
SUBSTITUTE SENATE BILL 5452

State of Washington

63rd Legislature

2013 Regular Session

By Senate Human Services & Corrections (originally sponsored by Senators Conway, Carrell, Darneille, and Kohl-Welles)

READ FIRST TIME 02/21/13.

1 AN ACT Relating to no-contact and protection orders for stalking
2 and harassment; amending RCW 9.41.800, 9.94A.535, 9A.46.040, 9A.46.110,
3 10.14.065, 10.14.070, and 10.31.100; reenacting and amending RCW
4 26.50.110; adding new sections to chapter 10.14 RCW; adding a new
5 section to chapter 9A.46 RCW; adding a new chapter to Title 7 RCW; and
6 prescribing 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) "Minor" means a person who is under eighteen years of age.

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

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

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

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

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

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

32 (ii) Serves no lawful purpose; and

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

36 (4) "Stalking no-contact order" means a temporary order or a final

1 order granted under this chapter against a person charged with or
2 arrested for stalking, which includes a remedy authorized under section
3 16 of this act.

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

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

9 (1) A petition for relief shall allege the existence of stalking
10 conduct and shall be accompanied by an affidavit made under oath
11 stating the specific reasons that have caused the petitioner to become
12 reasonably fearful that the respondent intends to injure the petitioner
13 or another person, or the petitioner's property or the property of
14 another. The petition shall disclose the existence of any other
15 litigation or of any other restraining, protection, or no-contact
16 orders between the parties.

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

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

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

25 (5) If the petition states that disclosure of the petitioner's
26 address would risk abuse of the petitioner or any member of the
27 petitioner's family or household, that address may be omitted from all
28 documents filed with the court. If the petitioner has not disclosed an
29 address under this subsection, the petitioner shall designate an
30 alternative address at which the respondent may serve notice of any
31 motions.

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

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

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

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

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

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

12 (2) A minor sixteen years of age or older may seek relief under
13 this chapter and is not required to seek relief through a guardian or
14 next friend. This does not preclude a parent or legal custodian of a
15 victim sixteen or seventeen years of age from seeking relief on behalf
16 of the minor.

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

27 (4) Municipal courts may exercise jurisdiction and cognizance of
28 any civil actions and proceedings brought under this chapter by
29 adoption of local court rule, except a municipal court shall transfer
30 such actions and proceedings to the superior court when it is shown
31 that (a) the petitioner, victim, or respondent to the petition is under
32 eighteen years of age; (b) the action involves title or possession of
33 real property; (c) a superior court has exercised or is exercising
34 jurisdiction over a proceeding involving the parties; or (d) the action
35 would have the effect of interfering with a respondent's care, control,
36 or custody of the respondent's minor child.

1 (5) Superior courts shall have concurrent jurisdiction to receive
2 transfer of stalking petitions in cases where a district or municipal
3 court judge makes findings of fact and conclusions of law showing that
4 meritorious reasons exist for the transfer. The jurisdiction of
5 district and municipal courts is limited to enforcement of RCW
6 26.50.110(1), or the equivalent municipal ordinance, and the issuance
7 and enforcement of temporary orders provided for in section 12 of this
8 act if the superior court is exercising jurisdiction over a proceeding
9 under this chapter involving the parties.

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

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

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

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

35 NEW SECTION. **Sec. 7.** Before granting an order under this chapter,

1 the court may consult the judicial information system, if available, to
2 determine criminal history or the pendency of other proceedings
3 involving the parties.

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

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

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

18 (b) The petitioner shall not be denied a stalking protection order
19 because the petitioner or the respondent is a minor or because the
20 petitioner did not report the stalking conduct to law enforcement. The
21 court, when determining whether or not to issue a stalking protection
22 order, may not require proof of the respondent's intentions regarding
23 the acts alleged by the petitioner. Modification and extension of
24 prior stalking protection orders shall be in accordance with this
25 chapter.

