

E2SHB 1517 - S COMM AMD
By Committee on Law & Justice

ADOPTED 04/12/2019

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

3 **"PART I - LEGISLATIVE FINDINGS**

4 NEW SECTION. **Sec. 101.** The legislature recognizes that domestic
5 violence treatment has been the most common, and sometimes only,
6 legal response in domestic violence cases. There is a growing concern
7 about the "one size fits all" approach for domestic violence
8 misdemeanors, felonies, and other cases. In 2012, the legislature
9 directed the Washington state institute for public policy to update
10 its analysis of the scientific literature on domestic violence
11 treatment. The institute found traditional domestic violence
12 treatment to be ineffective. Treatment needs to be differentiated and
13 grounded in science, risk, and long-term evaluation. The institute's
14 findings coincided with a wave of federal, state, and local reports
15 highlighting concerns with the efficacy of traditional domestic
16 violence treatment. A new approach was needed to reduce recidivism by
17 domestic violence offenders, provide both victims and offenders with
18 meaningful answers about what works, and close critical safety gaps.
19 Subsequently, the legislature directed the gender and justice
20 commission to establish work groups and make recommendations to
21 improve domestic violence treatment and risk assessments. The work
22 group recommended establishing sentencing alternatives for domestic
23 violence offenders, integrated systems response, and domestic
24 violence risk assessments. During this time, the department of social
25 and health services repealed the administrative codes for domestic
26 violence treatment, and issued new codes grounded in a differentiated
27 approach and evidence-based practice. There is no easy answer to what
28 works to reduce domestic violence recidivism, and offenders often
29 present with co-occurring substance abuse and mental health issues,
30 but new administrative codes and work group recommendations reflect

1 the best available evidence in how best to respond and treat domestic
2 violence criminal offenders.

3 Improving rehabilitation and treatment of domestic violence
4 offenders, and those offenders with co-occurring substance and mental
5 health issues, is critical, given how often practitioners and courts
6 use treatment as the primary, and sometimes only, intervention for
7 domestic violence. Given the pervasiveness of domestic violence and
8 because of the link between domestic violence and many community
9 issues including violent recidivism, victims and offenders are owed
10 effective treatment and courts need better tools. State studies have
11 found domestic violence crimes to be the most predictive of future
12 violent crime.

13 The legislature intends to modify sentencing alternatives and
14 other sentencing practices to require use of a validated risk
15 assessment tool and domestic violence treatment certified under the
16 Washington Administrative Code. These new practices should be
17 consistently used when criminal conduct is based on domestic violence
18 behavioral problems.

19 **PART II - DEFINITION OF DOMESTIC VIOLENCE**

20 NEW SECTION. **Sec. 201.** The legislature intends to distinguish
21 between intimate partner violence and other categories of domestic
22 violence to facilitate discrete data analysis regarding domestic
23 violence by judicial, criminal justice, and advocacy entities. The
24 legislature does not intend for these modifications to definitions to
25 substantively change the prosecution of, or penalties for, domestic
26 violence, or the remedies available to potential petitioners under
27 the current statutory scheme.

28 NEW SECTION. **Sec. 202.** A new section is added to chapter 10.01
29 RCW to read as follows:

30 Whenever a prosecutor, or the attorney general or assistants
31 acting pursuant to RCW 10.01.190, institutes or conducts a criminal
32 proceeding involving domestic violence as defined in RCW 10.99.020,
33 the prosecutor, or attorney general or assistants, shall specify
34 whether the victim and defendant are intimate partners or family or
35 household members within the meaning of RCW 26.50.010.

1 **Sec. 203.** RCW 10.99.020 and 2004 c 18 s 2 are each amended to
2 read as follows:

3 Unless the context clearly requires otherwise, the definitions in
4 this section apply throughout this chapter.

5 (1) "Agency" means a general authority Washington law enforcement
6 agency as defined in RCW 10.93.020.

7 (2) "Association" means the Washington association of sheriffs
8 and police chiefs.

9 (3) "Family or household members" means (~~spouses, former~~
10 ~~spouses, persons who have a child in common regardless of whether~~
11 ~~they have been married or have lived together at any time, adult~~
12 ~~persons related by blood or marriage, adult persons who are presently~~
13 ~~residing together or who have resided together in the past, persons~~
14 ~~sixteen years of age or older who are presently residing together or~~
15 ~~who have resided together in the past and who have or have had a~~
16 ~~dating relationship, persons sixteen years of age or older with whom~~
17 ~~a person sixteen years of age or older has or has had a dating~~
18 ~~relationship, and persons who have a biological or legal parent-child~~
19 ~~relationship, including stepparents and stepchildren and grandparents~~
20 ~~and grandchildren)) the same as in RCW 26.50.010.~~

21 (4) "Dating relationship" has the same meaning as in RCW
22 26.50.010.

23 (5) "Domestic violence" includes but is not limited to any of the
24 following crimes when committed either by (a) one family or household
25 member against another family or household member, or (b) one
26 intimate partner against another intimate partner:

27 ~~((a))~~ (i) Assault in the first degree (RCW 9A.36.011);

28 ~~((b))~~ (ii) Assault in the second degree (RCW 9A.36.021);

29 ~~((c))~~ (iii) Assault in the third degree (RCW 9A.36.031);

30 ~~((d))~~ (iv) Assault in the fourth degree (RCW 9A.36.041);

31 ~~((e))~~ (v) Drive-by shooting (RCW 9A.36.045);

32 ~~((f))~~ (vi) Reckless endangerment (RCW 9A.36.050);

33 ~~((g))~~ (vii) Coercion (RCW 9A.36.070);

34 ~~((h))~~ (viii) Burglary in the first degree (RCW 9A.52.020);

35 ~~((i))~~ (ix) Burglary in the second degree (RCW 9A.52.030);

36 ~~((j))~~ (x) Criminal trespass in the first degree (RCW
37 9A.52.070);

38 ~~((k))~~ (xi) Criminal trespass in the second degree (RCW
39 9A.52.080);

1 (~~(l)~~) (xii) Malicious mischief in the first degree (RCW
2 9A.48.070);
3 (~~(m)~~) (xiii) Malicious mischief in the second degree (RCW
4 9A.48.080);
5 (~~(n)~~) (xiv) Malicious mischief in the third degree (RCW
6 9A.48.090);
7 (~~(o)~~) (xv) Kidnapping in the first degree (RCW 9A.40.020);
8 (~~(p)~~) (xvi) Kidnapping in the second degree (RCW 9A.40.030);
9 (~~(q)~~) (xvii) Unlawful imprisonment (RCW 9A.40.040);
10 (~~(r)~~) (xviii) Violation of the provisions of a restraining
11 order, no-contact order, or protection order restraining or enjoining
12 the person or restraining the person from going onto the grounds of
13 or entering 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 (RCW 10.99.040,
16 10.99.050, 26.09.300, 26.10.220, (~~(26.26.138)~~) 26.26B.050, 26.44.063,
17 26.44.150, 26.50.060, 26.50.070, 26.50.130, 26.52.070, or 74.34.145);
18 (~~(s)~~) (xix) Rape in the first degree (RCW 9A.44.040);
19 (~~(t)~~) (xx) Rape in the second degree (RCW 9A.44.050);
20 (~~(u)~~) (xxi) Residential burglary (RCW 9A.52.025);
21 (~~(v)~~) (xxii) Stalking (RCW 9A.46.110); and
22 (~~(w)~~) (xxiii) Interference with the reporting of domestic
23 violence (RCW 9A.36.150).

24 (6) "Employee" means any person currently employed with an
25 agency.

26 (7) "Intimate partners" means the same as in RCW 26.50.010.

27 (8) "Sworn employee" means a general authority Washington peace
28 officer as defined in RCW 10.93.020, any person appointed under RCW
29 35.21.333, and any person appointed or elected to carry out the
30 duties of the sheriff under chapter 36.28 RCW.

31 (~~(8)~~) (9) "Victim" means a family or household member or an
32 intimate partner who has been subjected to domestic violence.

33 **Sec. 204.** RCW 26.50.010 and 2015 c 287 s 8 are each reenacted
34 and amended to read as follows:

35 As used in this chapter, the following terms shall have the
36 meanings given them:

37 (1) "Court" includes the superior, district, and municipal courts
38 of the state of Washington.

1 (2) "Dating relationship" means a social relationship of a
2 romantic nature. Factors that the court may consider in making this
3 determination include: (a) The length of time the relationship has
4 existed; (b) the nature of the relationship; and (c) the frequency of
5 interaction between the parties.

6 (3) "Domestic violence" means: (a) Physical harm, bodily injury,
7 assault, or the infliction of fear of imminent physical harm, bodily
8 injury or assault, (~~between family or household members; (b)~~)
9 sexual assault (~~(of one family or household member by another;)~~),
10 (~~(e)~~) stalking as defined in RCW 9A.46.110 of one intimate partner
11 by another intimate partner; or (b) physical harm, bodily injury,
12 assault, or the infliction of fear of imminent physical harm, bodily
13 injury or assault, sexual assault, or stalking as defined in RCW
14 9A.46.110 of one family or household member by another family or
15 household member.

16 (4) "Electronic monitoring" has the same meaning as in RCW
17 9.94A.030.

18 (5) "Essential personal effects" means those items necessary for
19 a person's immediate health, welfare, and livelihood. "Essential
20 personal effects" includes but is not limited to clothing, cribs,
21 bedding, documents, medications, and personal hygiene items.

22 (6) "Family or household members" means (~~(spouses, domestic~~
23 ~~partners, former spouses, former domestic partners, persons who have~~
24 ~~a child in common regardless of whether they have been married or~~
25 ~~have lived together at any time,)~~): (a) Adult persons related by
26 blood or marriage((r)); (b) adult persons who are presently residing
27 together or who have resided together in the past((r, persons sixteen
28 years of age or older who are presently residing together or who have
29 resided together in the past and who have or have had a dating
30 relationship, persons sixteen years of age or older with whom a
31 person sixteen years of age or older has or has had a dating
32 relationship(r)); and (c) persons who have a biological or legal
33 parent-child relationship, including stepparents and stepchildren and
34 grandparents and grandchildren.

35 (7) "Intimate partner" means: (a) Spouses, or domestic partners;
36 (b) former spouses, or former domestic partners; (c) persons who have
37 a child in common regardless of whether they have been married or
38 have lived together at any time; (d) adult persons presently or
39 previously residing together who have or have had a dating
40 relationship; (e) persons sixteen years of age or older who are

1 presently residing together or who have resided together in the past
2 and who have or have had a dating relationship; and (f) persons
3 sixteen years of age or older with whom a person sixteen years of age
4 or older has or has had a dating relationship.

5 (8) "Judicial day" does not include Saturdays, Sundays, or legal
6 holidays.

7 **Sec. 205.** RCW 26.50.020 and 2010 c 274 s 302 are each amended to
8 read as follows:

9 (1) (a) Any person may seek relief under this chapter by filing a
10 petition with a court alleging that the person has been the victim of
11 domestic violence committed by the respondent. The person may
12 petition for relief on behalf of himself or herself and on behalf of
13 minor family or household members.

14 (b) Any person thirteen years of age or older may seek relief
15 under this chapter by filing a petition with a court alleging that he
16 or she has been the victim of violence in a dating relationship and
17 the respondent is sixteen years of age or older.

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

21 (b) A person under sixteen years of age who is seeking relief
22 under subsection (1) (b) of this section is required to seek relief by
23 a parent, guardian, guardian ad litem, or next friend.

