted under this chapter shall be forwarded by the clerk of the court

1 on or before the next judicial day to the appropriate law enforcement
2 agency specified in the order. Upon receipt of the order, the law
3 enforcement agency shall immediately enter the order into any
4 computer-based criminal intelligence information system available in
5 this state used by law enforcement agencies to list outstanding
6 warrants. The order shall remain in the computer for one year unless
7 a different expiration date is specified on the order. Upon receipt of
8 notice that an order has been terminated, the law enforcement agency
9 shall remove the order from the computer-based criminal intelligence
10 information system. The law enforcement agency shall only expunge from
11 the computer-based criminal intelligence information system orders that
12 are expired, vacated, terminated, or superseded. Entry into the law
13 enforcement information system constitutes notice to all law
14 enforcement agencies of the existence of the order. The order is fully
15 enforceable in any county in the state.

16 (2) The information entered into the computer-based criminal
17 intelligence information system shall include notice to law enforcement
18 whether the order was personally served, served by publication, or
19 served by mail.

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

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

31 (3) The court may not terminate or modify an existing stalking
32 protection order unless the respondent proves by a preponderance of the
33 evidence that there has been a substantial change in circumstances such
34 that the respondent will not resume acts of stalking conduct against
35 the petitioner or those persons protected by the protection order if
36 the order is terminated or modified. The petitioner bears no burden of

1 proving that he or she has a current reasonable fear of harm by the
2 respondent.

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

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

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

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

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

27 By January 1, 2014, the administrative office of the courts shall
28 develop a single master petition pattern form for all antiharassment
29 and stalking protection orders issued under chapter 7.-- RCW (the new
30 chapter created in section 34 of this act) and this chapter. The
31 master petition must prompt petitioners to disclose on the form whether
32 the petitioner who is seeking an ex parte order has experienced
33 stalking conduct as defined in section 2 of this act. An
34 antiharassment order and stalking protection order issued under chapter
35 7.-- RCW (the new chapter created in section 34 of this act) and this

1 chapter must substantially comply with the pattern form developed by
2 the administrative office of the courts.

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

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

10 NEW SECTION. **Sec. 24.** This act may be known and cited as the
11 stalking protection order act.

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

14 (1) Any court when entering an order authorized under chapter 7.--
15 RCW (the new chapter created in section 34 of this act), RCW 9A.46.080,
16 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040,
17 26.10.115, 26.26.130, 26.50.060, 26.50.070, or 26.26.590 shall, upon a
18 showing by clear and convincing evidence, that a party has: Used,
19 displayed, or threatened to use a firearm or other dangerous weapon in
20 a felony, or previously committed any offense that makes him or her
21 ineligible to possess a firearm under the provisions of RCW 9.41.040:

22 (a) Require the party to surrender any firearm or other dangerous
23 weapon;

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

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

28 (d) Prohibit the party from obtaining or possessing a concealed
29 pistol license.

30 (2) Any court when entering an order authorized under chapter 7.--
31 RCW (the new chapter created in section 34 of this act), RCW 9A.46.080,
32 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040,
33 26.10.115, 26.26.130, 26.50.060, 26.50.070, or 26.26.590 may, upon a
34 showing by a preponderance of the evidence but not by clear and

1 convincing evidence, that a party has: Used, displayed, or threatened
2 to use a firearm or other dangerous weapon in a felony, or previously
3 committed any offense that makes him or her ineligible to possess a
4 pistol under the provisions of RCW 9.41.040:

5 (a) Require the party to surrender any firearm or other dangerous
6 weapon;

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

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

11 (d) Prohibit the party from obtaining or possessing a concealed
12 pistol license.

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

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

24 (5) The requirements of subsections (1), (2), and (4) of this
25 section may be for a period of time less than the duration of the
26 order.

27 (6) The court may require the party to surrender any firearm or
28 other dangerous weapon in his or her immediate possession or control or
29 subject to his or her immediate possession or control to the sheriff of
30 the county having jurisdiction of the proceeding, the chief of police
31 of the municipality having jurisdiction, or to the restrained or
32 enjoined party's counsel or to any person designated by the court.

