
SUBSTITUTE HOUSE BILL 1517

State of Washington

66th Legislature

2019 Regular Session

By House Public Safety (originally sponsored by Representatives Goodman, Mosbrucker, Orwall, Griffey, Lovick, Davis, Appleton, Pettigrew, Pellicciotti, Kilduff, and Valdez; by request of Uniform Law Commission)

READ FIRST TIME 02/12/19.

1 AN ACT Relating to domestic violence; amending RCW 10.99.020,
2 26.50.020, 9.95.210, 10.99.050, 9.94A.030, 9.94A.500, 9.94A.660,
3 9.94A.662, 9.94A.664, 9.94A.704, 9.94A.722, 10.05.010, 10.05.015,
4 10.05.020, 10.05.030, 10.05.040, 10.05.120, 10.05.140, 10.05.160,
5 26.50.035, 26.50.110, 26.50.160, and 36.28A.410; amending 2017 c 272
6 ss 7 and 8 (uncodified); reenacting and amending RCW 26.50.010 and
7 10.31.100; adding a new section to chapter 10.01 RCW; adding new
8 sections to chapter 26.50 RCW; adding new sections to chapter 9.94A
9 RCW; adding a new section to chapter 10.05 RCW; adding a new chapter
10 to Title 26 RCW; creating new sections; prescribing penalties;
11 providing effective dates; providing expiration dates; and declaring
12 an emergency.

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

14 **PART I - LEGISLATIVE FINDINGS**

15 NEW SECTION. **Sec. 101.** The legislature recognizes that domestic
16 violence treatment has been the most common, and sometimes only,
17 legal response in domestic violence cases. There is a growing concern
18 about the "one size fits all" approach for domestic violence
19 misdemeanors, felonies, and other cases. In 2012, the legislature
20 directed the Washington state institute for public policy to update

1 its analysis of the scientific literature on domestic violence
2 treatment. The institute found traditional domestic violence
3 treatment to be ineffective. Treatment needs to be differentiated and
4 grounded in science, risk, and long-term evaluation. The institute's
5 findings coincided with a wave of federal, state, and local reports
6 highlighting concerns with the efficacy of traditional domestic
7 violence treatment. A new approach was needed to reduce recidivism by
8 domestic violence offenders, provide both victims and offenders with
9 meaningful answers about what works, and close critical safety gaps.
10 Subsequently, the legislature directed the gender and justice
11 commission to establish work groups and make recommendations to
12 improve domestic violence treatment and risk assessments. The work
13 group recommended establishing sentencing alternatives for domestic
14 violence offenders, integrated systems response, and domestic
15 violence risk assessments. During this time, the department of social
16 and health services repealed the administrative codes for domestic
17 violence treatment, and issued new codes grounded in a differentiated
18 approach and evidence-based practice. There is no easy answer to what
19 works to reduce domestic violence recidivism, and offenders often
20 present with co-occurring substance abuse and mental health issues,
21 but new administrative codes and work group recommendations reflect
22 the best available evidence in how best to respond and treat domestic
23 violence criminal offenders.

24 Improving rehabilitation and treatment of domestic violence
25 offenders, and those offenders with co-occurring substance and mental
26 health issues, is critical, given how often practitioners and courts
27 use treatment as the primary, and sometimes only, intervention for
28 domestic violence. Given the pervasiveness of domestic violence and
29 because of the link between domestic violence and many community
30 issues including violent recidivism, victims and offenders are owed
31 effective treatment and courts need better tools. State studies have
32 found domestic violence crimes to be the most predictive of future
33 violent crime.

34 The legislature intends to modify sentencing alternatives and
35 other sentencing practices to require use of a validated risk
36 assessment tool and domestic violence treatment certified under the
37 Washington Administrative Code. These new practices should be
38 consistently used when criminal conduct is based on domestic violence
39 behavioral problems. Further, the legislature intends to establish a
40 long-term plan to study the significant changes and new multitiered

1 treatment model of domestic violence perpetrator treatment in order
2 to inform future practices and legislative changes.

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

4 NEW SECTION. **Sec. 201.** The legislature intends to distinguish
5 between intimate partner violence and other categories of domestic
6 violence to facilitate discrete data analysis regarding domestic
7 violence by judicial, criminal justice, and advocacy entities. The
8 legislature does not intend for these modifications to definitions to
9 substantively change the prosecution of, or penalties for, domestic
10 violence, or the remedies available to potential petitioners under
11 the current statutory scheme.

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

14 Whenever a prosecutor, or the attorney general or assistants
15 acting pursuant to RCW 10.01.190, institutes or conducts a criminal
16 proceeding involving domestic violence as defined in RCW 10.99.020,
17 the prosecutor, or attorney general or assistants, shall specify
18 whether the victim and defendant are intimate partners or family or
19 household members within the meaning of RCW 26.50.010.

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

22 Unless the context clearly requires otherwise, the definitions in
23 this section apply throughout this chapter.

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

26 (2) "Association" means the Washington association of sheriffs
27 and police chiefs.

28 (3) "Family or household members" means (~~spouses, former~~
29 ~~spouses, persons who have a child in common regardless of whether~~
30 ~~they have been married or have lived together at any time, adult~~
31 ~~persons related by blood or marriage, adult persons who are presently~~
32 ~~residing together or who have resided together in the past, persons~~
33 ~~sixteen years of age or older who are presently residing together or~~
34 ~~who have resided together in the past and who have or have had a~~
35 ~~dating relationship, persons sixteen years of age or older with whom~~
36 ~~a person sixteen years of age or older has or has had a dating~~

1 relationship, and persons who have a biological or legal parent-child
2 relationship, including stepparents and stepchildren and grandparents
3 and grandchildren)) the same as in RCW 26.50.010.

4 (4) "Dating relationship" has the same meaning as in RCW
5 26.50.010.

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

- 10 ((~~a~~)) (i) Assault in the first degree (RCW 9A.36.011);
- 11 ((~~b~~)) (ii) Assault in the second degree (RCW 9A.36.021);
- 12 ((~~c~~)) (iii) Assault in the third degree (RCW 9A.36.031);
- 13 ((~~d~~)) (iv) Assault in the fourth degree (RCW 9A.36.041);
- 14 ((~~e~~)) (v) Drive-by shooting (RCW 9A.36.045);
- 15 ((~~f~~)) (vi) Reckless endangerment (RCW 9A.36.050);
- 16 ((~~g~~)) (vii) Coercion (RCW 9A.36.070);
- 17 ((~~h~~)) (viii) Burglary in the first degree (RCW 9A.52.020);
- 18 ((~~i~~)) (ix) Burglary in the second degree (RCW 9A.52.030);
- 19 ((~~j~~)) (x) Criminal trespass in the first degree (RCW
20 9A.52.070);
- 21 ((~~k~~)) (xi) Criminal trespass in the second degree (RCW
22 9A.52.080);
- 23 ((~~l~~)) (xii) Malicious mischief in the first degree (RCW
24 9A.48.070);
- 25 ((~~m~~)) (xiii) Malicious mischief in the second degree (RCW
26 9A.48.080);
- 27 ((~~n~~)) (xiv) Malicious mischief in the third degree (RCW
28 9A.48.090);
- 29 ((~~o~~)) (xv) Kidnapping in the first degree (RCW 9A.40.020);
- 30 ((~~p~~)) (xvi) Kidnapping in the second degree (RCW 9A.40.030);
- 31 ((~~q~~)) (xvii) Unlawful imprisonment (RCW 9A.40.040);
- 32 ((~~r~~)) (xviii) Violation of the provisions of a restraining
33 order, no-contact order, or protection order restraining or enjoining
34 the person or restraining the person from going onto the grounds of
35 or entering a residence, workplace, school, or day care, or
36 prohibiting the person from knowingly coming within, or knowingly
37 remaining within, a specified distance of a location (RCW 10.99.040,
38 10.99.050, 26.09.300, 26.10.220, ((~~26.26.138~~)) 26.26B.050, 26.44.063,
39 26.44.150, 26.50.060, 26.50.070, 26.50.130, 26.52.070, or 74.34.145);
- 40 ((~~s~~)) (xix) Rape in the first degree (RCW 9A.44.040);

1 (~~(t)~~) (xx) Rape in the second degree (RCW 9A.44.050);
2 (~~(u)~~) (xxi) Residential burglary (RCW 9A.52.025);
3 (~~(v)~~) (xxii) Stalking (RCW 9A.46.110); and
4 (~~(w)~~) (xxiii) Interference with the reporting of domestic
5 violence (RCW 9A.36.150).

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

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

9 (8) "Sworn employee" means a general authority Washington peace
10 officer as defined in RCW 10.93.020, any person appointed under RCW
11 35.21.333, and any person appointed or elected to carry out the
12 duties of the sheriff under chapter 36.28 RCW.

13 (~~(8)~~) (9) "Victim" means a family or household member or an
14 intimate partner who has been subjected to domestic violence.

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

17 As used in this chapter, the following terms shall have the
18 meanings given them:

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

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

26 (3) "Domestic violence" means: (a) Physical harm, bodily injury,
27 assault, or the infliction of fear of imminent physical harm, bodily
28 injury or assault, (~~(between family or household members; (b))~~)
29 sexual assault (~~(of one family or household member by another;)~~), or
30 (~~(e)~~) stalking as defined in RCW 9A.46.110 of one intimate partner
31 by another intimate partner; or (b) physical harm, bodily injury,
32 assault, or the infliction of fear of imminent physical harm, bodily
33 injury or assault, sexual assault, or stalking as defined in RCW
34 9A.46.110 of one family or household member by another family or
35 household member.

36 (4) "Electronic monitoring" has the same meaning as in RCW
37 9.94A.030.

38 (5) "Essential personal effects" means those items necessary for
39 a person's immediate health, welfare, and livelihood. "Essential

1 personal effects" includes but is not limited to clothing, cribs,
2 bedding, documents, medications, and personal hygiene items.

3 (6) "Family or household members" means (~~spouses, domestic~~
4 ~~partners, former spouses, former domestic partners, persons who have~~
5 ~~a child in common regardless of whether they have been married or~~
6 ~~have lived together at any time,~~); (a) Adult persons related by
7 blood or marriage(~~(r)~~); (b) adult persons who are presently residing
8 together or who have resided together in the past(~~(r persons sixteen~~
9 ~~years of age or older who are presently residing together or who have~~
10 ~~resided together in the past and who have or have had a dating~~
11 ~~relationship, persons sixteen years of age or older with whom a~~
12 ~~person sixteen years of age or older has or has had a dating~~
13 ~~relationship,~~); and (c) persons who have a biological or legal
14 parent-child relationship, including stepparents and stepchildren and
15 grandparents and grandchildren.

16 (7) "Intimate partner" means: (a) Spouses, or domestic partners;
17 (b) former spouses, or former domestic partners; (c) persons who have
18 a child in common regardless of whether they have been married or
19 have lived together at any time; (d) adult persons presently or
20 previously residing together who have or have had a dating
21 relationship; (e) persons sixteen years of age or older who are
22 presently residing together or who have resided together in the past
23 and who have or have had a dating relationship; and (f) persons
24 sixteen years of age or older with whom a person sixteen years of age
25 or older has or has had a dating relationship.