24 (3) No guardian or guardian ad litem need be appointed on behalf
25 of a respondent to an action under this chapter who is under eighteen
26 years of age if such respondent is sixteen years of age or older.

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

30 (5) Any petition filed under this chapter must specify whether
31 the victim and respondent of the alleged domestic violence are
32 intimate partners or family or household members within the meaning
33 of RCW 26.50.010.

34 (6) The courts defined in RCW 26.50.010(~~(+4)~~) have jurisdiction
35 over proceedings under this chapter. The jurisdiction of district and
36 municipal courts under this chapter shall be limited to enforcement
37 of RCW 26.50.110(1), or the equivalent municipal ordinance, and the
38 issuance and enforcement of temporary orders for protection provided
39 for in RCW 26.50.070 if: (a) A superior court has exercised or is

1 exercising jurisdiction over a proceeding under this title or chapter
2 13.34 RCW involving the parties; (b) the petition for relief under
3 this chapter presents issues of residential schedule of and contact
4 with children of the parties; or (c) the petition for relief under
5 this chapter requests the court to exclude a party from the dwelling
6 which the parties share. When the jurisdiction of a district or
7 municipal court is limited to the issuance and enforcement of a
8 temporary order, the district or municipal court shall set the full
9 hearing provided for in RCW 26.50.050 in superior court and transfer
10 the case. If the notice and order are not served on the respondent in
11 time for the full hearing, the issuing court shall have concurrent
12 jurisdiction with the superior court to extend the order for
13 protection.

14 ~~((+6))~~ (7) An action under this chapter shall be filed in the
15 county or the municipality where the petitioner resides, unless the
16 petitioner has left the residence or household to avoid abuse. In
17 that case, the petitioner may bring an action in the county or
18 municipality of the previous or the new household or residence.

19 ~~((+7))~~ (8) A person's right to petition for relief under this
20 chapter is not affected by the person leaving the residence or
21 household to avoid abuse.

22 ~~((+8))~~ (9) For the purposes of this section "next friend" means
23 any competent individual, over eighteen years of age, chosen by the
24 minor and who is capable of pursuing the minor's stated interest in
25 the action.

26 **PART III - CRIMINAL NO-CONTACT ORDERS**

27 NEW SECTION. **Sec. 301.** (1) The legislature believes the
28 existing language of RCW 10.99.050 has always authorized courts to
29 issue domestic violence no-contact orders in adult and juvenile cases
30 that last up to the adult statutory maximum in felony cases and up to
31 the maximum period for which an adult sentence can be suspended or
32 deferred in nonfelony cases. However, in *State v. Granath*, 200 Wn.
33 App. 26, 401 P.3d 405 (2017), aff'd, 190 Wn.2d 548, 415 P.3d 1179
34 (2018), the court of appeals and supreme court recently interpreted
35 this provision to limit domestic violence no-contact orders in
36 nonfelony sentences to the duration of the defendant's conditions of
37 sentence. The legislature finds that this interpretation inadequately
38 protects victims of domestic violence. The legislature intends to

1 clarify the trial courts' authority to issue no-contact orders that
2 remain in place in adult and juvenile nonfelony cases for the maximum
3 period of time that an adult sentence could be suspended, and in
4 adult and juvenile felony cases for the adult statutory maximum.

5 (2) The legislature further finds that there is a discrepancy in
6 which sentences for nonfelony domestic violence offenses can be
7 suspended for up to five years in district and municipal courts, but
8 only for up to two years in superior courts in most cases, creating
9 inconsistent protection for victims. The legislature intends to
10 rectify this discrepancy to allow nonfelony domestic violence
11 sentences to be suspended for up to five years in all courts.

12 **Sec. 302.** RCW 9.95.210 and 2012 1st sp.s. c 6 s 10 are each
13 amended to read as follows:

14 (1)(a) Except as provided in (b) of this subsection in granting
15 probation, the superior court may suspend the imposition or the
16 execution of the sentence and may direct that the suspension may
17 continue upon such conditions and for such time as it shall
18 designate, not exceeding the maximum term of sentence or two years,
19 whichever is longer.

20 (b) For a defendant sentenced for a domestic violence offense, or
21 under RCW 46.61.5055, the superior court may suspend the imposition
22 or the execution of the sentence and may direct that the suspension
23 continue upon such conditions and for such time as the court shall
24 designate, not to exceed five years. The court shall have continuing
25 jurisdiction and authority to suspend the execution of all or any
26 part of the sentence upon stated terms, including installment payment
27 of fines. A defendant who has been sentenced, and who then fails to
28 appear for any hearing to address the defendant's compliance with the
29 terms of probation when ordered to do so by the court shall have the
30 term of probation tolled until such time as the defendant makes his
31 or her presence known to the court on the record. Any time before
32 entering an order terminating probation, the court may modify or
33 revoke its order suspending the imposition or execution of the
34 sentence if the defendant violates or fails to carry out any of the
35 conditions of the suspended sentence.

36 (2) In the order granting probation and as a condition thereof,
37 the superior court may in its discretion imprison the defendant in
38 the county jail for a period not exceeding one year and may fine the
39 defendant any sum not exceeding the statutory limit for the offense

1 committed, and court costs. As a condition of probation, the superior
2 court shall require the payment of the penalty assessment required by
3 RCW 7.68.035. The superior court may also require the defendant to
4 make such monetary payments, on such terms as it deems appropriate
5 under the circumstances, as are necessary: (a) To comply with any
6 order of the court for the payment of family support; (b) to make
7 restitution to any person or persons who may have suffered loss or
8 damage by reason of the commission of the crime in question or when
9 the offender pleads guilty to a lesser offense or fewer offenses and
10 agrees with the prosecutor's recommendation that the offender be
11 required to pay restitution to a victim of an offense or offenses
12 which are not prosecuted pursuant to a plea agreement; (c) to pay
13 such fine as may be imposed and court costs, including reimbursement
14 of the state for costs of extradition if return to this state by
15 extradition was required; (d) following consideration of the
16 financial condition of the person subject to possible electronic
17 monitoring, to pay for the costs of electronic monitoring if that
18 monitoring was required by the court as a condition of release from
19 custody or as a condition of probation; (e) to contribute to a county
20 or interlocal drug fund; and (f) to make restitution to a public
21 agency for the costs of an emergency response under RCW 38.52.430,
22 and may require bonds for the faithful observance of any and all
23 conditions imposed in the probation.

24 (3) The superior court shall order restitution in all cases where
25 the victim is entitled to benefits under the crime victims'
26 compensation act, chapter 7.68 RCW. If the superior court does not
27 order restitution and the victim of the crime has been determined to
28 be entitled to benefits under the crime victims' compensation act,
29 the department of labor and industries, as administrator of the crime
30 victims' compensation program, may petition the superior court within
31 one year of imposition of the sentence for entry of a restitution
32 order. Upon receipt of a petition from the department of labor and
33 industries, the superior court shall hold a restitution hearing and
34 shall enter a restitution order.

35 (4) In granting probation, the superior court may order the
36 probationer to report to the secretary of corrections or such officer
37 as the secretary may designate and as a condition of the probation to
38 follow the instructions of the secretary for up to twelve months. If
39 the county legislative authority has elected to assume responsibility
40 for the supervision of superior court misdemeanor probationers

1 within its jurisdiction, the superior court misdemeanor probationer
2 shall report to a probation officer employed or contracted for by the
3 county. In cases where a superior court misdemeanor probationer is
4 sentenced in one county, but resides within another county, there
5 must be provisions for the probationer to report to the agency having
6 supervision responsibility for the probationer's county of residence.

7 (5) If the probationer has been ordered to make restitution and
8 the superior court has ordered supervision, the officer supervising
9 the probationer shall make a reasonable effort to ascertain whether
10 restitution has been made. If the superior court has ordered
11 supervision and restitution has not been made as ordered, the officer
12 shall inform the prosecutor of that violation of the terms of
13 probation not less than three months prior to the termination of the
14 probation period. The secretary of corrections will promulgate rules
15 and regulations for the conduct of the person during the term of
16 probation. For defendants found guilty in district court, like
17 functions as the secretary performs in regard to probation may be
18 performed by probation officers employed for that purpose by the
19 county legislative authority of the county wherein the court is
20 located.

21 (6) The provisions of RCW 9.94A.501 and 9.94A.5011 apply to
22 sentences imposed under this section.

23 (7) For purposes of this section, "domestic violence" means the
24 same as in RCW 10.99.020.

25 **Sec. 303.** RCW 10.99.050 and 2000 c 119 s 20 are each amended to
26 read as follows:

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

31 (2)(a) Willful violation of a court order issued under this
32 section is punishable under RCW 26.50.110.

33 (b) The written order shall contain the court's directives and
34 shall bear the legend: Violation of this order is a criminal offense
35 under chapter 26.50 RCW and will subject a violator to arrest; any
36 assault, drive-by shooting, or reckless endangerment that is a
37 violation of this order is a felony.

38 (c) An order issued pursuant to this section in conjunction with
39 a misdemeanor or gross misdemeanor sentence or juvenile disposition

1 remains in effect for a fixed period of time determined by the court,
2 which may not exceed five years from the date of sentencing or
3 disposition.

4 (d) An order issued pursuant to this section in conjunction with
5 a felony sentence or juvenile disposition remains in effect for a
6 fixed period of time determined by the court, which may not exceed
7 the adult maximum sentence established in RCW 9A.20.021.

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

20 (4) If an order prohibiting contact issued pursuant to this
21 section is modified or terminated, the clerk of the court shall
22 notify the law enforcement agency specified in the order on or before
23 the next judicial day. Upon receipt of notice that an order has been
24 terminated, the law enforcement agency shall remove the order from
25 any computer-based criminal intelligence system.

26 **PART IV - RISK ASSESSMENT**

27 NEW SECTION. Sec. 401. A new section is added to chapter 9.94A
28 RCW to read as follows:

29 (1) The Washington State University department of criminal
30 justice shall develop a tool to be used in conjunction with the
31 Washington one risk assessment that would specifically predict
32 whether the offender will commit domestic violence in the future. The
33 domestic violence tool may incorporate relevant court records into
34 the prediction modeling, if practical within the resources allocated.
35 The tool will be used by the department as part of the current risk,
36 needs, and responsivity assessment process.

37 (2) The Washington State University department of criminal
38 justice shall make the domestic violence risk assessment tool

1 available for use by the department no later than July 1, 2020.
2 Subject to funds appropriated for this specific purpose, the
3 department shall start to implement the domestic violence risk
4 assessment tool by July 1, 2020, and by July 1, 2021, the department
5 shall use the domestic violence risk assessment tool when conducting
6 a Washington one risk assessment for an offender with a current
7 conviction where domestic violence was pleaded and proven.

8 (3) The harborview center for sexual assault and traumatic stress
9 shall develop a training curriculum for domestic violence perpetrator
10 treatment providers that incorporates evidence-based practices and
11 treatment modalities consistent with the Washington Administrative
12 Code provisions adopted by the department of social and health
13 services. The harborview center for sexual assault and traumatic
14 stress shall complete the training curriculum and make it available
15 for provider training no later than June 30, 2020.

16 **PART V - SENTENCING**

17 **Sec. 501.** RCW 9.94A.500 and 2013 c 200 s 33 are each amended to
18 read as follows:

19 (1) Before imposing a sentence upon a defendant, the court shall
20 conduct a sentencing hearing. The sentencing hearing shall be held
21 within forty court days following conviction. Upon the motion of
22 either party for good cause shown, or on its own motion, the court
23 may extend the time period for conducting the sentencing hearing.