33 **Sec. 26.** RCW 9.94A.535 and 2011 c 87 s 1 are each amended to read
34 as follows:

35 The court may impose a sentence outside the standard sentence range
36 for an offense if it finds, considering the purpose of this chapter,
37 that there are substantial and compelling reasons justifying an

1 exceptional sentence. Facts supporting aggravated sentences, other
2 than the fact of a prior conviction, shall be determined pursuant to
3 the provisions of RCW 9.94A.537.

4 Whenever a sentence outside the standard sentence range is imposed,
5 the court shall set forth the reasons for its decision in written
6 findings of fact and conclusions of law. A sentence outside the
7 standard sentence range shall be a determinate sentence.

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

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

16 (1) Mitigating Circumstances - Court to Consider

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

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

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

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

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

31 (e) The defendant's capacity to appreciate the wrongfulness of his
32 or her conduct, or to conform his or her conduct to the requirements of
33 the law, was significantly impaired. Voluntary use of drugs or alcohol
34 is excluded.

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

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

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

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

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

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

17 (a) The defendant and the state both stipulate that justice is best
18 served by the imposition of an exceptional sentence outside the
19 standard range, and the court finds the exceptional sentence to be
20 consistent with and in furtherance of the interests of justice and the
21 purposes of the sentencing reform act.

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

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

29 (d) The failure to consider the defendant's prior criminal history
30 which was omitted from the offender score calculation pursuant to RCW
31 9.94A.525 results in a presumptive sentence that is clearly too
32 lenient.

33 (3) Aggravating Circumstances - Considered by a Jury -Imposed by
34 the Court

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

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

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

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

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

10 (i) The current offense involved multiple victims or multiple
11 incidents per victim;

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

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

16 (iv) The defendant used his or her position of trust, confidence,
17 or fiduciary responsibility to facilitate the commission of the current
18 offense.

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

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

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

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

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

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

37 (vi) The offender used his or her position or status to facilitate

1 the commission of the current offense, including positions of trust,
2 confidence or fiduciary responsibility (e.g., pharmacist, physician, or
3 other medical professional).

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

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

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

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

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

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

19 (i) The offense resulted in the pregnancy of a child victim of
20 rape.

21 (j) The defendant knew that the victim of the current offense was
22 a youth who was not residing with a legal custodian and the defendant
23 established or promoted the relationship for the primary purpose of
24 victimization.

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

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

31 (m) The offense involved a high degree of sophistication or
32 planning.

33 (n) The defendant used his or her position of trust, confidence, or
34 fiduciary responsibility to facilitate the commission of the current
35 offense.

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

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

- 1 (q) The defendant demonstrated or displayed an egregious lack of
2 remorse.
- 3 (r) The offense involved a destructive and foreseeable impact on
4 persons other than the victim.
- 5 (s) The defendant committed the offense to obtain or maintain his
6 or her membership or to advance his or her position in the hierarchy of
7 an organization, association, or identifiable group.
- 8 (t) The defendant committed the current offense shortly after being
9 released from incarceration.
- 10 (u) The current offense is a burglary and the victim of the
11 burglary was present in the building or residence when the crime was
12 committed.
- 13 (v) The offense was committed against a law enforcement officer who
14 was performing his or her official duties at the time of the offense,
15 the offender knew that the victim was a law enforcement officer, and
16 the victim's status as a law enforcement officer is not an element of
17 the offense.
- 18 (w) The defendant committed the offense against a victim who was
19 acting as a good samaritan.
- 20 (x) The defendant committed the offense against a public official
21 or officer of the court in retaliation of the public official's
22 performance of his or her duty to the criminal justice system.
- 23 (y) The victim's injuries substantially exceed the level of bodily
24 harm necessary to satisfy the elements of the offense. This aggravator
25 is not an exception to RCW 9.94A.530(2).
- 26 (z)(i)(A) The current offense is theft in the first degree, theft
27 in the second degree, possession of stolen property in the first
28 degree, or possession of stolen property in the second degree; (B) the
29 stolen property involved is metal property; and (C) the property damage
30 to the victim caused in the course of the theft of metal property is
31 more than three times the value of the stolen metal property, or the
32 theft of the metal property creates a public hazard.
- 33 (ii) For purposes of this subsection, "metal property" means
34 commercial metal property, private metal property, or nonferrous metal
35 property, as defined in RCW 19.290.010.
- 36 (aa) The defendant committed the offense with the intent to
37 directly or indirectly cause any benefit, aggrandizement, gain, profit,

1 or other advantage to or for a criminal street gang as defined in RCW
2 9.94A.030, its reputation, influence, or membership.