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

27 (a) Restrain the respondent from having any contact, including
28 nonphysical contact, with the petitioner directly, indirectly, or
29 through third parties regardless of whether those third parties know of
30 the order;

31 (b) Exclude the respondent from the petitioner's residence,
32 workplace, or school, or from the day care, workplace, or school of the
33 petitioner's minor children;

34 (c) Prohibit the respondent from knowingly coming within, or

1 knowingly remaining within, a specified distance from a specified
2 location;

3 (d) Prohibit the respondent from keeping the petitioner and/or the
4 petitioner's minor children under surveillance, to include electronic
5 surveillance;

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

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

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

17 (4) In cases where the petitioner and the respondent attend the
18 same public or private elementary, middle, or high school, the court,
19 when issuing a protection order and providing relief, shall consider,
20 among the other facts of the case, the severity of the act, any
21 continuing physical danger or emotional distress to the petitioner, and
22 the expense difficulty, and educational disruption that would be caused
23 by a transfer of the respondent to another school. The court may order
24 that the person restrained in the order not attend the public or
25 approved private elementary, middle, or high school attended by the
26 person protected by the order. In the event the court orders a
27 transfer of the restrained person to another school, the parents or
28 legal guardians of the person restrained in the order are responsible
29 for transportation and other costs associated with the change of school
30 by the person restrained in the order. The court shall send notice of
31 the restriction on attending the same school as the person protected by
32 the order to the public or approved private school the person
33 restrained by the order will attend and to the school the person
34 protected by the order attends.

35 NEW SECTION. **Sec. 11.** For the purposes of issuing a stalking
36 protection order, deciding what relief should be included in the order,

1 and enforcing the order, RCW 9A.08.020 shall govern whether the
2 respondent is legally accountable for the conduct of another person.

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

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

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

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

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

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

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

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

4 (2) Any ex parte temporary or final stalking protection order may
5 be renewed one or more times. The petitioner may apply for renewal of
6 the order by filing a petition for renewal at any time within the three
7 months before the order expires. If the motion for renewal is
8 uncontested and the petitioner seeks no modification of the order, the
9 order may be renewed on the basis of the petitioner's motion or
10 affidavit stating that there has been no material change in relevant
11 circumstances since entry of the order and stating the reason for the
12 requested renewal. The court shall grant the petition for renewal
13 unless the respondent proves by a preponderance of the evidence that
14 the respondent will not resume acts of stalking conduct against the
15 petitioner or the petitioner's children or family or household members
16 when the order expires. The court may renew the stalking protection
17 order for another fixed time period or may enter a permanent order as
18 provided in this section. The court may award court costs, service
19 fees, and reasonable attorneys' fees as provided in section 10 of this
20 act.

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

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

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

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

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

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

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

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

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

10 (e) For ex parte temporary stalking protection orders, that the
11 respondent may petition the court, to modify or terminate the order if
12 he or she did not receive actual prior notice of the hearing and if the
13 respondent alleges that he or she had a meritorious defense to the
14 order or that the order or its remedy is not authorized by this
15 chapter.

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

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

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

33 (3) If service by a sheriff or municipal peace officer is to be
34 used, the clerk of the court shall have a copy of any order issued
35 under this chapter forwarded on or before the next judicial day to the
36 appropriate law enforcement agency specified in the order for service

1 upon the respondent. Service of an order issued under this chapter
2 shall take precedence over the service of other documents unless they
3 are of a similar emergency nature.

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

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

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

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

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

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

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

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

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

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

17 In the court of the state of Washington for
18 the county of

19 , Petitioner
20 vs. No.
21 , Respondent

22 The state of Washington to (respondent):

23 You are hereby summoned to appear on the ... day
24 of, 20..., at ... a.m./p.m., and respond to the
25 petition. If you fail to respond, an order of protection will
26 be issued against you pursuant to the provisions of the
27 stalking protection order act, chapter 7.-- RCW (the new
28 chapter created in section 33 of this act), for a minimum of
29 one year from the date you are required to appear. A
30 temporary order of protection has been issued against you,
31 restraining you from the following: (Insert a brief statement
32 of the provisions of the ex parte order.) A copy of the
33 petition, notice of hearing, and ex parte order has been filed
34 with the clerk of this court.