24 Except in cases where the defendant shall be sentenced to a term
25 of total confinement for life without the possibility of release or,
26 when authorized by RCW 10.95.030 for the crime of aggravated murder
27 in the first degree, sentenced to death, the court may order the
28 department to complete a risk assessment report. If available before
29 sentencing, the report shall be provided to the court.

30 Unless specifically waived by the court, the court shall order
31 the department to complete a chemical dependency screening report
32 before imposing a sentence upon a defendant who has been convicted of
33 a violation of the uniform controlled substances act under chapter
34 69.50 RCW, a criminal solicitation to commit such a violation under
35 chapter 9A.28 RCW, or any felony where the court finds that the
36 offender has a chemical dependency that has contributed to his or her
37 offense. In addition, the court shall, at the time of plea or
38 conviction, order the department to complete a presentence report

1 before imposing a sentence upon a defendant who has been convicted of
2 a felony sexual offense. The department of corrections shall give
3 priority to presentence investigations for sexual offenders. If the
4 court determines that the defendant may be a mentally ill person as
5 defined in RCW 71.24.025, although the defendant has not established
6 that at the time of the crime he or she lacked the capacity to commit
7 the crime, was incompetent to commit the crime, or was insane at the
8 time of the crime, the court shall order the department to complete a
9 presentence report before imposing a sentence.

10 Unless specifically waived by the court, the court shall order
11 the department to complete a presentence investigation before
12 imposing a drug offender sentencing alternative upon a defendant who
13 has been convicted of a felony offense where domestic violence has
14 been pleaded and proven.

15 The court shall consider the risk assessment report and
16 presentence reports, if any, including any victim impact statement
17 and criminal history, and allow arguments from the prosecutor, the
18 defense counsel, the offender, the victim, the survivor of the
19 victim, or a representative of the victim or survivor, and an
20 investigative law enforcement officer as to the sentence to be
21 imposed.

22 A criminal history summary relating to the defendant from the
23 prosecuting authority or from a state, federal, or foreign
24 governmental agency shall be prima facie evidence of the existence
25 and validity of the convictions listed therein. If the court is
26 satisfied by a preponderance of the evidence that the defendant has a
27 criminal history, the court shall specify the convictions it has
28 found to exist. All of this information shall be part of the record.
29 Copies of all risk assessment reports and presentence reports
30 presented to the sentencing court and all written findings of facts
31 and conclusions of law as to sentencing entered by the court shall be
32 sent to the department by the clerk of the court at the conclusion of
33 the sentencing and shall accompany the offender if the offender is
34 committed to the custody of the department. Court clerks shall
35 provide, without charge, certified copies of documents relating to
36 criminal convictions requested by prosecuting attorneys.

37 (2) To prevent wrongful disclosure of information and records
38 related to mental health services, as described in RCW 71.05.445 and
39 70.02.250, a court may take only those steps necessary during a
40 sentencing hearing or any hearing in which the department presents

1 information related to mental health services to the court. The steps
2 may be taken on motion of the defendant, the prosecuting attorney, or
3 on the court's own motion. The court may seal the portion of the
4 record relating to information relating to mental health services,
5 exclude the public from the hearing during presentation or discussion
6 of information and records relating to mental health services, or
7 grant other relief to achieve the result intended by this subsection,
8 but nothing in this subsection shall be construed to prevent the
9 subsequent release of information and records related to mental
10 health services as authorized by RCW 71.05.445, 70.02.250, or
11 72.09.585. Any person who otherwise is permitted to attend any
12 hearing pursuant to chapter 7.69 or 7.69A RCW shall not be excluded
13 from the hearing solely because the department intends to disclose or
14 discloses information related to mental health services.

15 **Sec. 502.** RCW 9.94A.660 and 2016 sp.s. c 29 s 524 are each
16 amended to read as follows:

17 (1) An offender is eligible for the special drug offender
18 sentencing alternative if:

19 (a) The offender is convicted of a felony that is not a violent
20 offense or sex offense and the violation does not involve a sentence
21 enhancement under RCW 9.94A.533 (3) or (4);

22 (b) The offender is convicted of a felony that is not a felony
23 driving while under the influence of intoxicating liquor or any drug
24 under RCW 46.61.502(6) or felony physical control of a vehicle while
25 under the influence of intoxicating liquor or any drug under RCW
26 46.61.504(6);

27 (c) The offender has no current or prior convictions for a sex
28 offense at any time or violent offense within ten years before
29 conviction of the current offense, in this state, another state, or
30 the United States;

31 (d) For a violation of the Uniform Controlled Substances Act
32 under chapter 69.50 RCW or a criminal solicitation to commit such a
33 violation under chapter 9A.28 RCW, the offense involved only a small
34 quantity of the particular controlled substance as determined by the
35 judge upon consideration of such factors as the weight, purity,
36 packaging, sale price, and street value of the controlled substance;

37 (e) The offender has not been found by the United States attorney
38 general to be subject to a deportation detainer or order and does not

1 become subject to a deportation order during the period of the
2 sentence;

3 (f) The end of the standard sentence range for the current
4 offense is greater than one year; and

5 (g) The offender has not received a drug offender sentencing
6 alternative more than once in the prior ten years before the current
7 offense.

8 (2) A motion for a special drug offender sentencing alternative
9 may be made by the court, the offender, or the state.

10 (3) If the sentencing court determines that the offender is
11 eligible for an alternative sentence under this section and that the
12 alternative sentence is appropriate, the court shall waive imposition
13 of a sentence within the standard sentence range and impose a
14 sentence consisting of either a prison-based alternative under RCW
15 9.94A.662 or a residential chemical dependency treatment-based
16 alternative under RCW 9.94A.664. The residential chemical dependency
17 treatment-based alternative is only available if the midpoint of the
18 standard range is twenty-four months or less.

19 (4) (a) To assist the court in making its determination, the court
20 may order the department to complete either or both a risk assessment
21 report and a chemical dependency screening report as provided in RCW
22 9.94A.500.

23 (b) To assist the court in making its determination in domestic
24 violence cases, the court shall order the department to complete a
25 presentence investigation and a chemical dependency screening report
26 as provided in RCW 9.94A.500, unless otherwise specifically waived by
27 the court.

28 (5) (a) If the court is considering imposing a sentence under the
29 residential chemical dependency treatment-based alternative, the
30 court may order an examination of the offender by the department. The
31 examination shall, at a minimum, address the following issues:

32 (i) Whether the offender suffers from drug addiction;

33 (ii) Whether the addiction is such that there is a probability
34 that criminal behavior will occur in the future;

35 (iii) Whether effective treatment for the offender's addiction is
36 available from a provider that has been licensed or certified by the
37 department of (~~social and health services~~) health, and where
38 applicable, whether effective domestic violence perpetrator treatment
39 is available from a state-certified domestic violence treatment
40 provider pursuant to chapter 26.50 RCW; and

1 (iv) Whether the offender and the community will benefit from the
2 use of the alternative.

3 (b) The examination report must contain:

4 (i) A proposed monitoring plan, including any requirements
5 regarding living conditions, lifestyle requirements, and monitoring
6 by family members and others; and

7 (ii) Recommended crime-related prohibitions and affirmative
8 conditions.

9 (6) When a court imposes a sentence of community custody under
10 this section:

11 (a) The court may impose conditions as provided in RCW 9.94A.703
12 and may impose other affirmative conditions as the court considers
13 appropriate. In addition, an offender may be required to pay thirty
14 dollars per month while on community custody to offset the cost of
15 monitoring for alcohol or controlled substances, or in cases of
16 domestic violence for monitoring with global positioning system
17 technology for compliance with a no-contact order.

18 (b) The department may impose conditions and sanctions as
19 authorized in RCW 9.94A.704 and 9.94A.737.

20 (7)(a) The court may bring any offender sentenced under this
21 section back into court at any time on its own initiative to evaluate
22 the offender's progress in treatment or to determine if any
23 violations of the conditions of the sentence have occurred.

24 (b) If the offender is brought back to court, the court may
25 modify the conditions of the community custody or impose sanctions
26 under (c) of this subsection.

27 (c) The court may order the offender to serve a term of total
28 confinement within the standard range of the offender's current
29 offense at any time during the period of community custody if the
30 offender violates the conditions or requirements of the sentence or
31 if the offender is failing to make satisfactory progress in
32 treatment.

33 (d) An offender ordered to serve a term of total confinement
34 under (c) of this subsection shall receive credit for any time
35 previously served under this section.

36 (8) In serving a term of community custody imposed upon failure
37 to complete, or administrative termination from, the special drug
38 offender sentencing alternative program, the offender shall receive
39 no credit for time served in community custody prior to termination
40 of the offender's participation in the program.

1 (9) An offender sentenced under this section shall be subject to
2 all rules relating to earned release time with respect to any period
3 served in total confinement.

4 (10) Costs of examinations and preparing treatment plans under a
5 special drug offender sentencing alternative may be paid, at the
6 option of the county, from funds provided to the county from the
7 criminal justice treatment account under RCW 71.24.580.

8 **Sec. 503.** RCW 9.94A.662 and 2009 c 389 s 4 are each amended to
9 read as follows:

10 (1) A sentence for a prison-based special drug offender
11 sentencing alternative shall include:

12 (a) A period of total confinement in a state facility for one-
13 half the midpoint of the standard sentence range or twelve months,
14 whichever is greater;

15 (b) One-half the midpoint of the standard sentence range as a
16 term of community custody, which must include appropriate substance
17 abuse treatment in a program that has been approved by the division
18 of alcohol and substance abuse of the department of social and health
19 services, and for co-occurring drug and domestic violence cases, must
20 also include an appropriate domestic violence treatment program by a
21 state-certified domestic violence treatment provider pursuant to
22 chapter 26.50 RCW;

23 (c) Crime-related prohibitions, including a condition not to use
24 illegal controlled substances;

25 (d) A requirement to submit to urinalysis or other testing to
26 monitor that status; and

27 (e) A term of community custody pursuant to RCW 9.94A.701 to be
28 imposed upon the failure to complete or administrative termination
29 from the special drug offender sentencing alternative program.

30 (2) (a) During incarceration in the state facility, offenders
31 sentenced under this section shall undergo a comprehensive substance
32 abuse assessment and receive, within available resources, treatment
33 services appropriate for the offender. The substance abuse treatment
34 services shall be designed by the division of alcohol and substance
35 abuse of the department of social and health services, in cooperation
36 with the department of corrections.

37 (b) When applicable for cases involving domestic violence,
38 domestic violence treatment must be provided by a state-certified

1 domestic violence treatment provider pursuant to chapter 26.50 RCW
2 during the term of community custody.

3 (3) If the department finds that conditions of community custody
4 have been willfully violated, the offender may be reclassified to
5 serve the remaining balance of the original sentence. An offender who
6 fails to complete the program or who is administratively terminated
7 from the program shall be reclassified to serve the unexpired term of
8 his or her sentence as ordered by the sentencing court.

9 (4) If an offender sentenced to the prison-based alternative
10 under this section is found by the United States attorney general to
11 be subject to a deportation order, a hearing shall be held by the
12 department unless waived by the offender, and, if the department
13 finds that the offender is subject to a valid deportation order, the
14 department may administratively terminate the offender from the
15 program and reclassify the offender to serve the remaining balance of
16 the original sentence.