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

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

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

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

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

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

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

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

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

17 (6) The courts defined in RCW 26.50.010(~~(+4)~~) have jurisdiction
18 over proceedings under this chapter. The jurisdiction of district and
19 municipal courts under this chapter shall be limited to enforcement
20 of RCW 26.50.110(1), or the equivalent municipal ordinance, and the
21 issuance and enforcement of temporary orders for protection provided
22 for in RCW 26.50.070 if: (a) A superior court has exercised or is
23 exercising jurisdiction over a proceeding under this title or chapter
24 13.34 RCW involving the parties; (b) the petition for relief under
25 this chapter presents issues of residential schedule of and contact
26 with children of the parties; or (c) the petition for relief under
27 this chapter requests the court to exclude a party from the dwelling
28 which the parties share. When the jurisdiction of a district or
29 municipal court is limited to the issuance and enforcement of a
30 temporary order, the district or municipal court shall set the full
31 hearing provided for in RCW 26.50.050 in superior court and transfer
32 the case. If the notice and order are not served on the respondent in
33 time for the full hearing, the issuing court shall have concurrent
34 jurisdiction with the superior court to extend the order for
35 protection.

36 (~~(+6)~~) (7) An action under this chapter shall be filed in the
37 county or the municipality where the petitioner resides, unless the
38 petitioner has left the residence or household to avoid abuse. In
39 that case, the petitioner may bring an action in the county or
40 municipality of the previous or the new household or residence.

1 designate, not exceeding the maximum term of sentence or two years,
2 whichever is longer.

3 (b) For a defendant sentenced for a domestic violence offense, or
4 under RCW 46.61.5055, the superior court may suspend the imposition
5 or the execution of the sentence and may direct that the suspension
6 continue upon such conditions and for such time as the court shall
7 designate, not to exceed five years. The court shall have continuing
8 jurisdiction and authority to suspend the execution of all or any
9 part of the sentence upon stated terms, including installment payment
10 of fines. A defendant who has been sentenced, and who then fails to
11 appear for any hearing to address the defendant's compliance with the
12 terms of probation when ordered to do so by the court shall have the
13 term of probation tolled until such time as the defendant makes his
14 or her presence known to the court on the record. Any time before
15 entering an order terminating probation, the court may modify or
16 revoke its order suspending the imposition or execution of the
17 sentence if the defendant violates or fails to carry out any of the
18 conditions of the suspended sentence.

19 (2) In the order granting probation and as a condition thereof,
20 the superior court may in its discretion imprison the defendant in
21 the county jail for a period not exceeding one year and may fine the
22 defendant any sum not exceeding the statutory limit for the offense
23 committed, and court costs. As a condition of probation, the superior
24 court shall require the payment of the penalty assessment required by
25 RCW 7.68.035. The superior court may also require the defendant to
26 make such monetary payments, on such terms as it deems appropriate
27 under the circumstances, as are necessary: (a) To comply with any
28 order of the court for the payment of family support; (b) to make
29 restitution to any person or persons who may have suffered loss or
30 damage by reason of the commission of the crime in question or when
31 the offender pleads guilty to a lesser offense or fewer offenses and
32 agrees with the prosecutor's recommendation that the offender be
33 required to pay restitution to a victim of an offense or offenses
34 which are not prosecuted pursuant to a plea agreement; (c) to pay
35 such fine as may be imposed and court costs, including reimbursement
36 of the state for costs of extradition if return to this state by
37 extradition was required; (d) following consideration of the
38 financial condition of the person subject to possible electronic
39 monitoring, to pay for the costs of electronic monitoring if that
40 monitoring was required by the court as a condition of release from

1 custody or as a condition of probation; (e) to contribute to a county
2 or interlocal drug fund; and (f) to make restitution to a public
3 agency for the costs of an emergency response under RCW 38.52.430,
4 and may require bonds for the faithful observance of any and all
5 conditions imposed in the probation.

6 (3) The superior court shall order restitution in all cases where
7 the victim is entitled to benefits under the crime victims'
8 compensation act, chapter 7.68 RCW. If the superior court does not
9 order restitution and the victim of the crime has been determined to
10 be entitled to benefits under the crime victims' compensation act,
11 the department of labor and industries, as administrator of the crime
12 victims' compensation program, may petition the superior court within
13 one year of imposition of the sentence for entry of a restitution
14 order. Upon receipt of a petition from the department of labor and
15 industries, the superior court shall hold a restitution hearing and
16 shall enter a restitution order.

17 (4) In granting probation, the superior court may order the
18 probationer to report to the secretary of corrections or such officer
19 as the secretary may designate and as a condition of the probation to
20 follow the instructions of the secretary for up to twelve months. If
21 the county legislative authority has elected to assume responsibility
22 for the supervision of superior court misdemeanor probationers
23 within its jurisdiction, the superior court misdemeanor probationer
24 shall report to a probation officer employed or contracted for by the
25 county. In cases where a superior court misdemeanor probationer is
26 sentenced in one county, but resides within another county, there
27 must be provisions for the probationer to report to the agency having
28 supervision responsibility for the probationer's county of residence.

29 (5) If the probationer has been ordered to make restitution and
30 the superior court has ordered supervision, the officer supervising
31 the probationer shall make a reasonable effort to ascertain whether
32 restitution has been made. If the superior court has ordered
33 supervision and restitution has not been made as ordered, the officer
34 shall inform the prosecutor of that violation of the terms of
35 probation not less than three months prior to the termination of the
36 probation period. The secretary of corrections will promulgate rules
37 and regulations for the conduct of the person during the term of
38 probation. For defendants found guilty in district court, like
39 functions as the secretary performs in regard to probation may be
40 performed by probation officers employed for that purpose by the

1 county legislative authority of the county wherein the court is
2 located.

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

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

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

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

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

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

20 (c) An order issued pursuant to this section in conjunction with
21 a misdemeanor or gross misdemeanor sentence or juvenile disposition
22 remains in effect for a fixed period of time determined by the court,
23 which may not exceed five years from the date of sentencing or
24 disposition.

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

29 (3) Whenever an order prohibiting contact is issued pursuant to
30 this section, the clerk of the court shall forward a copy of the
31 order on or before the next judicial day to the appropriate law
32 enforcement agency specified in the order. Upon receipt of the copy
33 of the order the law enforcement agency shall enter the order for one
34 year or until the expiration date specified on the order into any
35 computer-based criminal intelligence information system available in
36 this state used by law enforcement agencies to list outstanding
37 warrants. Entry into the computer-based criminal intelligence
38 information system constitutes notice to all law enforcement agencies

1 of the existence of the order. The order is fully enforceable in any
2 jurisdiction in the state.

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

9 **PART IV - RISK ASSESSMENT**

10 NEW SECTION. **Sec. 401.** A new section is added to chapter 26.50
11 RCW to read as follows:

12 (1) The Washington State University department of criminal
13 justice shall develop and periodically update an actuarial domestic
14 violence risk assessment tool to be used by the department of
15 corrections and domestic violence treatment providers for the purpose
16 of determining whether an offender's domestic violence crime and
17 domestic violence history is such that there is a probability the
18 offender will commit domestic violence in the future. In addition,
19 the domestic violence risk assessment tool must have a component to
20 determine how mental illness and chemical dependency affect whether
21 an offender will commit domestic violence in the future.

22 (2) The domestic violence risk assessment tool must be based on
23 best available evidence. In developing the tool, the Washington State
24 University department of criminal justice shall consult with the
25 Washington state institute for public policy, the Washington state
26 supreme court gender and justice commission, the department of
27 children, youth, and families, the department of corrections,
28 domestic violence treatment providers, and other appropriate
29 stakeholders.

30 (3) The Washington State University department of criminal
31 justice shall make the domestic violence risk assessment tool
32 available for use no later than January 1, 2021.

33 **Sec. 402.** RCW 9.94A.030 and 2018 c 166 s 3 are each amended to
34 read as follows:

35 Unless the context clearly requires otherwise, the definitions in
36 this section apply throughout this chapter.

- 1 (1) "Board" means the indeterminate sentence review board created
2 under chapter 9.95 RCW.
- 3 (2) "Collect," or any derivative thereof, "collect and remit," or
4 "collect and deliver," when used with reference to the department,
5 means that the department, either directly or through a collection
6 agreement authorized by RCW 9.94A.760, is responsible for monitoring
7 and enforcing the offender's sentence with regard to the legal
8 financial obligation, receiving payment thereof from the offender,
9 and, consistent with current law, delivering daily the entire payment
10 to the superior court clerk without depositing it in a departmental
11 account.
- 12 (3) "Commission" means the sentencing guidelines commission.
- 13 (4) "Community corrections officer" means an employee of the
14 department who is responsible for carrying out specific duties in
15 supervision of sentenced offenders and monitoring of sentence
16 conditions.
- 17 (5) "Community custody" means that portion of an offender's
18 sentence of confinement in lieu of earned release time or imposed as
19 part of a sentence under this chapter and served in the community
20 subject to controls placed on the offender's movement and activities
21 by the department.
- 22 (6) "Community protection zone" means the area within eight
23 hundred eighty feet of the facilities and grounds of a public or
24 private school.
- 25 (7) "Community restitution" means compulsory service, without
26 compensation, performed for the benefit of the community by the
27 offender.
- 28 (8) "Confinement" means total or partial confinement.
- 29 (9) "Conviction" means an adjudication of guilt pursuant to Title
30 10 or 13 RCW and includes a verdict of guilty, a finding of guilty,
31 and acceptance of a plea of guilty.
- 32 (10) "Crime-related prohibition" means an order of a court
33 prohibiting conduct that directly relates to the circumstances of the
34 crime for which the offender has been convicted, and shall not be
35 construed to mean orders directing an offender affirmatively to
36 participate in rehabilitative programs or to otherwise perform
37 affirmative conduct. However, affirmative acts necessary to monitor
38 compliance with the order of a court may be required by the
39 department.

1 (11) "Criminal history" means the list of a defendant's prior
2 convictions and juvenile adjudications, whether in this state, in
3 federal court, or elsewhere, and any issued certificates of
4 restoration of opportunity pursuant to RCW 9.97.020.

5 (a) The history shall include, where known, for each conviction
6 (i) whether the defendant has been placed on probation and the length
7 and terms thereof; and (ii) whether the defendant has been
8 incarcerated and the length of incarceration.

9 (b) A conviction may be removed from a defendant's criminal
10 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,
11 9.95.240, or a similar out-of-state statute, or if the conviction has
12 been vacated pursuant to a governor's pardon.

13 (c) The determination of a defendant's criminal history is
14 distinct from the determination of an offender score. A prior
15 conviction that was not included in an offender score calculated
16 pursuant to a former version of the sentencing reform act remains
17 part of the defendant's criminal history.

18 (12) "Criminal street gang" means any ongoing organization,
19 association, or group of three or more persons, whether formal or
20 informal, having a common name or common identifying sign or symbol,
21 having as one of its primary activities the commission of criminal
22 acts, and whose members or associates individually or collectively
23 engage in or have engaged in a pattern of criminal street gang
24 activity. This definition does not apply to employees engaged in
25 concerted activities for their mutual aid and protection, or to the
26 activities of labor and bona fide nonprofit organizations or their
27 members or agents.

28 (13) "Criminal street gang associate or member" means any person
29 who actively participates in any criminal street gang and who
30 intentionally promotes, furthers, or assists in any criminal act by
31 the criminal street gang.

32 (14) "Criminal street gang-related offense" means any felony or
33 misdemeanor offense, whether in this state or elsewhere, that is
34 committed for the benefit of, at the direction of, or in association
35 with any criminal street gang, or is committed with the intent to
36 promote, further, or assist in any criminal conduct by the gang, or
37 is committed for one or more of the following reasons:

38 (a) To gain admission, prestige, or promotion within the gang;

39 (b) To increase or maintain the gang's size, membership,
40 prestige, dominance, or control in any geographical area;

1 (c) To exact revenge or retribution for the gang or any member of
2 the gang;

3 (d) To obstruct justice, or intimidate or eliminate any witness
4 against the gang or any member of the gang;

5 (e) To directly or indirectly cause any benefit, aggrandizement,
6 gain, profit, or other advantage for the gang, its reputation,
7 influence, or membership; or

8 (f) To provide the gang with any advantage in, or any control or
9 dominance over any criminal market sector, including, but not limited
10 to, manufacturing, delivering, or selling any controlled substance
11 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
12 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88
13 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual
14 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter
15 9.68 RCW).