35
36 Petitioner

1 (8) In circumstances justifying service by publication under
2 subsection (7) of this section, if the serving party files an affidavit
3 stating facts from which the court determines that service by mail is
4 just as likely to give actual notice as service by publication and that
5 the serving party is unable to afford the cost of service by
6 publication, the court may order that service be made by mail. Such
7 service shall be made by any person over eighteen years of age, who is
8 competent to be a witness, other than a party, by mailing copies of the
9 order and other process to the party to be served at his or her last
10 known address or any other address determined by the court to be
11 appropriate. Two copies shall be mailed, postage prepaid, one by
12 ordinary first-class mail and the other by a form of mail requiring a
13 signed receipt showing when and to whom it was delivered. The
14 envelopes must bear the return address of the sender.

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

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

21 NEW SECTION. **Sec. 16.** (1)(a) When any person charged with or
22 arrested for stalking as defined in RCW 9A.46.110 or any other stalking
23 related offense under RCW 9A.46.060 is released from custody before
24 arraignment or trial on bail or personal recognizance, the court
25 authorizing the release may prohibit that person from having any
26 contact with the victim. The jurisdiction authorizing the release
27 shall determine whether that person should be prohibited from having
28 any contact with the victim. If there is no outstanding restraining or
29 protective order prohibiting that person from having contact with the
30 victim, and the victim does not qualify for a domestic violence
31 protection order under chapter 26.50 RCW, the court authorizing release
32 may issue, by telephone, a stalking no-contact order prohibiting the
33 person charged or arrested from having contact with the victim or from
34 knowingly coming within, or knowingly remaining within, a specified
35 distance of a location.

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

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

3 (2)(a) At the time of arraignment or whenever a motion is brought
4 to modify the conditions of the defendant's release, the court shall
5 determine whether a stalking no-contact order shall be issued or
6 extended. If a stalking no-contact order is issued or extended, the
7 court may also include in the conditions of release a requirement that
8 the defendant submit to electronic monitoring, including real-time
9 global position satellite monitoring with victim notification. If
10 electronic monitoring is ordered, the court shall specify who shall
11 provide the monitoring services, and the terms under which the
12 monitoring shall be performed. Upon conviction, the court may require
13 as a condition of the sentence that the defendant reimburse the
14 providing agency for the costs of the electronic monitoring, including
15 costs relating to real-time global position satellite monitoring with
16 victim notification.

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

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

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

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

37 (5) Whenever an order prohibiting contact is issued pursuant to
38 subsection (2) of this section, the clerk of the court shall forward a

1 copy of the order on or before the next judicial day to the appropriate
2 law enforcement agency specified in the order. Upon receipt of the
3 copy of the order, the law enforcement agency shall enter the order for
4 one year unless a different expiration date is specified on the order
5 into any computer-based criminal intelligence information system
6 available in this state used by law enforcement agencies to list
7 outstanding warrants. Entry into the computer-based criminal
8 intelligence information system constitutes notice to all law
9 enforcement agencies of the existence of the order. The order is fully
10 enforceable in any jurisdiction in the state.

11 (6)(a) When a defendant is found guilty of stalking as defined in
12 RCW 9A.46.110 or any other stalking related offense under RCW 9A.46.060
13 and a condition of the sentence restricts the defendant's ability to
14 have contact with the victim, and the victim does not qualify for a
15 domestic violence protection order under chapter 26.50 RCW, the
16 condition shall be recorded as a stalking no-contact order.

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

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

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

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

32 (8) Whenever a stalking no-contact order is issued, modified, or
33 terminated under subsection (1), (2), or (6) of this section, the clerk
34 of the court shall forward a copy of the order on or before the next
35 judicial day to the appropriate law enforcement agency specified in the
36 order. Upon receipt of the copy of the order, the law enforcement
37 agency shall enter the order for one year unless a different expiration
38 date is specified on the order into any computer-based criminal

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (2) A respondent's motion to modify or terminate an existing
5 stalking protection order must include a declaration setting forth
6 facts supporting the requested order for termination or modification.
7 The nonmoving parties to the proceeding may file opposing declarations.
8 The court shall deny the motion unless it finds that adequate cause for
9 hearing the motion is established by the declarations. If the court
10 finds that the respondent established adequate cause, the court shall
11 set a date for hearing the respondent's motion.

12 (3) The court may not terminate or modify an existing stalking
13 protection order unless the respondent proves by a preponderance of the
14 evidence that there has been a substantial change in circumstances such
15 that the respondent will not resume acts of stalking conduct against
16 the petitioner or those persons protected by the protection order if
17 the order is terminated or modified. The petitioner bears no burden of
18 proving that he or she has a current reasonable fear of harm by the
19 respondent.