17 **Sec. 504.** RCW 9.94A.664 and 2009 c 389 s 5 are each amended to
18 read as follows:

19 (1) A sentence for a residential chemical dependency treatment-
20 based alternative shall include a term of community custody equal to
21 one-half the midpoint of the standard sentence range or two years,
22 whichever is greater, conditioned on the offender entering and
23 remaining in residential chemical dependency treatment certified
24 under chapter 70.96A RCW for a period set by the court between three
25 and six months.

26 (2)(a) The court shall impose, as conditions of community
27 custody, treatment and other conditions as proposed in the
28 examination report completed pursuant to RCW 9.94A.660.

29 (b) If the court imposes a term of community custody, the
30 department shall, within available resources, make chemical
31 dependency assessment and treatment services available to the
32 offender during the term of community custody, and within available
33 resources, make domestic violence treatment services available to a
34 domestic violence offender during the term of community custody.

35 (3)(a) If the court imposes a sentence under this section, the
36 treatment provider must send the treatment plan to the court within
37 thirty days of the offender's arrival to the residential chemical
38 dependency treatment program and, when applicable, the domestic
39 violence treatment program.

1 (b) Upon receipt of the plan, the court shall schedule a progress
2 hearing during the period of (~~residential-chemical-dependency~~)
3 treatment, and schedule a treatment termination hearing for three
4 months before the expiration of the term of community custody.

5 (c) Before the progress hearing and treatment termination
6 hearing, the treatment provider and the department shall submit
7 written reports to the court and parties regarding the offender's
8 compliance with treatment and monitoring requirements, and
9 recommendations regarding termination from treatment.

10 (4) At a progress hearing or treatment termination hearing, the
11 court may:

12 (a) Authorize the department to terminate the offender's
13 community custody status on the expiration date determined under
14 subsection (1) of this section;

15 (b) Continue the hearing to a date before the expiration date of
16 community custody, with or without modifying the conditions of
17 community custody; or

18 (c) Impose a term of total confinement equal to one-half the
19 midpoint of the standard sentence range, followed by a term of
20 community custody under RCW 9.94A.701.

21 (5) If the court imposes a term of total confinement, the
22 department shall, within available resources, make chemical
23 dependency assessment and treatment services available to the
24 offender during the term of total confinement and subsequent term of
25 community custody.

26 **PART VI - COMMUNITY CUSTODY AND REENTRY**

27 **Sec. 601.** RCW 9.94A.704 and 2016 c 108 s 1 are each amended to
28 read as follows:

29 (1) Every person who is sentenced to a period of community
30 custody shall report to and be placed under the supervision of the
31 department, subject to RCW 9.94A.501.

32 (2)(a) The department shall assess the offender's risk of
33 reoffense and may establish and modify additional conditions of
34 community custody based upon the risk to community safety.

35 (b) Within the funds available for community custody, the
36 department shall determine conditions on the basis of risk to
37 community safety, and shall supervise offenders during community
38 custody on the basis of risk to community safety and conditions

1 imposed by the court. The secretary shall adopt rules to implement
2 the provisions of this subsection (2)(b).

3 (3) If the offender is supervised by the department, the
4 department shall at a minimum instruct the offender to:

5 (a) Report as directed to a community corrections officer;

6 (b) Remain within prescribed geographical boundaries;

7 (c) Notify the community corrections officer of any change in the
8 offender's address or employment;

9 (d) Pay the supervision fee assessment; and

10 (e) Disclose the fact of supervision to any mental health ((~~or~~)),
11 chemical dependency, or domestic violence treatment provider, as
12 required by RCW 9.94A.722.

13 (4) The department may require the offender to participate in
14 rehabilitative programs, or otherwise perform affirmative conduct,
15 and to obey all laws.

16 (5) If the offender was sentenced pursuant to a conviction for a
17 sex offense or domestic violence, the department may:

18 (a) Require the offender to refrain from direct or indirect
19 contact with the victim of the crime or immediate family member of
20 the victim of the crime. If a victim or an immediate family member of
21 a victim has requested that the offender not contact him or her after
22 notice as provided in RCW 72.09.340, the department shall require the
23 offender to refrain from contact with the requestor. Where the victim
24 is a minor, the parent or guardian of the victim may make a request
25 on the victim's behalf. This subsection is not intended to reduce the
26 preexisting authority of the department to impose no-contact
27 conditions regardless of the offender's crime and regardless of who
28 is protected by the no-contact condition, where such condition is
29 based on risk to community safety.

30 (b) Impose electronic monitoring. Within the resources made
31 available by the department for this purpose, the department shall
32 carry out any electronic monitoring using the most appropriate
33 technology given the individual circumstances of the offender. As
34 used in this section, "electronic monitoring" has the same meaning as
35 in RCW 9.94A.030.

36 (6) The department may not impose conditions that are contrary to
37 those ordered by the court and may not contravene or decrease court-
38 imposed conditions.

39 (7)(a) The department shall notify the offender in writing of any
40 additional conditions or modifications.

1 (b) By the close of the next business day after receiving notice
2 of a condition imposed or modified by the department, an offender may
3 request an administrative review under rules adopted by the
4 department. The condition shall remain in effect unless the reviewing
5 officer finds that it is not reasonably related to the crime of
6 conviction, the offender's risk of reoffending, or the safety of the
7 community.

8 (8) The department shall notify the offender in writing upon
9 community custody intake of the department's violation process.

10 (9) The department may require offenders to pay for special
11 services rendered including electronic monitoring, day reporting, and
12 telephone reporting, dependent on the offender's ability to pay. The
13 department may pay for these services for offenders who are not able
14 to pay.

15 (10)(a) When an offender on community custody is under the
16 authority of the board, the department shall assess the offender's
17 risk of recidivism and shall recommend to the board any additional or
18 modified conditions based upon the offender's risk to community
19 safety and may recommend affirmative conduct or electronic monitoring
20 consistent with subsections (4) through (6) of this section.

21 (b) The board may impose conditions in addition to court-ordered
22 conditions. The board must consider and may impose department-
23 recommended conditions. The board must impose a condition requiring
24 the offender to refrain from contact with the victim or immediate
25 family member of the victim as provided in subsection (5)(a) of this
26 section.

27 (c) By the close of the next business day, after receiving notice
28 of a condition imposed by the board or the department, an offender
29 may request an administrative hearing under rules adopted by the
30 board. The condition shall remain in effect unless the hearing
31 examiner finds that it is not reasonably related to any of the
32 following:

- 33 (i) The crime of conviction;
- 34 (ii) The offender's risk of reoffending;
- 35 (iii) The safety of the community;
- 36 (iv) The offender's risk of domestic violence reoffense.

37 (d) If the department finds that an emergency exists requiring
38 the immediate imposition of additional conditions in order to prevent
39 the offender from committing a crime, the department may impose such
40 conditions. The department may not impose conditions that are

1 contrary to those set by the board or the court and may not
2 contravene or decrease court-imposed or board-imposed conditions.
3 Conditions imposed under this subsection shall take effect
4 immediately after notice to the offender by personal service, but
5 shall not remain in effect longer than seven working days unless
6 approved by the board.

7 (11) In setting, modifying, and enforcing conditions of community
8 custody, the department shall be deemed to be performing a
9 quasi-judicial function.

10 **Sec. 602.** RCW 9.94A.722 and 2004 c 166 s 9 are each amended to
11 read as follows:

12 When an offender receiving court-ordered mental health ~~((~~or~~))~~,
13 chemical dependency, or domestic violence treatment or treatment
14 ordered by the department of corrections presents for treatment from
15 a mental health or chemical dependency treatment provider, the
16 offender must disclose to the mental health ~~((~~or~~))~~,
17 chemical dependency, or domestic violence treatment provider whether he or she
18 is subject to supervision by the department of corrections. If an
19 offender has received relief from disclosure pursuant to RCW
20 9.94A.562, 70.96A.155, or 71.05.132, the offender must provide the
21 mental health ~~((~~or~~))~~, chemical dependency, or domestic violence
22 treatment provider with a copy of the order granting the relief.

23 **PART VII - DEFERRED PROSECUTIONS**

24 **Sec. 701.** RCW 10.05.010 and 2008 c 282 s 15 are each amended to
25 read as follows:

26 (1) In a court of limited jurisdiction a person charged with a
27 misdemeanor or gross misdemeanor may petition the court to be
28 considered for a deferred prosecution program. The petition shall be
29 filed with the court at least seven days before the date set for
30 trial but, upon a written motion and affidavit establishing good
31 cause for the delay and failure to comply with this section, the
32 court may waive this requirement subject to the defendant's
33 reimbursement to the court of the witness fees and expenses due for
34 subpoenaed witnesses who have appeared on the date set for trial.

35 (2) A person charged with a traffic infraction, misdemeanor, or
36 gross misdemeanor under Title 46 RCW, or a misdemeanor or gross
37 misdemeanor domestic violence offense, shall not be eligible for a

1 deferred prosecution program unless the court makes specific findings
2 pursuant to RCW 10.05.020 (~~or section 18 of this act. Such person~~
3 ~~shall not be eligible for a deferred prosecution program more than~~
4 ~~once; and cannot receive a deferred prosecution under both RCW~~
5 ~~10.05.020 and section 18 of this act)). A person may not participate
6 in a deferred prosecution program for a traffic infraction,
7 misdemeanor, or gross misdemeanor under Title 46 RCW if he or she has
8 participated in a deferred prosecution program for a prior traffic
9 infraction, misdemeanor, or gross misdemeanor under Title 46 RCW, and
10 a person may not participate in a deferred prosecution program for a
11 misdemeanor or gross misdemeanor domestic violence offense if he or
12 she has participated in a deferred prosecution program for a prior
13 domestic violence offense. Separate offenses committed more than
14 seven days apart may not be consolidated in a single program.~~

15 (3) A person charged with a misdemeanor or a gross misdemeanor
16 under chapter 9A.42 RCW shall not be eligible for a deferred
17 prosecution program unless the court makes specific findings pursuant
18 to RCW 10.05.020. Such person shall not be eligible for a deferred
19 prosecution program more than once.

20 (4) A person is not eligible for a deferred prosecution program
21 if the misdemeanor or gross misdemeanor domestic violence offense was
22 originally charged as a felony offense in superior court.

23 **Sec. 702.** RCW 10.05.015 and 1985 c 352 s 5 are each amended to
24 read as follows:

25 At the time of arraignment a person charged with a violation of
26 RCW 46.61.502 or 46.61.504 or a misdemeanor or gross misdemeanor
27 domestic violence offense may be given a statement by the court that
28 explains the availability, operation, and effects of the deferred
29 prosecution program.

30 **Sec. 703.** RCW 10.05.020 and 2016 sp.s. c 29 s 525 are each
31 amended to read as follows:

32 (1) Except as provided in subsection (2) of this section, the
33 petitioner shall allege under oath in the petition that the wrongful
34 conduct charged is the result of or caused by substance use disorders
35 or mental problems or domestic violence behavior problems for which
36 the person is in need of treatment and unless treated the probability
37 of future recurrence is great, along with a statement that the person
38 agrees to pay the cost of a diagnosis and treatment of the alleged

1 problem or problems if financially able to do so. The petition shall
2 also contain a case history and written assessment prepared by an
3 approved substance use disorder treatment program as designated in
4 chapter 71.24 RCW if the petition alleges a substance use disorder
5 (~~(e)~~), by an approved mental health center if the petition alleges a
6 mental problem, or by a state-certified domestic violence treatment
7 provider pursuant to chapter 26.50 RCW if the petition alleges a
8 domestic violence behavior problem.