16 (15) "Day fine" means a fine imposed by the sentencing court that
17 equals the difference between the offender's net daily income and the
18 reasonable obligations that the offender has for the support of the
19 offender and any dependents.

20 (16) "Day reporting" means a program of enhanced supervision
21 designed to monitor the offender's daily activities and compliance
22 with sentence conditions, and in which the offender is required to
23 report daily to a specific location designated by the department or
24 the sentencing court.

25 (17) "Department" means the department of corrections.

26 (18) "Determinate sentence" means a sentence that states with
27 exactitude the number of actual years, months, or days of total
28 confinement, of partial confinement, of community custody, the number
29 of actual hours or days of community restitution work, or dollars or
30 terms of a legal financial obligation. The fact that an offender
31 through earned release can reduce the actual period of confinement
32 shall not affect the classification of the sentence as a determinate
33 sentence.

34 (19) "Disposable earnings" means that part of the earnings of an
35 offender remaining after the deduction from those earnings of any
36 amount required by law to be withheld. For the purposes of this
37 definition, "earnings" means compensation paid or payable for
38 personal services, whether denominated as wages, salary, commission,
39 bonuses, or otherwise, and, notwithstanding any other provision of
40 law making the payments exempt from garnishment, attachment, or other

1 process to satisfy a court-ordered legal financial obligation,
2 specifically includes periodic payments pursuant to pension or
3 retirement programs, or insurance policies of any type, but does not
4 include payments made under Title 50 RCW, except as provided in RCW
5 50.40.020 and 50.40.050, or Title 74 RCW.

6 (20) "Domestic violence" has the same meaning as defined in RCW
7 10.99.020 and 26.50.010.

8 (21) "Drug offender sentencing alternative" is a sentencing
9 option available to persons convicted of a felony offense other than
10 a violent offense or a sex offense and who are eligible for the
11 option under RCW 9.94A.660.

12 (22) "Drug offense" means:

13 (a) Any felony violation of chapter 69.50 RCW except possession
14 of a controlled substance (RCW 69.50.4013) or forged prescription for
15 a controlled substance (RCW 69.50.403);

16 (b) Any offense defined as a felony under federal law that
17 relates to the possession, manufacture, distribution, or
18 transportation of a controlled substance; or

19 (c) Any out-of-state conviction for an offense that under the
20 laws of this state would be a felony classified as a drug offense
21 under (a) of this subsection.

22 (23) "Earned release" means earned release from confinement as
23 provided in RCW 9.94A.728.

24 (24) "Electronic monitoring" means tracking the location of an
25 individual, whether pretrial or posttrial, through the use of
26 technology that is capable of determining or identifying the
27 monitored individual's presence or absence at a particular location
28 including, but not limited to:

29 (a) Radio frequency signaling technology, which detects if the
30 monitored individual is or is not at an approved location and
31 notifies the monitoring agency of the time that the monitored
32 individual either leaves the approved location or tampers with or
33 removes the monitoring device; or

34 (b) Active or passive global positioning system technology, which
35 detects the location of the monitored individual and notifies the
36 monitoring agency of the monitored individual's location.

37 (25) "Escape" means:

38 (a) Sexually violent predator escape (RCW 9A.76.115), escape in
39 the first degree (RCW 9A.76.110), escape in the second degree (RCW
40 9A.76.120), willful failure to return from furlough (RCW 72.66.060),

1 willful failure to return from work release (RCW 72.65.070), or
2 willful failure to be available for supervision by the department
3 while in community custody (RCW 72.09.310); or

4 (b) Any federal or out-of-state conviction for an offense that
5 under the laws of this state would be a felony classified as an
6 escape under (a) of this subsection.

7 (26) "Felony traffic offense" means:

8 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
9 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-
10 run injury-accident (RCW 46.52.020(4)), felony driving while under
11 the influence of intoxicating liquor or any drug (RCW 46.61.502(6)),
12 or felony physical control of a vehicle while under the influence of
13 intoxicating liquor or any drug (RCW 46.61.504(6)); or

14 (b) Any federal or out-of-state conviction for an offense that
15 under the laws of this state would be a felony classified as a felony
16 traffic offense under (a) of this subsection.

17 (27) "Fine" means a specific sum of money ordered by the
18 sentencing court to be paid by the offender to the court over a
19 specific period of time.

20 (28) "First-time offender" means any person who has no prior
21 convictions for a felony and is eligible for the first-time offender
22 waiver under RCW 9.94A.650.

23 (29) "Home detention" is a subset of electronic monitoring and
24 means a program of partial confinement available to offenders wherein
25 the offender is confined in a private residence twenty-four hours a
26 day, unless an absence from the residence is approved, authorized, or
27 otherwise permitted in the order by the court or other supervising
28 agency that ordered home detention, and the offender is subject to
29 electronic monitoring.

30 (30) "Homelessness" or "homeless" means a condition where an
31 individual lacks a fixed, regular, and adequate nighttime residence
32 and who has a primary nighttime residence that is:

33 (a) A supervised, publicly or privately operated shelter designed
34 to provide temporary living accommodations;

35 (b) A public or private place not designed for, or ordinarily
36 used as, a regular sleeping accommodation for human beings; or

37 (c) A private residence where the individual stays as a transient
38 invitee.

39 (31) "Legal financial obligation" means a sum of money that is
40 ordered by a superior court of the state of Washington for legal

1 financial obligations which may include restitution to the victim,
2 statutorily imposed crime victims' compensation fees as assessed
3 pursuant to RCW 7.68.035, court costs, county or interlocal drug
4 funds, court-appointed attorneys' fees, and costs of defense, fines,
5 and any other financial obligation that is assessed to the offender
6 as a result of a felony conviction. Upon conviction for vehicular
7 assault while under the influence of intoxicating liquor or any drug,
8 RCW 46.61.522(1)(b), or vehicular homicide while under the influence
9 of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal
10 financial obligations may also include payment to a public agency of
11 the expense of an emergency response to the incident resulting in the
12 conviction, subject to RCW 38.52.430.

13 (32) "Minor child" means a biological or adopted child of the
14 offender who is under age eighteen at the time of the offender's
15 current offense.

16 (33) "Most serious offense" means any of the following felonies
17 or a felony attempt to commit any of the following felonies:

18 (a) Any felony defined under any law as a class A felony or
19 criminal solicitation of or criminal conspiracy to commit a class A
20 felony;

21 (b) Assault in the second degree;

22 (c) Assault of a child in the second degree;

23 (d) Child molestation in the second degree;

24 (e) Controlled substance homicide;

25 (f) Extortion in the first degree;

26 (g) Incest when committed against a child under age fourteen;

27 (h) Indecent liberties;

28 (i) Kidnapping in the second degree;

29 (j) Leading organized crime;

30 (k) Manslaughter in the first degree;

31 (l) Manslaughter in the second degree;

32 (m) Promoting prostitution in the first degree;

33 (n) Rape in the third degree;

34 (o) Robbery in the second degree;

35 (p) Sexual exploitation;

36 (q) Vehicular assault, when caused by the operation or driving of
37 a vehicle by a person while under the influence of intoxicating
38 liquor or any drug or by the operation or driving of a vehicle in a
39 reckless manner;

1 (r) Vehicular homicide, when proximately caused by the driving of
2 any vehicle by any person while under the influence of intoxicating
3 liquor or any drug as defined by RCW 46.61.502, or by the operation
4 of any vehicle in a reckless manner;

5 (s) Any other class B felony offense with a finding of sexual
6 motivation;

7 (t) Any other felony with a deadly weapon verdict under RCW
8 9.94A.825;

9 (u) Any felony offense in effect at any time prior to December 2,
10 1993, that is comparable to a most serious offense under this
11 subsection, or any federal or out-of-state conviction for an offense
12 that under the laws of this state would be a felony classified as a
13 most serious offense under this subsection;

14 (v)(i) A prior conviction for indecent liberties under RCW
15 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex.
16 sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b),
17 and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW
18 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986,
19 until July 1, 1988;

20 (ii) A prior conviction for indecent liberties under RCW
21 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
22 if: (A) The crime was committed against a child under the age of
23 fourteen; or (B) the relationship between the victim and perpetrator
24 is included in the definition of indecent liberties under RCW
25 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27,
26 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25,
27 1993, through July 27, 1997;

28 (w) Any out-of-state conviction for a felony offense with a
29 finding of sexual motivation if the minimum sentence imposed was ten
30 years or more; provided that the out-of-state felony offense must be
31 comparable to a felony offense under this title and Title 9A RCW and
32 the out-of-state definition of sexual motivation must be comparable
33 to the definition of sexual motivation contained in this section.

34 (34) "Nonviolent offense" means an offense which is not a violent
35 offense.

36 (35) "Offender" means a person who has committed a felony
37 established by state law and is eighteen years of age or older or is
38 less than eighteen years of age but whose case is under superior
39 court jurisdiction under RCW 13.04.030 or has been transferred by the
40 appropriate juvenile court to a criminal court pursuant to RCW

1 13.40.110. In addition, for the purpose of community custody
2 requirements under this chapter, "offender" also means a misdemeanor
3 or gross misdemeanor probationer ordered by a superior court to
4 probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and
5 supervised by the department pursuant to RCW 9.94A.501 and
6 9.94A.5011. Throughout this chapter, the terms "offender" and
7 "defendant" are used interchangeably.

8 (36) "Partial confinement" means confinement for no more than one
9 year in a facility or institution operated or utilized under contract
10 by the state or any other unit of government, or, if home detention,
11 electronic monitoring, or work crew has been ordered by the court or
12 home detention has been ordered by the department as part of the
13 parenting program or the graduated reentry program, in an approved
14 residence, for a substantial portion of each day with the balance of
15 the day spent in the community. Partial confinement includes work
16 release, home detention, work crew, electronic monitoring, and a
17 combination of work crew, electronic monitoring, and home detention.

18 (37) "Pattern of criminal street gang activity" means:

19 (a) The commission, attempt, conspiracy, or solicitation of, or
20 any prior juvenile adjudication of or adult conviction of, two or
21 more of the following criminal street gang-related offenses:

22 (i) Any "serious violent" felony offense as defined in this
23 section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a
24 Child 1 (RCW 9A.36.120);

25 (ii) Any "violent" offense as defined by this section, excluding
26 Assault of a Child 2 (RCW 9A.36.130);

27 (iii) Deliver or Possession with Intent to Deliver a Controlled
28 Substance (chapter 69.50 RCW);

29 (iv) Any violation of the firearms and dangerous weapon act
30 (chapter 9.41 RCW);

31 (v) Theft of a Firearm (RCW 9A.56.300);

32 (vi) Possession of a Stolen Firearm (RCW 9A.56.310);

33 (vii) Malicious Harassment (RCW 9A.36.080);

34 (viii) Harassment where a subsequent violation or deadly threat
35 is made (RCW 9A.46.020(2)(b));

36 (ix) Criminal Gang Intimidation (RCW 9A.46.120);

37 (x) Any felony conviction by a person eighteen years of age or
38 older with a special finding of involving a juvenile in a felony
39 offense under RCW 9.94A.833;

40 (xi) Residential Burglary (RCW 9A.52.025);

- 1 (xii) Burglary 2 (RCW 9A.52.030);
2 (xiii) Malicious Mischief 1 (RCW 9A.48.070);
3 (xiv) Malicious Mischief 2 (RCW 9A.48.080);
4 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);
5 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);
6 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW
7 9A.56.070);
8 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
9 9A.56.075);
10 (xix) Extortion 1 (RCW 9A.56.120);
11 (xx) Extortion 2 (RCW 9A.56.130);
12 (xxi) Intimidating a Witness (RCW 9A.72.110);
13 (xxii) Tampering with a Witness (RCW 9A.72.120);
14 (xxiii) Reckless Endangerment (RCW 9A.36.050);
15 (xxiv) Coercion (RCW 9A.36.070);
16 (xxv) Harassment (RCW 9A.46.020); or
17 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);

18 (b) That at least one of the offenses listed in (a) of this
19 subsection shall have occurred after July 1, 2008;

20 (c) That the most recent committed offense listed in (a) of this
21 subsection occurred within three years of a prior offense listed in
22 (a) of this subsection; and

23 (d) Of the offenses that were committed in (a) of this
24 subsection, the offenses occurred on separate occasions or were
25 committed by two or more persons.