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

23 (5) In any situation where an order is terminated or modified
24 before its expiration date, the clerk of the court shall forward on or
25 before the next judicial day a true copy of the modified order or the
26 termination order to the appropriate law enforcement agency specified
27 in the modified or termination order. Upon receipt of the order, the
28 law enforcement agency shall promptly enter it in the computer-based
29 criminal intelligence information system, or if the order is
30 terminated, remove the order from the computer-based criminal
31 intelligence information system.

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

34 In each county, the superior court may appoint one or more
35 attorneys to act as protection order commissioners pursuant to this
36 chapter to exercise all powers and perform all duties of a court
37 commissioner appointed pursuant to RCW 2.24.010 provided that such

1 positions may not be created without prior consent of the county
2 legislative authority. A person appointed as a protection order
3 commissioner under this chapter may also be appointed to any other
4 commissioner position authorized by law.

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

7 (1) By January 1, 2014, the administrative office of the courts
8 shall develop a single master petition pattern form for all
9 antiharassment and stalking protection orders issued under chapter 7.--
10 RCW (the new chapter created in section 33 of this act) and this
11 chapter. The master petition must prompt petitioners to disclose on
12 the form whether the petitioner who is seeking an ex parte order has
13 experienced stalking conduct as defined in section 2 of this act. An
14 antiharassment order and stalking protection order issued under chapter
15 7.-- RCW (the new chapter created in section 33 of this act) and this
16 chapter must substantially comply with the pattern form developed by
17 the administrative office of the courts.

18 (2) The legislature respectfully requests that the Washington state
19 supreme court gender and justice commission consider other potential
20 solutions to reduce confusion about which type of protection order a
21 petitioner should seek and to provide any recommendations to the
22 legislature by January 1, 2014.

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

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

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

32 (1) Any court when entering an order authorized under chapter 7.--
33 RCW (the new chapter created in section 33 of this act), RCW 9A.46.080,
34 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040,

1 26.10.115, 26.26.130, 26.50.060, 26.50.070, or 26.26.590 shall, upon a
2 showing by clear and convincing evidence, that a party has: Used,
3 displayed, or threatened to use a firearm or other dangerous weapon in
4 a felony, or previously committed any offense that makes him or her
5 ineligible to possess a firearm under the provisions of RCW 9.41.040:

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

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

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

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

14 (2) Any court when entering an order authorized under chapter 7.--
15 RCW (the new chapter created in section 33 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 may, upon a
18 showing by a preponderance of the evidence but not by clear and
19 convincing evidence, that a party has: Used, displayed, or threatened
20 to use a firearm or other dangerous weapon in a felony, or previously
21 committed any offense that makes him or her ineligible to possess a
22 pistol under the provisions of RCW 9.41.040:

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

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

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

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

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

36 (4) In addition to the provisions of subsections (1), (2), and (3)
37 of this section, the court may enter an order requiring a party to
38 comply with the provisions in subsection (1) of this section if it

1 finds that the possession of a firearm or other dangerous weapon by any
2 party presents a serious and imminent threat to public health or
3 safety, or to the health or safety of any individual.

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

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

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

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

21 Whenever a sentence outside the standard sentence range is imposed,
22 the court shall set forth the reasons for its decision in written
23 findings of fact and conclusions of law. A sentence outside the
24 standard sentence range shall be a determinate sentence.

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

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

33 (1) Mitigating Circumstances - Court to Consider

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (d) The failure to consider the defendant's prior criminal history
9 which was omitted from the offender score calculation pursuant to RCW
10 9.94A.525 results in a presumptive sentence that is clearly too
11 lenient.

12 (3) Aggravating Circumstances - Considered by a Jury -Imposed by
13 the Court

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

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

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

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

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

27 (i) The current offense involved multiple victims or multiple
28 incidents per victim;

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

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

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

36 (e) The current offense was a major violation of the Uniform
37 Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to

1 trafficking in controlled substances, which was more onerous than the
2 typical offense of its statutory definition: The presence of ANY of
3 the following may identify a current offense as a major VUCSA:

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

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

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

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

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

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

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

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

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

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

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

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

36 (i) The offense resulted in the pregnancy of a child victim of
37 rape.