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

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

9 **Sec. 27.** RCW 9A.46.040 and 2012 c 223 s 1 are each amended to read
10 as follows:

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

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

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

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

31 (3) If the defendant is charged with the crime of stalking or any
32 other stalking related offense under RCW 9A.46.060, and the court
33 issues an order protecting the victim, the court shall issue a stalking
34 protection order pursuant to chapter 7.-- RCW (the new chapter created
35 in section 34 of this act).

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

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

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

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

12 (4) The stalking protection order shall be issued and entered with
13 the appropriate law enforcement agency pursuant to the procedures
14 outlined in chapter 7.-- RCW (the new chapter created in section 34 of
15 this act).

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

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

21 (a) He or she intentionally and repeatedly harasses or repeatedly
22 follows another person; and

23 (b) The person being harassed or followed is placed in fear that
24 the stalker intends to injure the person, another person, or property
25 of the person or of another person. The feeling of fear must be one
26 that a reasonable person in the same situation would experience under
27 all the circumstances; and

28 (c) The stalker either:

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

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

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

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

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

7 (4) Attempts to contact or follow the person after being given
8 actual notice that the person does not want to be contacted or followed
9 constitutes prima facie evidence that the stalker intends to intimidate
10 or harass the person. "Contact" includes, in addition to any other
11 form of contact or communication, the sending of an electronic
12 communication to the person.

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

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

38 (6) As used in this section:

1 (a) "Correctional agency" means a person working for the department
2 of natural resources in a correctional setting or any state, county, or
3 municipally operated agency with the authority to direct the release of
4 a person serving a sentence or term of confinement and includes but is
5 not limited to the department of corrections, the indeterminate
6 sentence review board, and the department of social and health
7 services.

8 (b) "Follows" means deliberately maintaining visual or physical
9 proximity to a specific person over a period of time. A finding that
10 the alleged stalker repeatedly and deliberately appears at the person's
11 home, school, place of employment, business, or any other location to
12 maintain visual or physical proximity to the person is sufficient to
13 find that the alleged stalker follows the person. It is not necessary
14 to establish that the alleged stalker follows the person while in
15 transit from one location to another.

16 (c) "Harasses" means unlawful harassment as defined in RCW
17 10.14.020.

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

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

22 **Sec. 30.** RCW 10.14.065 and 2011 c 307 s 6 are each amended to read
23 as follows:

24 Before granting an order under this chapter, the court may consult
25 the judicial information system, if available, to determine criminal
26 history or the pendency of other proceedings involving the parties.
27 Commissioners may consult the judicial information system.

28 **Sec. 31.** RCW 10.14.070 and 2005 c 144 s 1 are each amended to read
29 as follows:

30 Upon receipt of the petition alleging a prima facie case of
31 harassment, other than a petition alleging a sex offense as defined in
32 chapter 9A.44 RCW or a petition for a stalking protection order under
33 chapter 7.-- RCW (the new chapter created in section 34 of this act),
34 the court shall order a hearing which shall be held not later than
35 fourteen days from the date of the order. If the petition alleges a
36 sex offense as defined in chapter 9A.44 RCW, the court shall order a

1 hearing which shall be held not later than fourteen days from the date
2 of the order. Except as provided in RCW 10.14.085, personal service
3 shall be made upon the respondent not less than five court days before
4 the hearing. If timely personal service cannot be made, the court
5 shall set a new hearing date and shall either require additional
6 attempts at obtaining personal service or permit service by publication
7 as provided by RCW 10.14.085. If the court permits service by
8 publication, the court shall set the hearing date not later than
9 twenty-four days from the date of the order. The court may issue an ex
10 parte order for protection pending the hearing as provided in RCW
11 10.14.080 and 10.14.085.