26 (38) "Persistent offender" is an offender who:

27 (a) (i) Has been convicted in this state of any felony considered
28 a most serious offense; and

29 (ii) Has, before the commission of the offense under (a) of this
30 subsection, been convicted as an offender on at least two separate
31 occasions, whether in this state or elsewhere, of felonies that under
32 the laws of this state would be considered most serious offenses and
33 would be included in the offender score under RCW 9.94A.525; provided
34 that of the two or more previous convictions, at least one conviction
35 must have occurred before the commission of any of the other most
36 serious offenses for which the offender was previously convicted; or

37 (b) (i) Has been convicted of: (A) Rape in the first degree, rape
38 of a child in the first degree, child molestation in the first
39 degree, rape in the second degree, rape of a child in the second
40 degree, or indecent liberties by forcible compulsion; (B) any of the

1 following offenses with a finding of sexual motivation: Murder in the
2 first degree, murder in the second degree, homicide by abuse,
3 kidnapping in the first degree, kidnapping in the second degree,
4 assault in the first degree, assault in the second degree, assault of
5 a child in the first degree, assault of a child in the second degree,
6 or burglary in the first degree; or (C) an attempt to commit any
7 crime listed in this subsection (38)(b)(i); and

8 (ii) Has, before the commission of the offense under (b)(i) of
9 this subsection, been convicted as an offender on at least one
10 occasion, whether in this state or elsewhere, of an offense listed in
11 (b)(i) of this subsection or any federal or out-of-state offense or
12 offense under prior Washington law that is comparable to the offenses
13 listed in (b)(i) of this subsection. A conviction for rape of a child
14 in the first degree constitutes a conviction under (b)(i) of this
15 subsection only when the offender was sixteen years of age or older
16 when the offender committed the offense. A conviction for rape of a
17 child in the second degree constitutes a conviction under (b)(i) of
18 this subsection only when the offender was eighteen years of age or
19 older when the offender committed the offense.

20 (39) "Predatory" means: (a) The perpetrator of the crime was a
21 stranger to the victim, as defined in this section; (b) the
22 perpetrator established or promoted a relationship with the victim
23 prior to the offense and the victimization of the victim was a
24 significant reason the perpetrator established or promoted the
25 relationship; or (c) the perpetrator was: (i) A teacher, counselor,
26 volunteer, or other person in authority in any public or private
27 school and the victim was a student of the school under his or her
28 authority or supervision. For purposes of this subsection, "school"
29 does not include home-based instruction as defined in RCW
30 28A.225.010; (ii) a coach, trainer, volunteer, or other person in
31 authority in any recreational activity and the victim was a
32 participant in the activity under his or her authority or
33 supervision; (iii) a pastor, elder, volunteer, or other person in
34 authority in any church or religious organization, and the victim was
35 a member or participant of the organization under his or her
36 authority; or (iv) a teacher, counselor, volunteer, or other person
37 in authority providing home-based instruction and the victim was a
38 student receiving home-based instruction while under his or her
39 authority or supervision. For purposes of this subsection: (A) "Home-
40 based instruction" has the same meaning as defined in RCW

1 28A.225.010; and (B) "teacher, counselor, volunteer, or other person
2 in authority" does not include the parent or legal guardian of the
3 victim.

4 (40) "Private school" means a school regulated under chapter
5 28A.195 or 28A.205 RCW.

6 (41) "Public school" has the same meaning as in RCW 28A.150.010.

7 (42) "Repetitive domestic violence offense" means any:

8 (a)(i) Domestic violence assault that is not a felony offense
9 under RCW 9A.36.041;

10 (ii) Domestic violence violation of a no-contact order under
11 chapter 10.99 RCW that is not a felony offense;

12 (iii) Domestic violence violation of a protection order under
13 chapter 26.09, 26.10, (~~26.26~~) 26.26B, or 26.50 RCW that is not a
14 felony offense;

15 (iv) Domestic violence harassment offense under RCW 9A.46.020
16 that is not a felony offense; or

17 (v) Domestic violence stalking offense under RCW 9A.46.110 that
18 is not a felony offense; or

19 (b) Any federal, out-of-state, tribal court, military, county, or
20 municipal conviction for an offense that under the laws of this state
21 would be classified as a repetitive domestic violence offense under
22 (a) of this subsection.

23 (43) "Restitution" means a specific sum of money ordered by the
24 sentencing court to be paid by the offender to the court over a
25 specified period of time as payment of damages. The sum may include
26 both public and private costs.

27 (44) "Risk assessment" means the application of the risk
28 instrument recommended to the department by the Washington state
29 institute for public policy as having the highest degree of
30 predictive accuracy for assessing an offender's risk of reoffense.
31 "Risk assessment" does not refer to a domestic violence risk
32 assessment.

33 (45) "Serious traffic offense" means:

34 (a) Nonfelony driving while under the influence of intoxicating
35 liquor or any drug (RCW 46.61.502), nonfelony actual physical control
36 while under the influence of intoxicating liquor or any drug (RCW
37 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an
38 attended vehicle (RCW 46.52.020(5)); or

1 (b) Any federal, out-of-state, county, or municipal conviction
2 for an offense that under the laws of this state would be classified
3 as a serious traffic offense under (a) of this subsection.

4 (46) "Serious violent offense" is a subcategory of violent
5 offense and means:

6 (a) (i) Murder in the first degree;

7 (ii) Homicide by abuse;

8 (iii) Murder in the second degree;

9 (iv) Manslaughter in the first degree;

10 (v) Assault in the first degree;

11 (vi) Kidnapping in the first degree;

12 (vii) Rape in the first degree;

13 (viii) Assault of a child in the first degree; or

14 (ix) An attempt, criminal solicitation, or criminal conspiracy to
15 commit one of these felonies; or

16 (b) Any federal or out-of-state conviction for an offense that
17 under the laws of this state would be a felony classified as a
18 serious violent offense under (a) of this subsection.

19 (47) "Sex offense" means:

20 (a) (i) A felony that is a violation of chapter 9A.44 RCW other
21 than RCW 9A.44.132;

22 (ii) A violation of RCW 9A.64.020;

23 (iii) A felony that is a violation of chapter 9.68A RCW other
24 than RCW 9.68A.080;

25 (iv) A felony that is, under chapter 9A.28 RCW, a criminal
26 attempt, criminal solicitation, or criminal conspiracy to commit such
27 crimes; or

28 (v) A felony violation of RCW 9A.44.132(1) (failure to register
29 as a sex offender) if the person has been convicted of violating RCW
30 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130
31 prior to June 10, 2010, on at least one prior occasion;

32 (b) Any conviction for a felony offense in effect at any time
33 prior to July 1, 1976, that is comparable to a felony classified as a
34 sex offense in (a) of this subsection;

35 (c) A felony with a finding of sexual motivation under RCW
36 9.94A.835 or 13.40.135; or

37 (d) Any federal or out-of-state conviction for an offense that
38 under the laws of this state would be a felony classified as a sex
39 offense under (a) of this subsection.

1 (48) "Sexual motivation" means that one of the purposes for which
2 the defendant committed the crime was for the purpose of his or her
3 sexual gratification.

4 (49) "Standard sentence range" means the sentencing court's
5 discretionary range in imposing a nonappealable sentence.

6 (50) "Statutory maximum sentence" means the maximum length of
7 time for which an offender may be confined as punishment for a crime
8 as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute
9 defining the crime, or other statute defining the maximum penalty for
10 a crime.

11 (51) "Stranger" means that the victim did not know the offender
12 twenty-four hours before the offense.

13 (52) "Total confinement" means confinement inside the physical
14 boundaries of a facility or institution operated or utilized under
15 contract by the state or any other unit of government for twenty-four
16 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

17 (53) "Transition training" means written and verbal instructions
18 and assistance provided by the department to the offender during the
19 two weeks prior to the offender's successful completion of the work
20 ethic camp program. The transition training shall include
21 instructions in the offender's requirements and obligations during
22 the offender's period of community custody.

23 (54) "Victim" means any person who has sustained emotional,
24 psychological, physical, or financial injury to person or property as
25 a direct result of the crime charged.

26 (55) "Violent offense" means:

27 (a) Any of the following felonies:

28 (i) Any felony defined under any law as a class A felony or an
29 attempt to commit a class A felony;

30 (ii) Criminal solicitation of or criminal conspiracy to commit a
31 class A felony;

32 (iii) Manslaughter in the first degree;

33 (iv) Manslaughter in the second degree;

34 (v) Indecent liberties if committed by forcible compulsion;

35 (vi) Kidnapping in the second degree;

36 (vii) Arson in the second degree;

37 (viii) Assault in the second degree;

38 (ix) Assault of a child in the second degree;

39 (x) Extortion in the first degree;

40 (xi) Robbery in the second degree;

1 (xii) Drive-by shooting;

2 (xiii) Vehicular assault, when caused by the operation or driving
3 of a vehicle by a person while under the influence of intoxicating
4 liquor or any drug or by the operation or driving of a vehicle in a
5 reckless manner; and

6 (xiv) Vehicular homicide, when proximately caused by the driving
7 of any vehicle by any person while under the influence of
8 intoxicating liquor or any drug as defined by RCW 46.61.502, or by
9 the operation of any vehicle in a reckless manner;

10 (b) Any conviction for a felony offense in effect at any time
11 prior to July 1, 1976, that is comparable to a felony classified as a
12 violent offense in (a) of this subsection; and

13 (c) Any federal or out-of-state conviction for an offense that
14 under the laws of this state would be a felony classified as a
15 violent offense under (a) or (b) of this subsection.

16 (56) "Work crew" means a program of partial confinement
17 consisting of civic improvement tasks for the benefit of the
18 community that complies with RCW 9.94A.725.

19 (57) "Work ethic camp" means an alternative incarceration program
20 as provided in RCW 9.94A.690 designed to reduce recidivism and lower
21 the cost of corrections by requiring offenders to complete a
22 comprehensive array of real-world job and vocational experiences,
23 character-building work ethics training, life management skills
24 development, substance abuse rehabilitation, counseling, literacy
25 training, and basic adult education.

26 (58) "Work release" means a program of partial confinement
27 available to offenders who are employed or engaged as a student in a
28 regular course of study at school.

29 (59) "Domestic violence risk assessment" means the application of
30 the risk assessment tool developed and validated by the Washington
31 State University department of criminal justice under section 401 of
32 this act.

33 **PART V - SENTENCING**

34 NEW SECTION. **Sec. 501.** A new section is added to chapter 9.94A
35 RCW to read as follows:

36 When sentencing an offender convicted of a domestic violence
37 offense, the court, in addition to imposing the provisions of this
38 chapter, shall order the offender to undergo alcohol or chemical

1 dependency treatment or domestic violence treatment services during
2 incarceration. The offender is responsible for the cost of treatment
3 unless the court finds the offender indigent and no third-party
4 insurance coverage is available.