1 (j) The defendant knew that the victim of the current offense was
2 a youth who was not residing with a legal custodian and the defendant
3 established or promoted the relationship for the primary purpose of
4 victimization.

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

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

11 (m) The offense involved a high degree of sophistication or
12 planning.

13 (n) The defendant used his or her position of trust, confidence, or
14 fiduciary responsibility to facilitate the commission of the current
15 offense.

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

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

19 (q) The defendant demonstrated or displayed an egregious lack of
20 remorse.

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

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

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

28 (u) The current offense is a burglary and the victim of the
29 burglary was present in the building or residence when the crime was
30 committed.

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

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

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

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

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

14 (ii) For purposes of this subsection, "metal property" means
15 commercial metal property, private metal property, or nonferrous metal
16 property, as defined in RCW 19.290.010.

17 (aa) The defendant committed the offense with the intent to
18 directly or indirectly cause any benefit, aggrandizement, gain, profit,
19 or other advantage to or for a criminal street gang as defined in RCW
20 9.94A.030, its reputation, influence, or membership.

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

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

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

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

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

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

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

12 (3) If the defendant is charged with the crime of stalking or any
13 other stalking related offense under RCW 9A.46.060, and the court
14 issues an order protecting the victim, the court shall issue a stalking
15 no-contact order pursuant to chapter 7.-- RCW (the new chapter created
16 in section 33 of this act).

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

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

22 (2) At the time of appearance provided in subsection (1) of this
23 section the court shall determine the necessity of imposing a stalking
24 no-contact order under chapter 7.-- RCW (the new chapter created in
25 section 33 of this act).

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

28 (4) The stalking no-contact order shall be issued and entered with
29 the appropriate law enforcement agency pursuant to the procedures
30 outlined in chapter 7.-- RCW (the new chapter created in section 33 of
31 this act).

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

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

1 (a) He or she intentionally and repeatedly harasses or repeatedly
2 follows another person; and

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

8 (c) The stalker either:

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

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

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

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

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

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

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

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

1 this section for stalking another person; (iv) the stalker was armed
2 with a deadly weapon, as defined in RCW ((~~9.94A.602~~)) 9.94A.825, while
3 stalking the person; (v)(A) the stalker's victim is or was a law
4 enforcement officer; judge; juror; attorney; victim advocate;
5 legislator; community corrections' officer; an employee, contract staff
6 person, or volunteer of a correctional agency; court employee, court
7 clerk, or courthouse facilitator; or an employee of the child
8 protective, child welfare, or adult protective services division within
9 the department of social and health services; and (B) the stalker
10 stalked the victim to retaliate against the victim for an act the
11 victim performed during the course of official duties or to influence
12 the victim's performance of official duties; or (vi) the stalker's
13 victim is a current, former, or prospective witness in an adjudicative
14 proceeding, and the stalker stalked the victim to retaliate against the
15 victim as a result of the victim's testimony or potential testimony.

16 (6) As used in this section:

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

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

32 (c) "Harasses" means unlawful harassment as defined in RCW
33 10.14.020.

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

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

1 **Sec. 29.** RCW 10.14.065 and 2011 c 307 s 6 are each amended to read
2 as follows:

3 Before granting an order under this chapter, the court may consult
4 the judicial information system, if available, to determine criminal
5 history or the pendency of other proceedings involving the parties.
6 Commissioners may consult the judicial information system.

7 **Sec. 30.** RCW 10.14.070 and 2005 c 144 s 1 are each amended to read
8 as follows:

9 Upon receipt of the petition alleging a prima facie case of
10 harassment, other than a petition alleging a sex offense as defined in
11 chapter 9A.44 RCW or a petition for a stalking protection order under
12 chapter 7.-- RCW (the new chapter created in section 33 of this act),
13 the court shall order a hearing which shall be held not later than
14 fourteen days from the date of the order. If the petition alleges a
15 sex offense as defined in chapter 9A.44 RCW, the court shall order a
16 hearing which shall be held not later than fourteen days from the date
17 of the order. Except as provided in RCW 10.14.085, personal service
18 shall be made upon the respondent not less than five court days before
19 the hearing. If timely personal service cannot be made, the court
20 shall set a new hearing date and shall either require additional
21 attempts at obtaining personal service or permit service by publication
22 as provided by RCW 10.14.085. If the court permits service by
23 publication, the court shall set the hearing date not later than
24 twenty-four days from the date of the order. The court may issue an ex
25 parte order for protection pending the hearing as provided in RCW
26 10.14.080 and 10.14.085.