12 **Sec. 32.** RCW 26.50.110 and 2009 c 439 s 3 and 2009 c 288 s 3 are
13 each reenacted and amended to read as follows:

14 (1)(a) Whenever an order is granted under this chapter, chapter
15 7.-- (the new chapter created in section 34 of this act), 7.90, 9A.46,
16 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or there is a valid
17 foreign protection order as defined in RCW 26.52.020, and the
18 respondent or person to be restrained knows of the order, a violation
19 of any of the following provisions of the order is a gross misdemeanor,
20 except as provided in subsections (4) and (5) of this section:

21 (i) The restraint provisions prohibiting acts or threats of
22 violence against, or stalking of, a protected party, or restraint
23 provisions prohibiting contact with a protected party;

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

26 (iii) A provision prohibiting a person from knowingly coming
27 within, or knowingly remaining within, a specified distance of a
28 location;

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

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

35 (b) Upon conviction, and in addition to any other penalties
36 provided by law, the court may require that the respondent submit to
37 electronic monitoring. The court shall specify who shall provide the

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

6 (2) A peace officer shall arrest without a warrant and take into
7 custody a person whom the peace officer has probable cause to believe
8 has violated an order issued under this chapter, chapter 7.-- (the new
9 chapter created in section 34 of this act), 7.90, 9A.46 9.94A, 10.99,
10 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order
11 as defined in RCW 26.52.020, that restrains the person or excludes the
12 person from a residence, workplace, school, or day care, or prohibits
13 the person from knowingly coming within, or knowingly remaining within,
14 a specified distance of a location, if the person restrained knows of
15 the order. Presence of the order in the law enforcement computer-based
16 criminal intelligence information system is not the only means of
17 establishing knowledge of the order.

18 (3) A violation of an order issued under this chapter, chapter 7.--
19 (the new chapter created in section 34 of this act), 7.90, 9A.46,
20 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign
21 protection order as defined in RCW 26.52.020, shall also constitute
22 contempt of court, and is subject to the penalties prescribed by law.

23 (4) Any assault that is a violation of an order issued under this
24 chapter, chapter 7.-- (the new chapter created in section 34 of this
25 act), 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or
26 of a valid foreign protection order as defined in RCW 26.52.020, and
27 that does not amount to assault in the first or second degree under RCW
28 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in
29 violation of such an order that is reckless and creates a substantial
30 risk of death or serious physical injury to another person is a class
31 C felony.

32 (5) A violation of a court order issued under this chapter, chapter
33 7.-- (the new chapter created in section 34 of this act), 7.90, 9A.46,
34 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign
35 protection order as defined in RCW 26.52.020, is a class C felony if
36 the offender has at least two previous convictions for violating the
37 provisions of an order issued under this chapter, chapter 7.90, 9A.46,
38 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign

1 protection order as defined in RCW 26.52.020. The previous convictions
2 may involve the same victim or other victims specifically protected by
3 the orders the offender violated.

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

15 **Sec. 33.** RCW 10.31.100 and 2010 c 274 s 201 are each amended to
16 read as follows:

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

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

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

34 (a) An order has been issued of which the person has knowledge
35 under RCW 26.44.063, or chapter 7.-- (the new chapter created in
36 section 34 of this act), 7.90, 9A.46, 10.99, 26.09, 26.10, 26.26,
37 26.50, or 74.34 RCW restraining the person and the person has violated

1 the terms of the order restraining the person from acts or threats of
2 violence, or restraining the person from going onto the grounds of or
3 entering a residence, workplace, school, or day care, or prohibiting
4 the person from knowingly coming within, or knowingly remaining within,
5 a specified distance of a location or, in the case of an order issued
6 under RCW 26.44.063, imposing any other restrictions or conditions upon
7 the person; or

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

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

37 (3) Any police officer having probable cause to believe that a

1 person has committed or is committing a violation of any of the
2 following traffic laws shall have the authority to arrest the person:

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

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

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

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

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

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

15 (4) A law enforcement officer investigating at the scene of a motor
16 vehicle accident may arrest the driver of a motor vehicle involved in
17 the accident if the officer has probable cause to believe that the
18 driver has committed in connection with the accident a violation of any
19 traffic law or regulation.

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

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

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

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

37 (9) Any police officer having probable cause to believe that a

1 person has, within twenty-four hours of the alleged violation,
2 committed a violation of RCW 9A.50.020 may arrest such person.

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

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

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

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

16 NEW SECTION. **Sec. 34.** Sections 1 through 19 and 22 through 24 of
17 this act constitute a new chapter in Title 7 RCW.

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