5 **Sec. 502.** RCW 9.94A.500 and 2013 c 200 s 33 are each amended to
6 read as follows:

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

12 Except in cases where the defendant shall be sentenced to a term
13 of total confinement for life without the possibility of release or,
14 when authorized by RCW 10.95.030 for the crime of aggravated murder
15 in the first degree, sentenced to death, the court may order the
16 department to complete a risk assessment report. If available before
17 sentencing, the report shall be provided to the court.

18 Unless specifically waived by the court, the court shall order
19 the department to complete a chemical dependency screening report
20 before imposing a sentence upon a defendant who has been convicted of
21 a violation of the uniform controlled substances act under chapter
22 69.50 RCW, a criminal solicitation to commit such a violation under
23 chapter 9A.28 RCW, or any felony where the court finds that the
24 offender has a chemical dependency that has contributed to his or her
25 offense. In addition, the court shall, at the time of plea or
26 conviction, order the department to complete a presentence report
27 before imposing a sentence upon a defendant who has been convicted of
28 a felony sexual offense. The department of corrections shall give
29 priority to presentence investigations for sexual offenders. If the
30 court determines that the defendant may be a mentally ill person as
31 defined in RCW 71.24.025, although the defendant has not established
32 that at the time of the crime he or she lacked the capacity to commit
33 the crime, was incompetent to commit the crime, or was insane at the
34 time of the crime, the court shall order the department to complete a
35 presentence report before imposing a sentence.

36 Unless specifically waived by the court, in cases of domestic
37 violence the court shall order the department to complete a
38 presentence investigation and domestic violence risk assessment
39 before imposing a drug offender sentencing alternative or residential

1 drug offender sentencing alternative upon a defendant who has been
2 convicted of a domestic violence offense under chapter 26.50 RCW or
3 any felony where the court finds that domestic violence contributed
4 to his or her offense.

5 The court shall consider the risk assessment report and
6 presentence reports, if any, including any victim impact statement
7 and criminal history, and allow arguments from the prosecutor, the
8 defense counsel, the offender, the victim, the survivor of the
9 victim, or a representative of the victim or survivor, and an
10 investigative law enforcement officer as to the sentence to be
11 imposed.

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

28 (2) To prevent wrongful disclosure of information and records
29 related to mental health services, as described in RCW 71.05.445 and
30 70.02.250, a court may take only those steps necessary during a
31 sentencing hearing or any hearing in which the department presents
32 information related to mental health services to the court. The steps
33 may be taken on motion of the defendant, the prosecuting attorney, or
34 on the court's own motion. The court may seal the portion of the
35 record relating to information relating to mental health services,
36 exclude the public from the hearing during presentation or discussion
37 of information and records relating to mental health services, or
38 grant other relief to achieve the result intended by this subsection,
39 but nothing in this subsection shall be construed to prevent the
40 subsequent release of information and records related to mental

1 health services as authorized by RCW 71.05.445, 70.02.250, or
2 72.09.585. Any person who otherwise is permitted to attend any
3 hearing pursuant to chapter 7.69 or 7.69A RCW shall not be excluded
4 from the hearing solely because the department intends to disclose or
5 discloses information related to mental health services.

6 **Sec. 503.** RCW 9.94A.660 and 2016 sp.s. c 29 s 524 are each
7 amended to read as follows:

8 (1) An offender is eligible for the special drug offender
9 sentencing alternative if:

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

13 (b) The offender is convicted of a felony that is not a felony
14 driving while under the influence of intoxicating liquor or any drug
15 under RCW 46.61.502(6) or felony physical control of a vehicle while
16 under the influence of intoxicating liquor or any drug under RCW
17 46.61.504(6);

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

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

28 (e) The offender has not been found by the United States attorney
29 general to be subject to a deportation detainer or order and does not
30 become subject to a deportation order during the period of the
31 sentence;

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

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

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

1 (3) If the sentencing court determines that the offender is
2 eligible for an alternative sentence under this section and that the
3 alternative sentence is appropriate, the court shall waive imposition
4 of a sentence within the standard sentence range and impose a
5 sentence consisting of either a prison-based alternative under RCW
6 9.94A.662 or a residential chemical dependency treatment-based
7 alternative under RCW 9.94A.664. The residential chemical dependency
8 treatment-based alternative is only available if the midpoint of the
9 standard range is twenty-four months or less.

10 (4) (a) To assist the court in making its determination, the court
11 may order the department to complete either or both a risk assessment
12 report and a chemical dependency screening report as provided in RCW
13 9.94A.500.

14 (b) To assist the court in making its determination in domestic
15 violence cases, the court shall order the department to complete a
16 domestic violence risk assessment and a chemical dependency screening
17 report as provided in RCW 9.94A.500.

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

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

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

25 (iii) Whether, in cases of domestic violence, the offender's
26 domestic violence crime and domestic violence history is such that
27 there is a probability the offender will commit domestic violence in
28 the future;

29 (iv) Whether effective treatment for the offender's addiction is
30 available from a provider that has been licensed or certified by the
31 department of ((social and health services)) health, and where
32 applicable, whether effective domestic violence perpetrator treatment
33 is available from a state-certified domestic violence treatment
34 provider pursuant to chapter 26.50 RCW; and

35 ~~((iv))~~ (v) Whether the offender and the community will benefit
36 from the use of the alternative.

37 (b) The examination report must contain:

38 (i) A proposed monitoring plan, including any requirements
39 regarding living conditions, lifestyle requirements, and monitoring
40 by family members and others; ~~((and))~~

1 (ii) Recommended crime-related prohibitions and affirmative
2 conditions; and

3 (iii) A domestic violence risk assessment.

4 (6) When a court imposes a sentence of community custody under
5 this section:

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

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

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

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

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

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

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

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

39 (10) Costs of examinations and preparing treatment plans under a
40 special drug offender sentencing alternative may be paid, at the

1 option of the county, from funds provided to the county from the
2 criminal justice treatment account under RCW 71.24.580.

3 **Sec. 504.** RCW 9.94A.662 and 2009 c 389 s 4 are each amended to
4 read as follows:

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

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

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

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

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

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

25 (2) During incarceration in the state facility, offenders
26 sentenced under this section shall undergo a comprehensive substance
27 abuse assessment and, in cases of domestic violence, a domestic
28 violence risk assessment, and receive, within available resources,
29 treatment services appropriate for the offender. The treatment
30 services shall be designed by the division of alcohol and substance
31 abuse of the department of social and health services, in cooperation
32 with the department of corrections.

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

1 (4) If an offender sentenced to the prison-based alternative
2 under this section is found by the United States attorney general to
3 be subject to a deportation order, a hearing shall be held by the
4 department unless waived by the offender, and, if the department
5 finds that the offender is subject to a valid deportation order, the
6 department may administratively terminate the offender from the
7 program and reclassify the offender to serve the remaining balance of
8 the original sentence.

9 **Sec. 505.** RCW 9.94A.664 and 2009 c 389 s 5 are each amended to
10 read as follows:

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

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

21 (b) If the court imposes a term of community custody, the
22 department shall, within available resources, make chemical
23 dependency assessment and treatment services available to the
24 offender during the term of community custody, and within available
25 resources, make domestic violence assessment and treatment services
26 available to a domestic violence offender during the term of
27 community custody.

28 (3)(a) If the court imposes a sentence under this section, the
29 treatment provider must send the treatment plan to the court within
30 thirty days of the offender's arrival to the residential chemical
31 dependency treatment program.

32 (b) Upon receipt of the plan, the court shall schedule a progress
33 hearing during the period of residential chemical dependency
34 treatment, and schedule a treatment termination hearing for three
35 months before the expiration of the term of community custody.

36 (c) Before the progress hearing and treatment termination
37 hearing, the treatment provider and the department shall submit
38 written reports to the court and parties regarding the offender's

1 compliance with treatment and monitoring requirements, and
2 recommendations regarding termination from treatment.

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

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

8 (b) Continue the hearing to a date before the expiration date of
9 community custody, with or without modifying the conditions of
10 community custody; or

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

14 (5) If the court imposes a term of total confinement, the
15 department shall, within available resources, make chemical
16 dependency assessment and treatment services available to the
17 offender during the term of total confinement and subsequent term of
18 community custody.

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

20 NEW SECTION. **Sec. 601.** A new section is added to chapter 9.94A
21 RCW to read as follows:

22 Subject to the availability of funds appropriated for this
23 specific purpose, the department shall develop and monitor transition
24 and relapse prevention strategies, including risk assessment and
25 release plans, to reduce risk to the community after domestic
26 violence offenders' terms of confinement in the custody of the
27 department.

28 **Sec. 602.** RCW 9.94A.704 and 2016 c 108 s 1 are each amended to
29 read as follows:

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

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

36 (ii) For domestic violence crimes, the department shall assess
37 the offender's risk of domestic violence reoffense with a domestic

1 violence risk assessment, and the department may establish and modify
2 additional conditions of community custody based on the risk to
3 community safety.

4 (b) Within the funds available for community custody, the
5 department shall determine conditions on the basis of risk to
6 community safety and risk of domestic violence reoffense, and shall
7 supervise offenders during community custody on the basis of risk to
8 community safety, risk of domestic violence reoffense, and conditions
9 imposed by the court. The secretary shall adopt rules to implement
10 the provisions of this subsection (2)(b).

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

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

14 (b) Remain within prescribed geographical boundaries;

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

17 (d) Pay the supervision fee assessment; and

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

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

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

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

38 (b) Impose electronic monitoring. Within the resources made
39 available by the department for this purpose, the department shall
40 carry out any electronic monitoring using the most appropriate

1 technology given the individual circumstances of the offender. As
2 used in this section, "electronic monitoring" has the same meaning as
3 in RCW 9.94A.030.

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

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

9 (b) By the close of the next business day after receiving notice
10 of a condition imposed or modified by the department, an offender may
11 request an administrative review under rules adopted by the
12 department. The condition shall remain in effect unless the reviewing
13 officer finds that it is not reasonably related to the crime of
14 conviction, the offender's risk of reoffending, or the safety of the
15 community.

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

18 (9) The department may require offenders to pay for special
19 services rendered including electronic monitoring, day reporting, and
20 telephone reporting, dependent on the offender's ability to pay. The
21 department may pay for these services for offenders who are not able
22 to pay.

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

29 (b) The board may impose conditions in addition to court-ordered
30 conditions. The board must consider and may impose department-
31 recommended conditions. The board must impose a condition requiring
32 the offender to refrain from contact with the victim or immediate
33 family member of the victim as provided in subsection (5) (a) of this
34 section.

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

- 1 (i) The crime of conviction;
- 2 (ii) The offender's risk of reoffending;
- 3 (iii) The safety of the community;
- 4 (iv) The offender's risk of domestic violence reoffense.

5 (d) If the department finds that an emergency exists requiring
6 the immediate imposition of additional conditions in order to prevent
7 the offender from committing a crime, the department may impose such
8 conditions. The department may not impose conditions that are
9 contrary to those set by the board or the court and may not
10 contravene or decrease court-imposed or board-imposed conditions.
11 Conditions imposed under this subsection shall take effect
12 immediately after notice to the offender by personal service, but
13 shall not remain in effect longer than seven working days unless
14 approved by the board.

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

18 **Sec. 603.** RCW 9.94A.722 and 2004 c 166 s 9 are each amended to
19 read as follows:

20 When an offender receiving court-ordered mental health ~~((\oplus))~~,
21 chemical dependency, or domestic violence treatment or treatment
22 ordered by the department of corrections presents for treatment from
23 a mental health or chemical dependency treatment provider, the
24 offender must disclose to the mental health ~~((\oplus))~~,
25 chemical dependency, or domestic violence treatment provider whether he or she
26 is subject to supervision by the department of corrections. If an
27 offender has received relief from disclosure pursuant to RCW
28 9.94A.562, 70.96A.155, or 71.05.132, the offender must provide the
29 mental health ~~((\oplus))~~, chemical dependency, or domestic violence
30 treatment provider with a copy of the order granting the relief.