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

29 (1)(a) Whenever an order is granted under this chapter, chapter
30 7.-- (the new chapter created in section 33 of this act), 7.90, 9A.46,
31 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or there is a valid
32 foreign protection order as defined in RCW 26.52.020, and the
33 respondent or person to be restrained knows of the order, a violation
34 of any of the following provisions of the order is a gross misdemeanor,
35 except as provided in subsections (4) and (5) of this section:

1 (i) The restraint provisions prohibiting acts or threats of
2 violence against, or stalking of, a protected party, or restraint
3 provisions prohibiting contact with a protected party;

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

6 (iii) A provision prohibiting a person from knowingly coming
7 within, or knowingly remaining within, a specified distance of a
8 location;

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

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

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

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

35 (3) A violation of an order issued under this chapter, chapter 7.--
36 (the new chapter created in section 33 of this act), 7.90, 9A.46,
37 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign

1 protection order as defined in RCW 26.52.020, shall also constitute
2 contempt of court, and is subject to the penalties prescribed by law.

3 (4) Any assault that is a violation of an order issued under this
4 chapter, chapter 7.-- (the new chapter created in section 33 of this
5 act), 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or
6 of a valid foreign protection order as defined in RCW 26.52.020, and
7 that does not amount to assault in the first or second degree under RCW
8 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in
9 violation of such an order that is reckless and creates a substantial
10 risk of death or serious physical injury to another person is a class
11 C felony.

12 (5) A violation of a court order issued under this chapter, chapter
13 7.-- (the new chapter created in section 33 of this act), 7.90, 9A.46,
14 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign
15 protection order as defined in RCW 26.52.020, is a class C felony if
16 the offender has at least two previous convictions for violating the
17 provisions of an order issued under this chapter, chapter 7.90, 9A.46,
18 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign
19 protection order as defined in RCW 26.52.020. The previous convictions
20 may involve the same victim or other victims specifically protected by
21 the orders the offender violated.

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

33 **Sec. 32.** RCW 10.31.100 and 2010 c 274 s 201 are each amended to
34 read as follows:

35 A police officer having probable cause to believe that a person has
36 committed or is committing a felony shall have the authority to arrest
37 the person without a warrant. A police officer may arrest a person

1 without a warrant for committing a misdemeanor or gross misdemeanor
2 only when the offense is committed in the presence of the officer,
3 except as provided in subsections (1) through (10) of this section.

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

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

15 (a) An order has been issued of which the person has knowledge
16 under RCW 26.44.063, or chapter 7.-- (the new chapter created in
17 section 33 of this act), 7.90, 9A.46, 10.99, 26.09, 26.10, 26.26,
18 26.50, or 74.34 RCW restraining the person and the person has violated
19 the terms of the order restraining the person from acts or threats of
20 violence, or restraining the person from going onto the grounds of or
21 entering a residence, workplace, school, or day care, or prohibiting
22 the person from knowingly coming within, or knowingly remaining within,
23 a specified distance of a location or, in the case of an order issued
24 under RCW 26.44.063, imposing any other restrictions or conditions upon
25 the person; or

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

36 (c) The person is sixteen years or older and within the preceding
37 four hours has assaulted a family or household member as defined in RCW
38 10.99.020 and the officer believes: (i) A felonious assault has

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

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

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

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

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

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

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

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

32 (4) A law enforcement officer investigating at the scene of a motor
33 vehicle accident may arrest the driver of a motor vehicle involved in
34 the accident if the officer has probable cause to believe that the
35 driver has committed in connection with the accident a violation of any
36 traffic law or regulation.

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

1 person has committed or is committing a violation of RCW 79A.60.040
2 shall have the authority to arrest the person.

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

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

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

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

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

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

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

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

33 NEW SECTION. **Sec. 33.** Sections 1 through 19, 22, and 23 of this
34 act constitute a new chapter in Title 7 RCW.

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