9 (2) In the case of a petitioner charged with a misdemeanor or
10 gross misdemeanor under chapter 9A.42 RCW, the petitioner shall
11 allege under oath in the petition that the petitioner is the natural
12 or adoptive parent of the alleged victim; that the wrongful conduct
13 charged is the result of parenting problems for which the petitioner
14 is in need of services; that the petitioner is in need of child
15 welfare services under chapter 74.13 RCW to improve his or her
16 parenting skills in order to better provide his or her child or
17 children with the basic necessities of life; that the petitioner
18 wants to correct his or her conduct to reduce the likelihood of harm
19 to his or her minor children; that in the absence of child welfare
20 services the petitioner may be unable to reduce the likelihood of
21 harm to his or her minor children; and that the petitioner has
22 cooperated with the department of social and health services to
23 develop a plan to receive appropriate child welfare services; along
24 with a statement that the person agrees to pay the cost of the
25 services if he or she is financially able to do so. The petition
26 shall also contain a case history and a written service plan from the
27 department of social and health services.

28 (3) Before entry of an order deferring prosecution, a petitioner
29 shall be advised of his or her rights as an accused and execute, as a
30 condition of receiving treatment, a statement that contains: (a) An
31 acknowledgment of his or her rights; (b) an acknowledgment and waiver
32 of the right to testify, the right to a speedy trial, the right to
33 call witnesses to testify, the right to present evidence in his or
34 her defense, and the right to a jury trial; (c) a stipulation to the
35 admissibility and sufficiency of the facts contained in the written
36 police report; and (d) an acknowledgment that the statement will be
37 entered and used to support a finding of guilty if the court finds
38 cause to revoke the order granting deferred prosecution. The
39 petitioner shall also be advised that he or she may, if he or she
40 proceeds to trial and is found guilty, be allowed to seek suspension

1 of some or all of the fines and incarceration that may be ordered
2 upon the condition that he or she seek treatment and, further, that
3 he or she may seek treatment from public and private agencies at any
4 time without regard to whether or not he or she is found guilty of
5 the offense charged. He or she shall also be advised that the court
6 will not accept a petition for deferred prosecution from a person
7 who: (i) Sincerely believes that he or she is innocent of the
8 charges; (ii) sincerely believes that he or she does not, in fact,
9 suffer from alcoholism, drug addiction, ~~((~~o~~))~~ mental problems, or
10 domestic violence behavior problems; or (iii) in the case of a
11 petitioner charged under chapter 9A.42 RCW, sincerely believes that
12 he or she does not need child welfare services.

13 (4) Before entering an order deferring prosecution, the court
14 shall make specific findings that: (a) The petitioner has stipulated
15 to the admissibility and sufficiency of the facts as contained in the
16 written police report; (b) the petitioner has acknowledged the
17 admissibility of the stipulated facts in any criminal hearing on the
18 underlying offense or offenses held subsequent to revocation of the
19 order granting deferred prosecution; (c) the petitioner has
20 acknowledged and waived the right to testify, the right to a speedy
21 trial, the right to call witnesses to testify, the right to present
22 evidence in his or her defense, and the right to a jury trial; and
23 (d) the petitioner's statements were made knowingly and voluntarily.
24 Such findings shall be included in the order granting deferred
25 prosecution.

26 **Sec. 704.** RCW 10.05.030 and 2016 sp.s. c 29 s 526 are each
27 amended to read as follows:

28 The arraigining judge upon consideration of the petition and with
29 the concurrence of the prosecuting attorney may continue the
30 arraignment and refer such person for a diagnostic investigation and
31 evaluation to:

32 (1) An approved substance use disorder treatment program as
33 designated in chapter 71.24 RCW~~((~~r~~))~~ if the petition alleges a
34 substance use disorder~~((~~r~~~~to~~))~~;

35 (2) An approved mental health center~~((~~r~~))~~ if the petition alleges
36 a mental problem~~((~~r~~~~to~~))~~;

37 (3) The department of social and health services if the petition
38 is brought under RCW 10.05.020(2); or

1 (4) An approved state-certified domestic violence treatment
2 provider pursuant to chapter 26.50 RCW if the petition alleges a
3 domestic violence behavior problem.

4 **Sec. 705.** RCW 10.05.120 and 2003 c 220 s 1 are each amended to
5 read as follows:

6 (1) Three years after receiving proof of successful completion of
7 the two-year treatment program, and following proof to the court that
8 the petitioner has complied with the conditions imposed by the court
9 following successful completion of the two-year treatment program,
10 but not before five years following entry of the order of deferred
11 prosecution pursuant to a petition brought under RCW 10.05.020(1),
12 the court shall dismiss the charges pending against the petitioner.

13 (2) When a deferred prosecution is ordered pursuant to a petition
14 brought under RCW 10.05.020(2) and the court has received proof that
15 the petitioner has successfully completed the child welfare service
16 plan, or the plan has been terminated because the alleged victim has
17 reached his or her majority and there are no other minor children in
18 the home, the court shall dismiss the charges pending against the
19 petitioner: PROVIDED, That in any case where the petitioner's
20 parental rights have been terminated with regard to the alleged
21 victim due to abuse or neglect that occurred during the pendency of
22 the deferred prosecution, the termination shall be per se evidence
23 that the petitioner did not successfully complete the child welfare
24 service plan.

25 (3) When a deferred prosecution is ordered for a petition brought
26 under RCW 10.05.020(1) involving a domestic violence behavior problem
27 and the court has received proof that the petitioner has successfully
28 completed the domestic violence treatment plan, the court shall
29 dismiss the charges pending against the petitioner.

30 **Sec. 706.** RCW 10.05.140 and 2016 c 203 s 11 are each amended to
31 read as follows:

32 (1) As a condition of granting a deferred prosecution petition,
33 the court shall order that the petitioner shall not operate a motor
34 vehicle upon the public highways without a valid operator's license
35 and proof of liability insurance. The amount of liability insurance
36 shall be established by the court at not less than that established
37 by RCW 46.29.490. As a condition of granting a deferred prosecution
38 petition on any alcohol-dependency based case, the court shall also

1 order the installation of an ignition interlock under RCW 46.20.720.
2 The required periods of use of the interlock shall be not less than
3 the periods provided for in RCW 46.20.720. As a condition of granting
4 a deferred prosecution petition, the court may order the petitioner
5 to make restitution and to pay costs as defined in RCW 10.01.160. To
6 help ensure continued sobriety and reduce the likelihood of
7 reoffense, the court may order reasonable conditions during the
8 period of the deferred prosecution including, but not limited to,
9 attendance at self-help recovery support groups for alcoholism or
10 drugs, complete abstinence from alcohol and all nonprescribed mind-
11 altering drugs, periodic urinalysis or breath analysis, and
12 maintaining law-abiding behavior. The court may terminate the
13 deferred prosecution program upon violation of the deferred
14 prosecution order.

15 (2) As a condition of granting a deferred prosecution petition
16 for a case involving a domestic violence behavior problem:

17 (a) The court shall order the petitioner not to possess firearms
18 and order the petitioner to surrender firearms under RCW 9.41.800;
19 and

20 (b) The court may order the petitioner to make restitution and to
21 pay costs as defined in RCW 10.01.160. In addition, to help ensure
22 continued sobriety and reduce the likelihood of reoffense in co-
23 occurring domestic violence and substance abuse or mental health
24 cases, the court may order reasonable conditions during the period of
25 the deferred prosecution including, but not limited to, attendance at
26 self-help recovery support groups for alcoholism or drugs, complete
27 abstinence from alcohol and all nonprescribed mind-altering drugs,
28 periodic urinalysis or breath analysis, and maintaining law-abiding
29 behavior. The court may terminate the deferred prosecution program
30 upon violation of the deferred prosecution order.

31 **Sec. 707.** RCW 10.05.160 and 2010 c 269 s 11 are each amended to
32 read as follows:

33 The prosecutor may appeal an order granting deferred prosecution
34 on any or all of the following grounds:

35 (1) Prior deferred prosecution has been granted to the defendant;

36 (2) For a present petition alleging a domestic violence behavior
37 problem, a prior stipulated order of continuance has been granted to
38 the defendant;

1 (3) Failure of the court to obtain proof of insurance or a
2 treatment plan conforming to the requirements of this chapter;

3 (~~(3)~~) (4) Failure of the court to comply with the requirements
4 of RCW 10.05.100;

5 (~~(4)~~) (5) Failure of the evaluation facility to provide the
6 information required in RCW 10.05.040 and 10.05.050, if the defendant
7 has been referred to the facility for treatment. If an appeal on such
8 basis is successful, the trial court may consider the use of another
9 treatment program;

10 (~~(5)~~) (6) Failure of the court to order the installation of an
11 ignition interlock or other device under RCW 10.05.140.

12 NEW SECTION. **Sec. 708.** A new section is added to chapter 10.05
13 RCW to read as follows:

14 A deferred prosecution program for domestic violence behavior, or
15 domestic violence co-occurring with substance abuse or mental health,
16 must include, but is not limited to, the following requirements:

17 (1) Completion of a risk assessment;

18 (2) Participation in the level of treatment recommended by the
19 program as outlined in the current treatment plan;

20 (3) Compliance with the contract for treatment;

21 (4) Participation in any ancillary or co-occurring treatments
22 that are determined to be necessary for the successful completion of
23 the domestic violence intervention treatment including, but not
24 limited to, mental health or substance use treatment;

25 (5) Domestic violence intervention treatment within the purview
26 of this section to be completed with a state-certified domestic
27 violence intervention treatment program;

28 (6) Signature of the petitioner agreeing to the terms and
29 conditions of the treatment program;

30 (7) Proof of compliance with any active order to surrender
31 weapons issued in this program or related civil protection orders or
32 no-contact orders.

33 **PART VIII - DOMESTIC VIOLENCE WORK GROUPS**

34 NEW SECTION. **Sec. 801.** In 2017 the legislature established two
35 work groups managed by the Washington state supreme court gender and
36 justice commission to study domestic violence treatment and domestic
37 violence risk. The work groups successfully pulled together

1 stakeholders from across the state and published two reports with
2 groundbreaking recommendations. The legislature finds that there is a
3 need to continue the work groups. The work groups shall review best
4 practices for alternatives to mandatory arrest in cases of domestic
5 violence, and the work groups shall monitor implementation of prior
6 recommendations for the purpose of promoting effective strategies to
7 reduce domestic violence homicides, serious injuries, and recidivism.

8 **Sec. 802.** 2017 c 272 s 7 (uncodified) is amended to read as
9 follows:

10 (1) The administrative office of the courts shall, through the
11 Washington state gender and justice commission of the supreme court,
12 convene a work group to address the issue of domestic violence
13 perpetrator treatment and the role of certified perpetrator treatment
14 programs in holding domestic violence perpetrators accountable.

15 (2) The work group must include a representative for each of the
16 following organizations or interests: Superior court judges, district
17 court judges, municipal court judges, court probation officers,
18 prosecuting attorneys, defense attorneys, civil legal aid attorneys,
19 domestic violence victim advocates, domestic violence perpetrator
20 treatment providers, the department of social and health services,
21 the department of corrections, the Washington state institute for
22 public policy, and the University of Washington evidence based
23 practice institute. At least two domestic violence perpetrator
24 treatment providers must be represented as members of the work group.