31 **PART VII - DEFERRED PROSECUTIONS**

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

34 (1) In a court of limited jurisdiction a person charged with a
35 misdemeanor or gross misdemeanor may petition the court to be
36 considered for a deferred prosecution program. The petition shall be
37 filed with the court at least seven days before the date set for

1 trial but, upon a written motion and affidavit establishing good
2 cause for the delay and failure to comply with this section, the
3 court may waive this requirement subject to the defendant's
4 reimbursement to the court of the witness fees and expenses due for
5 subpoenaed witnesses who have appeared on the date set for trial.

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

23 (3) A person charged with a misdemeanor or a gross misdemeanor
24 under chapter 9A.42 RCW shall not be eligible for a deferred
25 prosecution program unless the court makes specific findings pursuant
26 to RCW 10.05.020. Such person shall not be eligible for a deferred
27 prosecution program more than once.

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

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

33 At the time of arraignment a person charged with a violation of
34 RCW 46.61.502 or 46.61.504 or a misdemeanor or gross misdemeanor
35 domestic violence offense may be given a statement by the court that
36 explains the availability, operation, and effects of the deferred
37 prosecution program.

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

3 (1) Except as provided in subsection (2) of this section, the
4 petitioner shall allege under oath in the petition that the wrongful
5 conduct charged is the result of or caused by substance use disorders
6 or mental problems or domestic violence behavior problems for which
7 the person is in need of treatment and unless treated the probability
8 of future recurrence is great, along with a statement that the person
9 agrees to pay the cost of a diagnosis and treatment of the alleged
10 problem or problems if financially able to do so. The petition shall
11 also contain a case history and written assessment prepared by an
12 approved substance use disorder treatment program as designated in
13 chapter 71.24 RCW if the petition alleges a substance use disorder
14 (~~(or)~~), by an approved mental health center if the petition alleges a
15 mental problem, or by a state-certified domestic violence treatment
16 provider pursuant to chapter 26.50 RCW if the petition alleges a
17 domestic violence behavior problem.

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

37 (3) Before entry of an order deferring prosecution, a petitioner
38 shall be advised of his or her rights as an accused and execute, as a
39 condition of receiving treatment, a statement that contains: (a) An
40 acknowledgment of his or her rights; (b) an acknowledgment and waiver

1 of the right to testify, the right to a speedy trial, the right to
2 call witnesses to testify, the right to present evidence in his or
3 her defense, and the right to a jury trial; (c) a stipulation to the
4 admissibility and sufficiency of the facts contained in the written
5 police report; and (d) an acknowledgment that the statement will be
6 entered and used to support a finding of guilty if the court finds
7 cause to revoke the order granting deferred prosecution. The
8 petitioner shall also be advised that he or she may, if he or she
9 proceeds to trial and is found guilty, be allowed to seek suspension
10 of some or all of the fines and incarceration that may be ordered
11 upon the condition that he or she seek treatment and, further, that
12 he or she may seek treatment from public and private agencies at any
13 time without regard to whether or not he or she is found guilty of
14 the offense charged. He or she shall also be advised that the court
15 will not accept a petition for deferred prosecution from a person
16 who: (i) Sincerely believes that he or she is innocent of the
17 charges; (ii) sincerely believes that he or she does not, in fact,
18 suffer from alcoholism, drug addiction, (~~or~~) mental problems, or
19 domestic violence behavior problems; or (iii) in the case of a
20 petitioner charged under chapter 9A.42 RCW, sincerely believes that
21 he or she does not need child welfare services.

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

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

37 The arraigining judge upon consideration of the petition and with
38 the concurrence of the prosecuting attorney may continue the

1 arraignment and refer such person for a diagnostic investigation and
2 evaluation to:

3 (1) An approved substance use disorder treatment program as
4 designated in chapter 71.24 RCW((~~r~~)) if the petition alleges a
5 substance use disorder((~~r-to~~));

6 (2) An approved mental health center((~~r~~)) if the petition alleges
7 a mental problem((~~r-er~~));

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

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

13 **Sec. 705.** RCW 10.05.040 and 2018 c 201 s 9005 are each amended
14 to read as follows:

15 The program to which such person is referred, or the department
16 of social and health services if the petition is brought under RCW
17 10.05.020(2), shall conduct an investigation and examination to
18 determine:

19 (1) Whether the person suffers from the problem described;

20 (2) Whether the problem is such that if not treated, or if no
21 child welfare services are provided, there is a probability that
22 similar misconduct will occur in the future. For petitions alleging
23 domestic violence, the examination must include a domestic violence
24 risk assessment under section 401 of this act;

25 (3) Whether extensive and long term treatment is required;

26 (4) Whether effective treatment or child welfare services for the
27 person's problem are available; and

28 (5) Whether the person is amenable to treatment or willing to
29 cooperate with child welfare services.

30 **Sec. 706.** RCW 10.05.120 and 2003 c 220 s 1 are each amended to
31 read as follows:

32 (1) Three years after receiving proof of successful completion of
33 the two-year treatment program, and following proof to the court that
34 the petitioner has complied with the conditions imposed by the court
35 following successful completion of the two-year treatment program,
36 but not before five years following entry of the order of deferred
37 prosecution pursuant to a petition brought under RCW 10.05.020(1),
38 the court shall dismiss the charges pending against the petitioner.

1 (2) When a deferred prosecution is ordered pursuant to a petition
2 brought under RCW 10.05.020(2) and the court has received proof that
3 the petitioner has successfully completed the child welfare service
4 plan, or the plan has been terminated because the alleged victim has
5 reached his or her majority and there are no other minor children in
6 the home, the court shall dismiss the charges pending against the
7 petitioner: PROVIDED, That in any case where the petitioner's
8 parental rights have been terminated with regard to the alleged
9 victim due to abuse or neglect that occurred during the pendency of
10 the deferred prosecution, the termination shall be per se evidence
11 that the petitioner did not successfully complete the child welfare
12 service plan.

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

18 **Sec. 707.** RCW 10.05.140 and 2016 c 203 s 11 are each amended to
19 read as follows:

20 (1) As a condition of granting a deferred prosecution petition,
21 the court shall order that the petitioner shall not operate a motor
22 vehicle upon the public highways without a valid operator's license
23 and proof of liability insurance. The amount of liability insurance
24 shall be established by the court at not less than that established
25 by RCW 46.29.490. As a condition of granting a deferred prosecution
26 petition on any alcohol-dependency based case, the court shall also
27 order the installation of an ignition interlock under RCW 46.20.720.
28 The required periods of use of the interlock shall be not less than
29 the periods provided for in RCW 46.20.720. As a condition of granting
30 a deferred prosecution petition, the court may order the petitioner
31 to make restitution and to pay costs as defined in RCW 10.01.160. To
32 help ensure continued sobriety and reduce the likelihood of
33 reoffense, the court may order reasonable conditions during the
34 period of the deferred prosecution including, but not limited to,
35 attendance at self-help recovery support groups for alcoholism or
36 drugs, complete abstinence from alcohol and all nonprescribed mind-
37 altering drugs, periodic urinalysis or breath analysis, and
38 maintaining law-abiding behavior. The court may terminate the

1 deferred prosecution program upon violation of the deferred
2 prosecution order.

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

5 (a) The court shall order the petitioner not to possess firearms
6 and order the petitioner to surrender firearms under RCW 9.41.800;
7 and

8 (b) The court may order the petitioner to make restitution and to
9 pay costs as defined in RCW 10.01.160. In addition, to help ensure
10 continued sobriety and reduce the likelihood of reoffense in co-
11 occurring domestic violence and substance abuse or mental health
12 cases, the court may order reasonable conditions during the period of
13 the deferred prosecution including, but not limited to, attendance at
14 self-help recovery support groups for alcoholism or drugs, complete
15 abstinence from alcohol and all nonprescribed mind-altering drugs,
16 periodic urinalysis or breath analysis, and maintaining law-abiding
17 behavior. The court may terminate the deferred prosecution program
18 upon violation of the deferred prosecution order.

19 **Sec. 708.** RCW 10.05.160 and 2010 c 269 s 11 are each amended to
20 read as follows:

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

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

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

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

29 ~~((3))~~ (4) Failure of the court to comply with the requirements
30 of RCW 10.05.100;

31 ~~((4))~~ (5) Failure of the evaluation facility to provide the
32 information required in RCW 10.05.040 and 10.05.050, if the defendant
33 has been referred to the facility for treatment. If an appeal on such
34 basis is successful, the trial court may consider the use of another
35 treatment program;

36 ~~((5))~~ (6) Failure of the court to order the installation of an
37 ignition interlock or other device under RCW 10.05.140.

1 NEW SECTION. **Sec. 709.** A new section is added to chapter 10.05
2 RCW to read as follows:

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

6 (1) Completion of a domestic violence risk assessment;

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

9 (3) Compliance with the contract for treatment;

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

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

17 (6) Signature of the petitioner agreeing to the terms and
18 conditions of the treatment program;

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

22 **PART VIII - EVALUATION OF DOMESTIC VIOLENCE TREATMENT**

23 NEW SECTION. **Sec. 801.** A new section is added to chapter 26.50
24 RCW to read as follows:

25 (1) The Washington state institute for public policy shall
26 evaluate the effectiveness of the multitiered domestic violence
27 treatment model under chapter 110-60A WAC as to whether this model
28 reduces or otherwise impacts the recidivism of domestic violence
29 offenders. The evaluation must include a comparison of the
30 effectiveness of the multitiered treatment model under chapter
31 110-60A WAC to the former single model. To the extent feasible, the
32 evaluation must also include: (a) An assessment of the effectiveness
33 of various treatment approaches utilized within the state under
34 chapter 110-60A WAC based on available data obtained through the
35 courts and treatment providers; and (b) a comprehensive review of the
36 research evidence on the effectiveness of treatment models.

37 (2) The institute shall publish its initial findings and submit a
38 report to the appropriate committees of the legislature and the

1 governor no later than December 1, 2022, and the institute shall
2 publish and submit a final report no later than December 1, 2024.

3 (3) This section expires June 30, 2025.

4 **PART IX - DOMESTIC VIOLENCE WORK GROUPS**

5 NEW SECTION. **Sec. 901.** In 2017 the legislature established two
6 work groups managed by the Washington state supreme court gender and
7 justice commission to study domestic violence treatment and domestic
8 violence risk. The work groups successfully pulled together
9 stakeholders from across the state and published two reports with
10 groundbreaking recommendations. The legislature finds that there is a
11 need to continue the work groups. The work groups shall review best
12 practices for alternatives to mandatory arrest in cases of domestic
13 violence, and the work groups shall monitor implementation of prior
14 recommendations for the purpose of promoting effective strategies to
15 reduce domestic violence homicides, serious injuries, and recidivism.

16 **Sec. 902.** 2017 c 272 s 7 (uncodified) is amended to read as
17 follows:

18 (1) The administrative office of the courts shall, through the
19 Washington state gender and justice commission of the supreme court,
20 convene a work group to address the issue of domestic violence
21 perpetrator treatment and the role of certified perpetrator treatment
22 programs in holding domestic violence perpetrators accountable.

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

33 (3) (a) For its initial report in 2018, the work group shall:
34 ~~((a))~~ (i) Review laws, regulations, and court and agency practices
35 pertaining to domestic violence perpetrator treatment used in civil
36 and criminal contexts, including criminal domestic violence felony
37 and misdemeanor offenses, family law, child welfare, and protection

1 orders; ~~((b))~~ (ii) consider the development of a universal
2 diagnostic evaluation tool to be used by treatment providers and the
3 department of corrections to assess the treatment needs of domestic
4 violence perpetrators; and ~~((e))~~ (iii) develop recommendations on
5 changes to existing laws, regulations, and court and agency practices
6 to improve victim safety, decrease recidivism, advance treatment
7 outcomes, and increase the courts' confidence in domestic violence
8 perpetrator treatment.

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

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

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

17 (ii) Monitor, evaluate, and provide recommendations for the
18 implementation of the newly established domestic violence treatment
19 administrative codes;

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

23 (iv) Provide recommendations on other items deemed appropriate by
24 the work group.

25 (b) The work group shall report its recommendations to the
26 affected entities and the appropriate committees of the legislature
27 no later than November 30, 2019.

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

29 (6) This section expires June 30, ~~((2019))~~ 2020.

30 **Sec. 903.** 2017 c 272 s 8 (uncodified) is amended to read as
31 follows:

32 (1) ~~((The legislature finds that Washington state has a serious~~
33 ~~problem with domestic violence offender recidivism and lethality. The~~
34 ~~Washington state institute for public policy studied domestic~~
35 ~~violence offenders finding not just high rates of domestic violence~~
36 ~~recidivism but among the highest rates of general criminal and~~
37 ~~violent recidivism. The Washington state coalition against domestic~~
38 ~~violence has issued fatality reviews of domestic violence homicides~~
39 ~~in Washington under chapter 43.235 RCW for over fifteen years. These~~

1 ~~fatality reviews demonstrate the significant impact of domestic~~
2 ~~violence on our communities as well as the barriers and high rates of~~
3 ~~lethality faced by victims. The legislature further notes there have~~
4 ~~been several high profile domestic violence homicides with multiple~~
5 ~~prior domestic violence incidents not accounted for in the legal~~
6 ~~response. Many jurisdictions nationally have encountered the same~~
7 ~~challenges as Washington and now utilize risk assessment as a best~~
8 ~~practice to assist in the response to domestic violence.))~~

9 The Washington domestic violence risk assessment work group is
10 established to study how and when risk assessment can best be used to
11 improve the response to domestic violence offenders and victims and
12 find effective strategies to reduce domestic violence homicides,
13 serious injuries, and recidivism that are a result of domestic
14 violence incidents in Washington state.

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

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

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

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

- 37 (i) Treatment providers;
- 38 (ii) City law enforcement;
- 39 (iii) County law enforcement;
- 40 (iv) Court administrators; and

1 (v) Domestic violence victims or family members of a victim.

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

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

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

11 (~~(c)~~) (iii) Promoting access to domestic violence risk
12 assessment for advocates, police, prosecutors, corrections, and
13 courts to improve domestic violence response;

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

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

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

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

24 (~~(h)~~) (viii) Whether or how risk assessment can improve
25 prosecution and encourage prosecutors to aggressively enforce
26 domestic violence laws; and

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

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

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

33 (i) Research, review, and make recommendations on whether laws
34 mandating arrest in cases of domestic violence should be amended and
35 whether alternative arrest statutes should incorporate domestic
36 violence risk assessment in domestic violence response to improve the
37 response to domestic violence, and what training for law enforcement
38 would be needed to implement an alternative to mandatory arrest;

39 (ii) Research, review, and make recommendations on how prior
40 recommendations of the work group should be implemented in order to

1 promote effective strategies to reduce domestic violence in
2 Washington state;

3 (iii) Monitor, evaluate, and provide recommendations on the
4 development and use of the risk assessment tool under section 401 of
5 this act; and

6 (iv) Provide recommendations on other items deemed appropriate by
7 the work group.

8 (b) The work group shall compile its findings and recommendations
9 into a final report and provide its report to the appropriate
10 committees of the legislature and governor by November 30, 2019.

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

12 (6) This section expires June 30, ((2019)) 2020.

13 **PART X - UNIFORM RECOGNITION AND ENFORCEMENT OF CANADIAN DOMESTIC**
14 **VIOLENCE PROTECTION ORDERS**

15 NEW SECTION. Sec. 1001. SHORT TITLE. This chapter may be cited
16 as the uniform recognition and enforcement of Canadian domestic
17 violence protection orders act.

18 NEW SECTION. Sec. 1002. DEFINITIONS. The definitions in this
19 section apply throughout this chapter unless the context clearly
20 requires otherwise.

21 (1) "Canadian domestic violence protection order" means a
22 judgment or part of a judgment or order issued in a civil proceeding
23 by a court of Canada under law of the issuing jurisdiction which
24 relates to domestic violence and prohibits a respondent from:

25 (a) Being in physical proximity to a protected individual or
26 following a protected individual;

27 (b) Directly or indirectly contacting or communicating with a
28 protected individual or other individual described in the order;

29 (c) Being within a certain distance of a specified place or
30 location associated with a protected individual; or

31 (d) Molesting, annoying, harassing, or engaging in threatening
32 conduct directed at a protected individual.

33 (2) "Domestic protection order" means an injunction or other
34 order issued by a tribunal which relates to domestic or family
35 violence laws to prevent an individual from engaging in violent or
36 threatening acts against, harassment of, direct or indirect contact

1 or communication with, or being in physical proximity to another
2 individual.

3 (3) "Issuing court" means the court that issues a Canadian
4 domestic violence protection order.

5 (4) "Law enforcement officer" means an individual authorized by
6 law of this state other than this chapter to enforce a domestic
7 protection order.

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

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

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

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

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

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

25 NEW SECTION. **Sec. 1003.** ENFORCEMENT OF CANADIAN DOMESTIC
26 VIOLENCE PROTECTION ORDER BY LAW ENFORCEMENT OFFICER. (1) If a law
27 enforcement officer determines under subsection (2) or (3) of this
28 section that there is probable cause to believe a valid Canadian
29 domestic violence protection order exists and the order has been
30 violated, the officer shall enforce the terms of the Canadian
31 domestic violence protection order as if the terms were in an order
32 of a tribunal. Presentation to a law enforcement officer of a
33 certified copy of a Canadian domestic violence protection order is
34 not required for enforcement.

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

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

6 (4) If a law enforcement officer determines that an otherwise
7 valid Canadian domestic violence protection order cannot be enforced
8 because the respondent has not been notified of or served with the
9 order, the officer shall notify the protected individual that the
10 officer will make reasonable efforts to contact the respondent,
11 consistent with the safety of the protected individual. After notice
12 to the protected individual and consistent with the safety of the
13 individual, the officer shall make a reasonable effort to inform the
14 respondent of the order, notify the respondent of the terms of the
15 order, provide a record of the order, if available, to the
16 respondent, and allow the respondent a reasonable opportunity to
17 comply with the order before the officer enforces the order.

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

21 NEW SECTION. **Sec. 1004.** ENFORCEMENT OF CANADIAN DOMESTIC
22 VIOLENCE PROTECTION ORDER BY TRIBUNAL. (1) A tribunal may issue an
23 order enforcing or refusing to enforce a Canadian domestic violence
24 protection order on application of:

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

27 (b) A respondent.

28 (2) In a proceeding under subsection (1) of this section, the
29 tribunal shall follow the procedures of this state for enforcement of
30 a domestic protection order. An order entered under this section is
31 limited to the enforcement of the terms of the Canadian domestic
32 violence protection order as defined in section 1002 of this act.

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

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

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

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

39 (d) The order was issued after:

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

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

7 (4) A Canadian domestic violence protection order valid on its
8 face is prima facie evidence of its enforceability under this
9 section.

10 (5) A claim that a Canadian domestic violence protection order
11 does not comply with subsection (3) of this section is an affirmative
12 defense in a proceeding seeking enforcement of the order. If the
13 tribunal determines that the order is not enforceable, the tribunal
14 shall issue an order that the Canadian domestic violence protection
15 order is not enforceable under this section and section 1003 of this
16 act and may not be registered under section 1005 of this act.

17 NEW SECTION. **Sec. 1005.** REGISTRATION OF CANADIAN DOMESTIC
18 VIOLENCE PROTECTION ORDER. (1) A person entitled to protection who
19 has a valid Canadian domestic violence protection order may file that
20 order by presenting a certified, authenticated, or exemplified copy
21 of the Canadian domestic violence protection order to a clerk of the
22 court of a Washington court in which the person entitled to
23 protection resides or to a clerk of the court of a Washington court
24 where the person entitled to protection believes enforcement may be
25 necessary. Any out-of-state department, agency, or court responsible
26 for maintaining protection order records, may by facsimile or
27 electronic transmission send a reproduction of the foreign protection
28 order to the clerk of the court of Washington as long as it contains
29 a facsimile or digital signature by any person authorized to make
30 such transmission.

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

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

38 (4) After a Canadian domestic violence protection order is
39 registered under this section, the clerk of the court shall provide

1 the individual registering the order a certified copy of the
2 registered order.

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

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

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

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

15 NEW SECTION. **Sec. 1006.** IMMUNITY. The state, state agency,
16 local governmental agency, law enforcement officer, prosecuting
17 attorney, clerk of court, and state or local governmental official
18 acting in an official capacity are immune from civil and criminal
19 liability for an act or omission arising out of the registration or
20 enforcement of a Canadian domestic violence protection order or the
21 detention or arrest of an alleged violator of a Canadian domestic
22 violence protection order if the act or omission was a good faith
23 effort to comply with this chapter.

24 NEW SECTION. **Sec. 1007.** OTHER REMEDIES. An individual who seeks
25 a remedy under this chapter may seek other legal or equitable
26 remedies.

27 NEW SECTION. **Sec. 1008.** UNIFORMITY OF APPLICATION AND
28 CONSTRUCTION. In applying and construing this uniform act,
29 consideration must be given to the need to promote uniformity of the
30 law with respect to its subject matter among states that enact it.

31 NEW SECTION. **Sec. 1009.** RELATION TO ELECTRONIC SIGNATURES IN
32 GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits, or
33 supersedes the electronic signatures in global and national commerce
34 act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or
35 supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or

1 authorize electronic delivery of any of the notices described in
2 Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

3 NEW SECTION. **Sec. 1010.** TRANSITION. This chapter applies to a
4 Canadian domestic violence protection order issued before, on, or
5 after the effective date of this section and to a continuing action
6 for enforcement of a Canadian domestic violence protection order
7 commenced before, on, or after the effective date of this section. A
8 request for enforcement of a Canadian domestic violence protection
9 order made on or after the effective date of this section for a
10 violation of the order occurring before, on, or after the effective
11 date of this section is governed by this chapter.

12 **Sec. 1011.** RCW 10.31.100 and 2017 c 336 s 3 and 2017 c 223 s 1
13 are each reenacted and amended to read as follows:

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

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

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

34 (a) An order has been issued of which the person has knowledge
35 under RCW 26.44.063, or chapter 7.92, 7.90, 9A.46, 10.99, 26.09,
36 26.10, (~~26.26~~) 26.26A, 26.26B, 26.50, or 74.34 RCW restraining the
37 person and the person has violated the terms of the order restraining
38 the person from acts or threats of violence, or restraining the

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

7 (b) A foreign protection order, as defined in RCW 26.52.010, or a
8 Canadian domestic violence protection order, as defined in section
9 1002 of this act, has been issued of which the person under restraint
10 has knowledge and the person under restraint has violated a provision
11 of the foreign protection order or the Canadian domestic violence
12 protection order prohibiting the person under restraint from
13 contacting or communicating with another person, or excluding the
14 person under restraint from a residence, workplace, school, or day
15 care, or prohibiting the person from knowingly coming within, or
16 knowingly remaining within, a specified distance of a location, or a
17 violation of any provision for which the foreign protection order or
18 the Canadian domestic violence protection order specifically
19 indicates that a violation will be a crime; or

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

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

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

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

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

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

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

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

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

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

23 (5) (a) A law enforcement officer investigating at the scene of a
24 motor vessel accident may arrest the operator of a motor vessel
25 involved in the accident if the officer has probable cause to believe
26 that the operator has committed, in connection with the accident, a
27 criminal violation of chapter 79A.60 RCW.