25 (3) (a) For its initial report in 2018, the work group shall:
26 ~~((a))~~ (i) Review laws, regulations, and court and agency practices
27 pertaining to domestic violence perpetrator treatment used in civil
28 and criminal contexts, including criminal domestic violence felony
29 and misdemeanor offenses, family law, child welfare, and protection
30 orders; ~~((b))~~ (ii) consider the development of a universal
31 diagnostic evaluation tool to be used by treatment providers and the
32 department of corrections to assess the treatment needs of domestic
33 violence perpetrators; and ~~((c))~~ (iii) develop recommendations on
34 changes to existing laws, regulations, and court and agency practices
35 to improve victim safety, decrease recidivism, advance treatment
36 outcomes, and increase the courts' confidence in domestic violence
37 perpetrator treatment.

1 ~~((4))~~ (b) The work group shall report its recommendations to
2 the affected entities and the appropriate committees of the
3 legislature no later than June 30, 2018.

4 (4) (a) For its report in 2019, the work group shall:

5 (i) Provide guidance and additional recommendations with respect
6 to how prior recommendations of the work group should be implemented
7 for the purpose of promoting effective strategies to reduce domestic
8 violence in Washington state;

9 (ii) Monitor, evaluate, and provide recommendations for the
10 implementation of the newly established domestic violence treatment
11 administrative codes;

12 (iii) Monitor, evaluate, and provide recommendations on the
13 implementation and supervision of domestic violence sentencing
14 alternatives in different counties to promote consistency; and

15 (iv) Provide recommendations on other items deemed appropriate by
16 the work group.

17 (b) The work group shall report its recommendations to the
18 affected entities and the appropriate committees of the legislature
19 no later than June 30, 2020.

20 (5) The work group must operate within existing funds.

21 (6) This section expires June 30, ~~((2019))~~ 2021.

22 **Sec. 803.** 2017 c 272 s 8 (uncodified) is amended to read as
23 follows:

24 ~~(1) ((The legislature finds that Washington state has a serious
25 problem with domestic violence offender recidivism and lethality. The
26 Washington state institute for public policy studied domestic
27 violence offenders finding not just high rates of domestic violence
28 recidivism but among the highest rates of general criminal and
29 violent recidivism. The Washington state coalition against domestic
30 violence has issued fatality reviews of domestic violence homicides
31 in Washington under chapter 43.235 RCW for over fifteen years. These
32 fatality reviews demonstrate the significant impact of domestic
33 violence on our communities as well as the barriers and high rates of
34 lethality faced by victims. The legislature further notes there have
35 been several high profile domestic violence homicides with multiple
36 prior domestic violence incidents not accounted for in the legal
37 response. Many jurisdictions nationally have encountered the same
38 challenges as Washington and now utilize risk assessment as a best
39 practice to assist in the response to domestic violence.))~~

1 The Washington domestic violence risk assessment work group is
2 established to study how and when risk assessment can best be used to
3 improve the response to domestic violence offenders and victims and
4 find effective strategies to reduce domestic violence homicides,
5 serious injuries, and recidivism that are a result of domestic
6 violence incidents in Washington state.

7 (2) (a) The Washington state gender and justice commission, in
8 collaboration with the Washington state coalition against domestic
9 violence and the Washington State University criminal justice
10 program, shall coordinate the work group and provide staff support.

11 (b) The work group must include a representative from each of the
12 following organizations:

- 13 (i) The Washington state gender and justice commission;
- 14 (ii) The department of corrections;
- 15 (iii) The department of social and health services;
- 16 (iv) The Washington association of sheriffs and police chiefs;
- 17 (v) The superior court judges' association;
- 18 (vi) The district and municipal court judges' association;
- 19 (vii) The Washington state association of counties;
- 20 (viii) The Washington association of prosecuting attorneys;
- 21 (ix) The Washington defender association;
- 22 (x) The Washington association of criminal defense lawyers;
- 23 (xi) The Washington state association of cities;
- 24 (xii) The Washington state coalition against domestic violence;
- 25 (xiii) The Washington state office of civil legal aid; and
- 26 (xiv) The family law section of the Washington state bar
27 association.

28 (c) The work group must additionally include representation from:

- 29 (i) Treatment providers;
- 30 (ii) City law enforcement;
- 31 (iii) County law enforcement;
- 32 (iv) Court administrators; and
- 33 (v) Domestic violence victims or family members of a victim.

34 (3) (~~(At a minimum,)~~) (a) For its initial report in 2018, the
35 work group shall research, review, and make recommendations on the
36 following:

37 (~~(a)~~) (i) How to best develop and use risk assessment in
38 domestic violence response utilizing available research and
39 Washington state data;

1 ~~((b))~~ (ii) Providing effective strategies for incorporating
2 risk assessment in domestic violence response to reduce deaths,
3 serious injuries, and recidivism due to domestic violence;

4 ~~((c))~~ (iii) Promoting access to domestic violence risk
5 assessment for advocates, police, prosecutors, corrections, and
6 courts to improve domestic violence response;

7 ~~((d))~~ (iv) Whether or how risk assessment could be used as an
8 alternative to mandatory arrest in domestic violence;

9 ~~((e))~~ (v) Whether or how risk assessment could be used in bail
10 determinations in domestic violence cases, and in civil protection
11 order hearings;

12 ~~((f))~~ (vi) Whether or how offender risk, needs, and
13 responsivity could be used in determining eligibility for diversion,
14 sentencing alternatives, and treatment options;

15 ~~((g))~~ (vii) Whether or how victim risk, needs, and responsivity
16 could be used in improving domestic violence response;

17 ~~((h))~~ (viii) Whether or how risk assessment can improve
18 prosecution and encourage prosecutors to aggressively enforce
19 domestic violence laws; and

20 ~~((i))~~ (ix) Encouraging private sector collaboration.

21 ~~((4))~~ (b) The work group shall compile its findings and
22 recommendations into ~~((a-final))~~ an initial report and provide its
23 report to the appropriate committees of the legislature and governor
24 by June 30, 2018.

25 (4) (a) For its report in 2019, the work group shall:

26 (i) Research, review, and make recommendations on whether laws
27 mandating arrest in cases of domestic violence should be amended and
28 whether alternative arrest statutes should incorporate domestic
29 violence risk assessment in domestic violence response to improve the
30 response to domestic violence, and what training for law enforcement
31 would be needed to implement an alternative to mandatory arrest;

32 (ii) Research, review, and make recommendations on how prior
33 recommendations of the work group should be implemented in order to
34 promote effective strategies to reduce domestic violence in
35 Washington state;

36 (iii) Monitor, evaluate, and provide recommendations on the
37 development and use of the risk assessment tool under section 401 of
38 this act; and

39 (iv) Provide recommendations on other items deemed appropriate by
40 the work group.

1 (5) "Person" means an individual, estate, business or nonprofit
2 entity, public corporation, government or governmental subdivision,
3 agency, or instrumentality, or other legal entity.

4 (6) "Protected individual" means an individual protected by a
5 Canadian domestic violence protection order.

6 (7) "Record" means information that is inscribed on a tangible
7 medium or that is stored in an electronic or other medium and is
8 retrievable in perceivable form.

9 (8) "Respondent" means an individual against whom a Canadian
10 domestic violence protection order is issued.

11 (9) "State" means a state of the United States, the District of
12 Columbia, Puerto Rico, the United States Virgin Islands, or any
13 territory or insular possession subject to the jurisdiction of the
14 United States. The term includes a federally recognized Indian tribe.

15 (10) "Tribunal" means a court, agency, or other entity authorized
16 by law of this state other than this chapter to establish, enforce,
17 or modify a domestic protection order.

18 NEW SECTION. **Sec. 903.** ENFORCEMENT OF CANADIAN DOMESTIC
19 VIOLENCE PROTECTION ORDER BY LAW ENFORCEMENT OFFICER. (1) If a law
20 enforcement officer determines under subsection (2) or (3) of this
21 section that there is probable cause to believe a valid Canadian
22 domestic violence protection order exists and the order has been
23 violated, the officer shall enforce the terms of the Canadian
24 domestic violence protection order as if the terms were in an order
25 of a tribunal. Presentation to a law enforcement officer of a
26 certified copy of a Canadian domestic violence protection order is
27 not required for enforcement.

28 (2) Presentation to a law enforcement officer of a record of a
29 Canadian domestic violence protection order that identifies both a
30 protected individual and a respondent and on its face is in effect
31 constitutes probable cause to believe that a valid order exists.

32 (3) If a record of a Canadian domestic violence protection order
33 is not presented as provided in subsection (2) of this section, a law
34 enforcement officer may consider other information in determining
35 whether there is probable cause to believe that a valid Canadian
36 domestic violence protection order exists.

37 (4) If a law enforcement officer determines that an otherwise
38 valid Canadian domestic violence protection order cannot be enforced
39 because the respondent has not been notified of or served with the

1 order, the officer shall notify the protected individual that the
2 officer will make reasonable efforts to contact the respondent,
3 consistent with the safety of the protected individual. After notice
4 to the protected individual and consistent with the safety of the
5 individual, the officer shall make a reasonable effort to inform the
6 respondent of the order, notify the respondent of the terms of the
7 order, provide a record of the order, if available, to the
8 respondent, and allow the respondent a reasonable opportunity to
9 comply with the order before the officer enforces the order.

10 (5) If a law enforcement officer determines that an individual is
11 a protected individual, the officer shall inform the individual of
12 available local victim services.

13 NEW SECTION. **Sec. 904.** ENFORCEMENT OF CANADIAN DOMESTIC
14 VIOLENCE PROTECTION ORDER BY TRIBUNAL. (1) A tribunal may issue an
15 order enforcing or refusing to enforce a Canadian domestic violence
16 protection order on application of:

17 (a) A person authorized by law of this state other than this
18 chapter to seek enforcement of a domestic protection order; or

19 (b) A respondent.

20 (2) In a proceeding under subsection (1) of this section, the
21 tribunal shall follow the procedures of this state for enforcement of
22 a domestic protection order. An order entered under this section is
23 limited to the enforcement of the terms of the Canadian domestic
24 violence protection order as defined in section 902 of this act.

25 (3) A Canadian domestic violence protection order is enforceable
26 under this section if:

27 (a) The order identifies a protected individual and a respondent;

28 (b) The order is valid and in effect;

29 (c) The issuing court had jurisdiction over the parties and the
30 subject matter under law applicable in the issuing court; and

31 (d) The order was issued after:

32 (i) The respondent was given reasonable notice and had an
33 opportunity to be heard before the court issued the order; or

34 (ii) In the case of an ex parte order, the respondent was given
35 reasonable notice and had or will have an opportunity to be heard
36 within a reasonable time after the order was issued, in a manner
37 consistent with the right of the respondent to due process.

1 (4) A Canadian domestic violence protection order valid on its
2 face is prima facie evidence of its enforceability under this
3 section.

4 (5) A claim that a Canadian domestic violence protection order
5 does not comply with subsection (3) of this section is an affirmative
6 defense in a proceeding seeking enforcement of the order. If the
7 tribunal determines that the order is not enforceable, the tribunal
8 shall issue an order that the Canadian domestic violence protection
9 order is not enforceable under this section and section 903 of this
10 act and may not be registered under section 905 of this act.