28 (b) A law enforcement officer investigating at the scene of a
29 motor vessel accident may issue a citation for an infraction to the
30 operator of a motor vessel involved in the accident if the officer
31 has probable cause to believe that the operator has committed, in
32 connection with the accident, a violation of any boating safety law
33 of chapter 79A.60 RCW.

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

37 (7) An officer may act upon the request of a law enforcement
38 officer in whose presence a traffic infraction was committed, to
39 stop, detain, arrest, or issue a notice of traffic infraction to the
40 driver who is believed to have committed the infraction. The request

1 by the witnessing officer shall give an officer the authority to take
2 appropriate action under the laws of the state of Washington.

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

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

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

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

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

22 (12) A law enforcement officer having probable cause to believe
23 that a person has committed a violation under RCW 77.15.160(~~((4))~~)
24 (5) may issue a citation for an infraction to the person in
25 connection with the violation.

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

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

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

35 (16)(a) Except as provided in (b) of this subsection, a police
36 officer shall arrest and keep in custody, until release by a judicial
37 officer on bail, personal recognizance, or court order, a person
38 without a warrant when the officer has probable cause to believe that
39 the person has violated RCW 46.61.502 or 46.61.504 or an equivalent
40 local ordinance and the police officer: (i) Has knowledge that the

1 person has a prior offense as defined in RCW 46.61.5055 within ten
2 years; or (ii) has knowledge, based on a review of the information
3 available to the officer at the time of arrest, that the person is
4 charged with or is awaiting arraignment for an offense that would
5 qualify as a prior offense as defined in RCW 46.61.5055 if it were a
6 conviction.

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

10 **Sec. 1012.** RCW 26.50.035 and 2005 c 282 s 40 are each amended to
11 read as follows:

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

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

25 (b) The informational brochure shall describe the use of and the
26 process for obtaining, modifying, and terminating a domestic violence
27 protection order as provided under this chapter, an antiharassment
28 no-contact order as provided under chapter 9A.46 RCW, a domestic
29 violence no-contact order as provided under chapter 10.99 RCW, a
30 restraining order as provided under chapters 26.09, 26.10, (~~26.26~~)
31 26.26A, 26.26B, and 26.44 RCW, an antiharassment protection order as
32 provided by chapter 10.14 RCW, (~~and~~) a foreign protection order as
33 defined in chapter 26.52 RCW, and a Canadian domestic violence
34 protection order as defined in section 1002 of this act.

35 (c) The order for protection form shall include, in a conspicuous
36 location, notice of criminal penalties resulting from violation of
37 the order, and the following statement: "You can be arrested even if
38 the person or persons who obtained the order invite or allow you to
39 violate the order's prohibitions. The respondent has the sole

1 responsibility to avoid or refrain from violating the order's
2 provisions. Only the court can change the order upon written
3 application."

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

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

17 (3) The administrative office of the courts shall distribute a
18 master copy of the petition and order forms, instructions, and
19 informational brochures to all court clerks and shall distribute a
20 master copy of the petition and order forms to all superior,
21 district, and municipal courts.

22 (4) For purposes of this section, "court clerks" means court
23 administrators in courts of limited jurisdiction and elected court
24 clerks.

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

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

38 **Sec. 1013.** RCW 26.50.110 and 2017 c 230 s 9 are each amended to
39 read as follows:

1 (1) (a) Whenever an order is granted under this chapter, chapter
2 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10,
3 (~~26.26~~) 26.26A, 26.26B, or 74.34 RCW, any temporary order for
4 protection is granted under chapter 7.40 RCW pursuant to chapter
5 74.34 RCW, (~~or~~) there is a valid foreign protection order as
6 defined in RCW 26.52.020, or there is a valid Canadian domestic
7 violence protection order as defined in section 1002 of this act, and
8 the respondent or person to be restrained knows of the order, a
9 violation of any of the following provisions of the order is a gross
10 misdemeanor, except as provided in subsections (4) and (5) of this
11 section:

12 (i) The restraint provisions prohibiting acts or threats of
13 violence against, or stalking of, a protected party, or restraint
14 provisions prohibiting contact with a protected party;

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

17 (iii) A provision prohibiting a person from knowingly coming
18 within, or knowingly remaining within, a specified distance of a
19 location;

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

24 (v) A provision of a foreign protection order or a Canadian
25 domestic violence protection order specifically indicating that a
26 violation will be a crime.

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

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

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

1 (2) A peace officer shall arrest without a warrant and take into
2 custody a person whom the peace officer has probable cause to believe
3 has violated an order issued under this chapter, chapter 7.92, 7.90,
4 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10, (~~(26.26)~~) 26.26A,
5 26.26B, or 74.34 RCW, any temporary order for protection granted
6 under chapter 7.40 RCW pursuant to chapter 74.34 RCW, (~~(or)~~) a valid
7 foreign protection order as defined in RCW 26.52.020, or a valid
8 Canadian domestic violence protection order as defined in section
9 1002 of this act, that restrains the person or excludes the person
10 from a residence, workplace, school, or day care, or prohibits the
11 person from knowingly coming within, or knowingly remaining within, a
12 specified distance of a location, if the person restrained knows of
13 the order. Presence of the order in the law enforcement computer-
14 based criminal intelligence information system is not the only means
15 of establishing knowledge of the order.

16 (3) A violation of an order issued under this chapter, chapter
17 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10,
18 (~~(26.26)~~) 26.26A, 26.26B, or 74.34 RCW, (~~(or)~~) a valid foreign
19 protection order as defined in RCW 26.52.020, or a valid Canadian
20 domestic violence protection order as defined in section 1002 of this
21 act, shall also constitute contempt of court, and is subject to the
22 penalties prescribed by law.

23 (4) Any assault that is a violation of an order issued under this
24 chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99,
25 26.09, 26.10, (~~(26.26)~~) 26.26A, 26.26B, or 74.34 RCW, (~~(or)~~) a
26 valid foreign protection order as defined in RCW 26.52.020, or a
27 valid Canadian domestic violence protection order as defined in
28 section 1002 of this act, and that does not amount to assault in the
29 first or second degree under RCW 9A.36.011 or 9A.36.021 is a class C
30 felony, and any conduct in violation of such an order that is
31 reckless and creates a substantial risk of death or serious physical
32 injury to another person is a class C felony.

33 (5) A violation of a court order issued under this chapter,
34 chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10,
35 (~~(26.26)~~) 26.26A, 26.26B, or 74.34 RCW, (~~(or)~~) 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 1002 of this
38 act, is a class C felony if the offender has at least two previous
39 convictions for violating the provisions of an order issued under
40 this chapter, chapter 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09,

1 26.10, (~~26.26~~) 26.26A, 26.26B, or 74.34 RCW, (~~or~~) a valid foreign
2 protection order as defined in RCW 26.52.020 or a valid Canadian
3 domestic violence protection order as defined in section 1002 of this
4 act. The previous convictions may involve the same victim or other
5 victims specifically protected by the orders the offender violated.

6 (6) Upon the filing of an affidavit by the petitioner or any
7 peace officer alleging that the respondent has violated an order
8 granted under this chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88,
9 9.94A, 10.99, 26.09, 26.10, (~~26.26~~) 26.26A, 26.26B, or 74.34 RCW,
10 (~~or~~) a valid foreign protection order as defined in RCW 26.52.020,
11 or a valid Canadian domestic violence protection order as defined in
12 section 1002 of this act, the court may issue an order to the
13 respondent, requiring the respondent to appear and show cause within
14 fourteen days why the respondent should not be found in contempt of
15 court and punished accordingly. The hearing may be held in the court
16 of any county or municipality in which the petitioner or respondent
17 temporarily or permanently resides at the time of the alleged
18 violation.

19 **Sec. 1014.** RCW 26.50.160 and 2017 3rd sp.s. c 6 s 335 are each
20 amended to read as follows:

21 To prevent the issuance of competing protection orders in
22 different courts and to give courts needed information for issuance
23 of orders, the judicial information system shall be available in each
24 district, municipal, and superior court by July 1, 1997, and shall
25 include a database containing the following information:

26 (1) The names of the parties and the cause number for every order
27 of protection issued under this title, every sexual assault
28 protection order issued under chapter 7.90 RCW, every criminal no-
29 contact order issued under chapters 9A.46 and 10.99 RCW, every
30 antiharassment order issued under chapter 10.14 RCW, every
31 dissolution action under chapter 26.09 RCW, every third-party custody
32 action under chapter 26.10 RCW, every parentage action under chapter
33 (~~26.26~~) 26.26A or 26.26B RCW, every restraining order issued on
34 behalf of an abused child or adult dependent person under chapter
35 26.44 RCW, every foreign protection order filed under chapter 26.52
36 RCW, every Canadian domestic violence protection order filed under
37 chapter 26.-- RCW (the new chapter created in section 1101 of this
38 act), and every order for protection of a vulnerable adult under
39 chapter 74.34 RCW. When a guardian or the department of social and

1 health services or department of children, youth, and families has
2 petitioned for relief on behalf of an abused child, adult dependent
3 person, or vulnerable adult, the name of the person on whose behalf
4 relief was sought shall be included in the database as a party rather
5 than the guardian or appropriate department;

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

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

10 **Sec. 1015.** RCW 36.28A.410 and 2017 c 261 s 5 are each amended to
11 read as follows:

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

27 (b) The notification requirements of this section apply to any
28 court order issued under chapter 7.92 RCW and RCW 7.90.090,
29 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060,
30 26.10.040, 26.10.115, (~~26.26.130, 26.26.590~~) 26.26B.020, 26.50.060,
31 or 26.50.070, (~~and~~) any foreign protection order filed with a
32 Washington court pursuant to chapter 26.52 RCW, and any Canadian
33 domestic violence protection order filed with a Washington court
34 pursuant to chapter 26.-- RCW (the new chapter created in section
35 1101 of this act), where the order prohibits the respondent from
36 possessing firearms or where by operation of law the respondent is
37 ineligible to possess firearms during the term of the order. The
38 notification requirements of this section apply even if the

1 respondent has notified the Washington state patrol that he or she
2 has appealed a background check denial under RCW 43.43.823.

3 (2) An appointed or elected official, public employee, or public
4 agency as defined in RCW 4.24.470, or combination of units of
5 government and its employees, as provided in RCW 36.28A.010, are
6 immune from civil liability for damages for any release of
7 information or the failure to release information related to the
8 statewide automated protected person notification system in this
9 section, so long as the release or failure to release was without
10 gross negligence. The immunity provided under this subsection applies
11 to the release of relevant and necessary information to other public
12 officials, public employees, or public agencies, and to the general
13 public.

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

20 **PART XI - MISCELLANEOUS**

21 NEW SECTION. **Sec. 1101.** Sections 1001 through 1010 of this act
22 constitute a new chapter in Title 26 RCW.

23 NEW SECTION. **Sec. 1102.** If any provision of this act or its
24 application to any person or circumstance is held invalid, the
25 remainder of the act or the application of the provision to other
26 persons or circumstances is not affected.

27 NEW SECTION. **Sec. 1103.** Sections 1001 through 1015, 1101, and
28 1102 of this act take effect January 1, 2020.

29 NEW SECTION. **Sec. 1104.** Sections 501 through 505, 601 through
30 603, and 701 through 709 of this act take effect January 1, 2021.

31 NEW SECTION. **Sec. 1105.** Sections 901 through 903 of this act
32 are necessary for the immediate preservation of the public peace,

1 health, or safety, or support of the state government and its
2 existing public institutions, and take effect June 30, 2019.

--- **END** ---