11 NEW SECTION. **Sec. 905.** REGISTRATION OF CANADIAN DOMESTIC
12 VIOLENCE PROTECTION ORDER. (1) A person entitled to protection who
13 has a valid Canadian domestic violence protection order may file that
14 order by presenting a certified, authenticated, or exemplified copy
15 of the Canadian domestic violence protection order to a clerk of the
16 court of a Washington court in which the person entitled to
17 protection resides or to a clerk of the court of a Washington court
18 where the person entitled to protection believes enforcement may be
19 necessary. Any out-of-state department, agency, or court responsible
20 for maintaining protection order records, may by facsimile or
21 electronic transmission send a reproduction of the foreign protection
22 order to the clerk of the court of Washington as long as it contains
23 a facsimile or digital signature by any person authorized to make
24 such transmission.

25 (2) On receipt of a certified copy of a Canadian domestic
26 violence protection order, the clerk of the court shall register the
27 order in accordance with this section.

28 (3) An individual registering a Canadian domestic violence
29 protection order under this section shall file an affidavit stating
30 that, to the best of the individual's knowledge, the order is valid
31 and in effect.

32 (4) After a Canadian domestic violence protection order is
33 registered under this section, the clerk of the court shall provide
34 the individual registering the order a certified copy of the
35 registered order.

36 (5) A Canadian domestic violence protection order registered
37 under this section may be entered in a state or federal registry of
38 protection orders in accordance with law.

1 (6) An inaccurate, expired, or unenforceable Canadian domestic
2 violence protection order may be corrected or removed from the
3 registry of protection orders maintained in this state in accordance
4 with law of this state other than this chapter.

5 (7) A fee may not be charged for the registration of a Canadian
6 domestic violence protection order under this section.

7 (8) Registration in this state or filing under law of this state
8 other than this chapter of a Canadian domestic violence protection
9 order is not required for its enforcement under this chapter.

10 NEW SECTION. **Sec. 906.** IMMUNITY. The state, state agency, local
11 governmental agency, law enforcement officer, prosecuting attorney,
12 clerk of court, and state or local governmental official acting in an
13 official capacity are immune from civil and criminal liability for an
14 act or omission arising out of the registration or enforcement of a
15 Canadian domestic violence protection order or the detention or
16 arrest of an alleged violator of a Canadian domestic violence
17 protection order if the act or omission was a good faith effort to
18 comply with this chapter.

19 NEW SECTION. **Sec. 907.** OTHER REMEDIES. An individual who seeks
20 a remedy under this chapter may seek other legal or equitable
21 remedies.

22 NEW SECTION. **Sec. 908.** UNIFORMITY OF APPLICATION AND
23 CONSTRUCTION. In applying and construing this uniform act,
24 consideration must be given to the need to promote uniformity of the
25 law with respect to its subject matter among states that enact it.

26 NEW SECTION. **Sec. 909.** RELATION TO ELECTRONIC SIGNATURES IN
27 GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits, or
28 supersedes the electronic signatures in global and national commerce
29 act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or
30 supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or
31 authorize electronic delivery of any of the notices described in
32 Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

33 NEW SECTION. **Sec. 910.** TRANSITION. This chapter applies to a
34 Canadian domestic violence protection order issued before, on, or
35 after the effective date of this section and to a continuing action

1 for enforcement of a Canadian domestic violence protection order
2 commenced before, on, or after the effective date of this section. A
3 request for enforcement of a Canadian domestic violence protection
4 order made on or after the effective date of this section for a
5 violation of the order occurring before, on, or after the effective
6 date of this section is governed by this chapter.

7 **Sec. 911.** RCW 10.31.100 and 2017 c 336 s 3 and 2017 c 223 s 1
8 are each reenacted and amended to read as follows:

9 A police officer having probable cause to believe that a person
10 has committed or is committing a felony shall have the authority to
11 arrest the person without a warrant. A police officer may arrest a
12 person without a warrant for committing a misdemeanor or gross
13 misdemeanor only when the offense is committed in the presence of an
14 officer, except as provided in subsections (1) through (11) of this
15 section.

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

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

29 (a) An order has been issued of which the person has knowledge
30 under RCW 26.44.063, or chapter 7.92, 7.90, 9A.46, 10.99, 26.09,
31 26.10, (~~26.26~~) 26.26A, 26.26B, 26.50, or 74.34 RCW restraining the
32 person and the person has violated the terms of the order restraining
33 the person from acts or threats of violence, or restraining the
34 person from going onto the grounds of or entering a residence,
35 workplace, school, or day care, or prohibiting the person from
36 knowingly coming within, or knowingly remaining within, a specified
37 distance of a location or, in the case of an order issued under RCW
38 26.44.063, imposing any other restrictions or conditions upon the
39 person; or

1 (b) A foreign protection order, as defined in RCW 26.52.010, or a
2 Canadian domestic violence protection order, as defined in section
3 902 of this act, has been issued of which the person under restraint
4 has knowledge and the person under restraint has violated a provision
5 of the foreign protection order or the Canadian domestic violence
6 protection order prohibiting the person under restraint from
7 contacting or communicating with another person, or excluding the
8 person under restraint from a residence, workplace, school, or day
9 care, or prohibiting the person from knowingly coming within, or
10 knowingly remaining within, a specified distance of a location, or a
11 violation of any provision for which the foreign protection order or
12 the Canadian domestic violence protection order specifically
13 indicates that a violation will be a crime; or

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

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

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

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

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

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

5 (e) RCW 46.61.503 or 46.25.110, relating to persons having
6 alcohol or THC in their system;

7 (f) RCW 46.20.342, relating to driving a motor vehicle while
8 operator's license is suspended or revoked;

9 (g) RCW 46.61.5249, relating to operating a motor vehicle in a
10 negligent manner.

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

16 (5) (a) A law enforcement officer investigating at the scene of a
17 motor vessel accident may arrest the operator of a motor vessel
18 involved in the accident if the officer has probable cause to believe
19 that the operator has committed, in connection with the accident, a
20 criminal violation of chapter 79A.60 RCW.

21 (b) A law enforcement officer investigating at the scene of a
22 motor vessel accident may issue a citation for an infraction to the
23 operator of a motor vessel involved in the accident if the officer
24 has probable cause to believe that the operator has committed, in
25 connection with the accident, a violation of any boating safety law
26 of chapter 79A.60 RCW.

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

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

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

39 (9) A police officer may arrest and take into custody, pending
40 release on bail, personal recognizance, or court order, a person

1 without a warrant when the officer has probable cause to believe that
2 an order has been issued of which the person has knowledge under
3 chapter 10.14 RCW and the person has violated the terms of that
4 order.

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

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

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

15 (12) A law enforcement officer having probable cause to believe
16 that a person has committed a violation under RCW 77.15.160(~~(+4)~~)
17 (5) may issue a citation for an infraction to the person in
18 connection with the violation.

19 (13) A law enforcement officer having probable cause to believe
20 that a person has committed a criminal violation under RCW 77.15.809
21 or 77.15.811 may arrest the person in connection with the violation.

22 (14) Except as specifically provided in subsections (2), (3),
23 (4), and (7) of this section, nothing in this section extends or
24 otherwise affects the powers of arrest prescribed in Title 46 RCW.

25 (15) No police officer may be held criminally or civilly liable
26 for making an arrest pursuant to subsection (2) or (9) of this
27 section if the police officer acts in good faith and without malice.

28 (16)(a) Except as provided in (b) of this subsection, a police
29 officer shall arrest and keep in custody, until release by a judicial
30 officer on bail, personal recognizance, or court order, a person
31 without a warrant when the officer has probable cause to believe that
32 the person has violated RCW 46.61.502 or 46.61.504 or an equivalent
33 local ordinance and the police officer: (i) Has knowledge that the
34 person has a prior offense as defined in RCW 46.61.5055 within ten
35 years; or (ii) has knowledge, based on a review of the information
36 available to the officer at the time of arrest, that the person is
37 charged with or is awaiting arraignment for an offense that would
38 qualify as a prior offense as defined in RCW 46.61.5055 if it were a
39 conviction.

1 (b) A police officer is not required to keep in custody a person
2 under (a) of this subsection if the person requires immediate medical
3 attention and is admitted to a hospital.

4 **Sec. 912.** RCW 26.50.035 and 2005 c 282 s 40 are each amended to
5 read as follows:

6 (1) The administrative office of the courts shall develop and
7 prepare instructions and informational brochures required under RCW
8 26.50.030(4), standard petition and order for protection forms, and a
9 court staff handbook on domestic violence and the protection order
10 process. The standard petition and order for protection forms must be
11 used after September 1, 1994, for all petitions filed and orders
12 issued under this chapter. The instructions, brochures, forms, and
13 handbook shall be prepared in consultation with interested persons,
14 including a representative of the state domestic violence coalition,
15 judges, and law enforcement personnel.

16 (a) The instructions shall be designed to assist petitioners in
17 completing the petition, and shall include a sample of standard
18 petition and order for protection forms.

19 (b) The informational brochure shall describe the use of and the
20 process for obtaining, modifying, and terminating a domestic violence
21 protection order as provided under this chapter, an antiharassment
22 no-contact order as provided under chapter 9A.46 RCW, a domestic
23 violence no-contact order as provided under chapter 10.99 RCW, a
24 restraining order as provided under chapters 26.09, 26.10, (~~26.26~~)
25 26.26A, 26.26B, and 26.44 RCW, an antiharassment protection order as
26 provided by chapter 10.14 RCW, (~~and~~) a foreign protection order as
27 defined in chapter 26.52 RCW, and a Canadian domestic violence
28 protection order as defined in section 902 of this act.

29 (c) The order for protection form shall include, in a conspicuous
30 location, notice of criminal penalties resulting from violation of
31 the order, and the following statement: "You can be arrested even if
32 the person or persons who obtained the order invite or allow you to
33 violate the order's prohibitions. The respondent has the sole
34 responsibility to avoid or refrain from violating the order's
35 provisions. Only the court can change the order upon written
36 application."

37 (d) The court staff handbook shall allow for the addition of a
38 community resource list by the court clerk.

1 (2) All court clerks shall obtain a community resource list from
2 a domestic violence program, defined in RCW 70.123.020, serving the
3 county in which the court is located. The community resource list
4 shall include the names and telephone numbers of domestic violence
5 programs serving the community in which the court is located,
6 including law enforcement agencies, domestic violence agencies,
7 sexual assault agencies, legal assistance programs, interpreters,
8 multicultural programs, and batterers' treatment programs. The court
9 shall make the community resource list available as part of or in
10 addition to the informational brochures described in subsection (1)
11 of this section.

12 (3) The administrative office of the courts shall distribute a
13 master copy of the petition and order forms, instructions, and
14 informational brochures to all court clerks and shall distribute a
15 master copy of the petition and order forms to all superior,
16 district, and municipal courts.

17 (4) For purposes of this section, "court clerks" means court
18 administrators in courts of limited jurisdiction and elected court
19 clerks.

20 (5) The administrative office of the courts shall determine the
21 significant non-English-speaking or limited English-speaking
22 populations in the state. The administrator shall then arrange for
23 translation of the instructions and informational brochures required
24 by this section, which shall contain a sample of the standard
25 petition and order for protection forms, into the languages spoken by
26 those significant non-English-speaking populations and shall
27 distribute a master copy of the translated instructions and
28 informational brochures to all court clerks by January 1, 1997.

29 (6) The administrative office of the courts shall update the
30 instructions, brochures, standard petition and order for protection
31 forms, and court staff handbook when changes in the law make an
32 update necessary.

33 **Sec. 913.** RCW 26.50.110 and 2017 c 230 s 9 are each amended to
34 read as follows:

35 (1)(a) Whenever an order is granted under this chapter, chapter
36 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10,
37 (~~26.26~~) 26.26A, 26.26B, or 74.34 RCW, any temporary order for
38 protection is granted under chapter 7.40 RCW pursuant to chapter
39 74.34 RCW, (~~or~~) there is a valid foreign protection order as

1 defined in RCW 26.52.020, or there is a valid Canadian domestic
2 violence protection order as defined in section 902 of this act, and
3 the respondent or person to be restrained knows of the order, a
4 violation of any of the following provisions of the order is a gross
5 misdemeanor, except as provided in subsections (4) and (5) of this
6 section:

7 (i) The restraint provisions prohibiting acts or threats of
8 violence against, or stalking of, a protected party, or restraint
9 provisions prohibiting contact with a protected party;

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

12 (iii) A provision prohibiting a person from knowingly coming
13 within, or knowingly remaining within, a specified distance of a
14 location;

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

19 (v) A provision of a foreign protection order or a Canadian
20 domestic violence protection order specifically indicating that a
21 violation will be a crime.

22 (b) Upon conviction, and in addition to any other penalties
23 provided by law, the court:

24 (i) May require that the respondent submit to electronic
25 monitoring. The court shall specify who shall provide the electronic
26 monitoring services, and the terms under which the monitoring shall
27 be performed. The order also may include a requirement that the
28 respondent pay the costs of the monitoring. The court shall consider
29 the ability of the convicted person to pay for electronic monitoring.

30 (ii) Shall impose a fine of fifteen dollars, in addition to any
31 penalty or fine imposed, for a violation of a domestic violence
32 protection order issued under this chapter. Revenue from the fifteen
33 dollar fine must be remitted monthly to the state treasury for
34 deposit in the domestic violence prevention account.

35 (2) A peace officer shall arrest without a warrant and take into
36 custody a person whom the peace officer has probable cause to believe
37 has violated an order issued under this chapter, chapter 7.92, 7.90,
38 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10, (~~26.26~~) 26.26A,
39 26.26B, or 74.34 RCW, any temporary order for protection granted
40 under chapter 7.40 RCW pursuant to chapter 74.34 RCW, (~~or~~) a valid

1 foreign protection order as defined in RCW 26.52.020, or a valid
2 Canadian domestic violence protection order as defined in section 902
3 of this act, that restrains the person or excludes the person from a
4 residence, workplace, school, or day care, or prohibits the person
5 from knowingly coming within, or knowingly remaining within, a
6 specified distance of a location, if the person restrained knows of
7 the order. Presence of the order in the law enforcement computer-
8 based criminal intelligence information system is not the only means
9 of establishing knowledge of the order.

10 (3) A violation of an order issued under this chapter, chapter
11 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10,
12 ~~((26.26))~~ 26.26A, 26.26B, or 74.34 RCW, ~~((or ef))~~ a valid foreign
13 protection order as defined in RCW 26.52.020, or a valid Canadian
14 domestic violence protection order as defined in section 902 of this
15 act, shall also constitute contempt of court, and is subject to the
16 penalties prescribed by law.

17 (4) Any assault that is a violation of an order issued under this
18 chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99,
19 26.09, 26.10, ~~((26.26))~~ 26.26A, 26.26B, or 74.34 RCW, ~~((or ef))~~ a
20 valid foreign protection order as defined in RCW 26.52.020, or a
21 valid Canadian domestic violence protection order as defined in
22 section 902 of this act, and that does not amount to assault in the
23 first or second degree under RCW 9A.36.011 or 9A.36.021 is a class C
24 felony, and any conduct in violation of such an order that is
25 reckless and creates a substantial risk of death or serious physical
26 injury to another person is a class C felony.

27 (5) A violation of a court order issued under this chapter,
28 chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10,
29 ~~((26.26))~~ 26.26A, 26.26B, or 74.34 RCW, ~~((or ef))~~ a valid foreign
30 protection order as defined in RCW 26.52.020, or a valid Canadian
31 domestic violence protection order as defined in section 902 of this
32 act, is a class C felony if the offender has at least two previous
33 convictions for violating the provisions of an order issued under
34 this chapter, chapter 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09,
35 26.10, ~~((26.26))~~ 26.26A, 26.26B, or 74.34 RCW, ~~((or ef))~~ a valid foreign
36 protection order as defined in RCW 26.52.020 or a valid Canadian
37 domestic violence protection order as defined in section 902 of this
38 act. The previous convictions may involve the same victim or other
39 victims specifically protected by the orders the offender violated.

1 (6) Upon the filing of an affidavit by the petitioner or any
2 peace officer alleging that the respondent has violated an order
3 granted under this chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88,
4 9.94A, 10.99, 26.09, 26.10, (~~26.26~~) 26.26A, 26.26B, or 74.34 RCW,
5 (~~or~~) a valid foreign protection order as defined in RCW 26.52.020,
6 or a valid Canadian domestic violence protection order as defined in
7 section 902 of this act, the court may issue an order to the
8 respondent, requiring the respondent to appear and show cause within
9 fourteen days why the respondent should not be found in contempt of
10 court and punished accordingly. The hearing may be held in the court
11 of any county or municipality in which the petitioner or respondent
12 temporarily or permanently resides at the time of the alleged
13 violation.

14 **Sec. 914.** RCW 26.50.160 and 2017 3rd sp.s. c 6 s 335 are each
15 amended to read as follows:

16 To prevent the issuance of competing protection orders in
17 different courts and to give courts needed information for issuance
18 of orders, the judicial information system shall be available in each
19 district, municipal, and superior court by July 1, 1997, and shall
20 include a database containing the following information:

21 (1) The names of the parties and the cause number for every order
22 of protection issued under this title, every sexual assault
23 protection order issued under chapter 7.90 RCW, every criminal no-
24 contact order issued under chapters 9A.46 and 10.99 RCW, every
25 antiharassment order issued under chapter 10.14 RCW, every
26 dissolution action under chapter 26.09 RCW, every third-party custody
27 action under chapter 26.10 RCW, every parentage action under chapter
28 (~~26.26~~) 26.26A or 26.26B RCW, every restraining order issued on
29 behalf of an abused child or adult dependent person under chapter
30 26.44 RCW, every foreign protection order filed under chapter 26.52
31 RCW, every Canadian domestic violence protection order filed under
32 chapter 26.-- RCW (the new chapter created in section 1001 of this
33 act), and every order for protection of a vulnerable adult under
34 chapter 74.34 RCW. When a guardian or the department of social and
35 health services or department of children, youth, and families has
36 petitioned for relief on behalf of an abused child, adult dependent
37 person, or vulnerable adult, the name of the person on whose behalf
38 relief was sought shall be included in the database as a party rather
39 than the guardian or appropriate department;

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

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

5 **Sec. 915.** RCW 36.28A.410 and 2017 c 261 s 5 are each amended to
6 read as follows:

7 (1)(a) Subject to the availability of amounts appropriated for
8 this specific purpose, the Washington association of sheriffs and
9 police chiefs shall create and operate a statewide automated
10 protected person notification system to automatically notify a
11 registered person via the registered person's choice of telephone or
12 email when a respondent subject to a court order specified in (b) of
13 this subsection has attempted to purchase or acquire a firearm and
14 been denied based on a background check or completed and submitted
15 firearm purchase or transfer application that indicates the
16 respondent is ineligible to possess a firearm under state or federal
17 law. The system must permit a person to register for notification, or
18 a registered person to update the person's registration information,
19 for the statewide automated protected person notification system by
20 calling a toll-free telephone number or by accessing a public web
21 site.

22 (b) The notification requirements of this section apply to any
23 court order issued under chapter 7.92 RCW and RCW 7.90.090,
24 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060,
25 26.10.040, 26.10.115, (~~(26.26.130, 26.26.590)~~) 26.26B.020, 26.50.060,
26 or 26.50.070, (~~and~~) any foreign protection order filed with a
27 Washington court pursuant to chapter 26.52 RCW, and any Canadian
28 domestic violence protection order filed with a Washington court
29 pursuant to chapter 26.-- RCW (the new chapter created in section
30 1001 of this act), where the order prohibits the respondent from
31 possessing firearms or where by operation of law the respondent is
32 ineligible to possess firearms during the term of the order. The
33 notification requirements of this section apply even if the
34 respondent has notified the Washington state patrol that he or she
35 has appealed a background check denial under RCW 43.43.823.

36 (2) An appointed or elected official, public employee, or public
37 agency as defined in RCW 4.24.470, or combination of units of
38 government and its employees, as provided in RCW 36.28A.010, are
39 immune from civil liability for damages for any release of

1 information or the failure to release information related to the
2 statewide automated protected person notification system in this
3 section, so long as the release or failure to release was without
4 gross negligence. The immunity provided under this subsection applies
5 to the release of relevant and necessary information to other public
6 officials, public employees, or public agencies, and to the general
7 public.

8 (3) Information and records prepared, owned, used, or retained by
9 the Washington association of sheriffs and police chiefs pursuant to
10 chapter 261, Laws of 2017, including information a person submits to
11 register and participate in the statewide automated protected person
12 notification system, are exempt from public inspection and copying
13 under chapter 42.56 RCW.

14 **PART X - MISCELLANEOUS**

15 NEW SECTION. **Sec. 1001.** Sections 901 through 910 of this act
16 constitute a new chapter in Title 26 RCW.

17 NEW SECTION. **Sec. 1002.** If any provision of this act or its
18 application to any person or circumstance is held invalid, the
19 remainder of the act or the application of the provision to other
20 persons or circumstances is not affected.

21 NEW SECTION. **Sec. 1003.** Sections 901 through 915, 1001, and
22 1002 of this act take effect January 1, 2020.

23 NEW SECTION. **Sec. 1004.** Sections 501 through 504, 601, 602, and
24 701 through 708 of this act take effect January 1, 2021.

25 NEW SECTION. **Sec. 1005.** Sections 801 through 803 of this act
26 are necessary for the immediate preservation of the public peace,
27 health, or safety, or support of the state government and its
28 existing public institutions, and take effect June 30, 2019.

29 NEW SECTION. **Sec. 1006.** If specific funding for the purposes of
30 this act, referencing this act by bill or chapter number, is not
31 provided by June 30, 2019, in the omnibus appropriations act, this
32 act is null and void."

ADOPTED 04/12/2019

1 On page 1, line 1 of the title, after "violence;" strike the
2 remainder of the title and insert "amending RCW 10.99.020, 26.50.020,
3 9.95.210, 10.99.050, 9.94A.500, 9.94A.660, 9.94A.662, 9.94A.664,
4 9.94A.704, 9.94A.722, 10.05.010, 10.05.015, 10.05.020, 10.05.030,
5 10.05.120, 10.05.140, 10.05.160, 26.50.035, 26.50.110, 26.50.160, and
6 36.28A.410; amending 2017 c 272 ss 7 and 8 (uncodified); reenacting
7 and amending RCW 26.50.010 and 10.31.100; adding a new section to
8 chapter 10.01 RCW; adding a new section to chapter 9.94A RCW; adding
9 a new section to chapter 10.05 RCW; adding a new chapter to Title 26
10 RCW; creating new sections; prescribing penalties; providing
11 effective dates; providing expiration dates; and declaring an
12 emergency."

EFFECT: Directs the Harborview Center for Sexual Assault and Traumatic Stress to develop a training curriculum for domestic violence perpetrator treatment providers no later than June 30, 2020, and make it available for provider training.

Requires WSU to complete the DV risk assessment tool by July 1, 2020 and for the Department of Corrections to begin work on implementing the tool on July 1, 2020, with full implementation by July 1, 2021.

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