
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1517

State of Washington

66th Legislature

2019 Regular Session

By House Appropriations (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 03/01/19.

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

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

13 **PART I - LEGISLATIVE FINDINGS**

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

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15 and health services repealed the administrative codes for domestic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

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

33 The legislature intends to modify sentencing alternatives and
34 other sentencing practices to require use of a validated risk
35 assessment tool and domestic violence treatment certified under the
36 Washington Administrative Code. These new practices should be
37 consistently used when criminal conduct is based on domestic violence
38 behavioral problems.

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

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

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

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

19 Unless the context clearly requires otherwise, the definitions in
20 this section apply throughout this chapter.

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

23 (2) "Association" means the Washington association of sheriffs
24 and police chiefs.

25 (3) "Family or household members" means (~~spouses, former~~
26 ~~spouses, persons who have a child in common regardless of whether~~
27 ~~they have been married or have lived together at any time, adult~~
28 ~~persons related by blood or marriage, adult persons who are presently~~
29 ~~residing together or who have resided together in the past, persons~~
30 ~~sixteen years of age or older who are presently residing together or~~
31 ~~who have resided together in the past and who have or have had a~~
32 ~~dating relationship, persons sixteen years of age or older with whom~~
33 ~~a person sixteen years of age or older has or has had a dating~~
34 ~~relationship, and persons who have a biological or legal parent-child~~
35 ~~relationship, including stepparents and stepchildren and grandparents~~
36 ~~and grandchildren)) the same as in RCW 26.50.010.~~

37 (4) "Dating relationship" has the same meaning as in RCW
38 26.50.010.

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

- 5 ((~~a~~)) (i) Assault in the first degree (RCW 9A.36.011);
6 ((~~b~~)) (ii) Assault in the second degree (RCW 9A.36.021);
7 ((~~c~~)) (iii) Assault in the third degree (RCW 9A.36.031);
8 ((~~d~~)) (iv) Assault in the fourth degree (RCW 9A.36.041);
9 ((~~e~~)) (v) Drive-by shooting (RCW 9A.36.045);
10 ((~~f~~)) (vi) Reckless endangerment (RCW 9A.36.050);
11 ((~~g~~)) (vii) Coercion (RCW 9A.36.070);
12 ((~~h~~)) (viii) Burglary in the first degree (RCW 9A.52.020);
13 ((~~i~~)) (ix) Burglary in the second degree (RCW 9A.52.030);
14 ((~~j~~)) (x) Criminal trespass in the first degree (RCW
15 9A.52.070);
16 ((~~k~~)) (xi) Criminal trespass in the second degree (RCW
17 9A.52.080);
18 ((~~l~~)) (xii) Malicious mischief in the first degree (RCW
19 9A.48.070);
20 ((~~m~~)) (xiii) Malicious mischief in the second degree (RCW
21 9A.48.080);
22 ((~~n~~)) (xiv) Malicious mischief in the third degree (RCW
23 9A.48.090);
24 ((~~o~~)) (xv) Kidnapping in the first degree (RCW 9A.40.020);
25 ((~~p~~)) (xvi) Kidnapping in the second degree (RCW 9A.40.030);
26 ((~~q~~)) (xvii) Unlawful imprisonment (RCW 9A.40.040);
27 ((~~r~~)) (xviii) Violation of the provisions of a restraining
28 order, no-contact order, or protection order restraining or enjoining
29 the person or restraining the person from going onto the grounds of
30 or entering a residence, workplace, school, or day care, or
31 prohibiting the person from knowingly coming within, or knowingly
32 remaining within, a specified distance of a location (RCW 10.99.040,
33 10.99.050, 26.09.300, 26.10.220, ((~~26.26.138~~)) 26.26B.050, 26.44.063,
34 26.44.150, 26.50.060, 26.50.070, 26.50.130, 26.52.070, or 74.34.145);
35 ((~~s~~)) (xix) Rape in the first degree (RCW 9A.44.040);
36 ((~~t~~)) (xx) Rape in the second degree (RCW 9A.44.050);
37 ((~~u~~)) (xxi) Residential burglary (RCW 9A.52.025);
38 ((~~v~~)) (xxii) Stalking (RCW 9A.46.110); and
39 ((~~w~~)) (xxiii) Interference with the reporting of domestic
40 violence (RCW 9A.36.150).

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

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

4 (8) "Sworn employee" means a general authority Washington peace
5 officer as defined in RCW 10.93.020, any person appointed under RCW
6 35.21.333, and any person appointed or elected to carry out the
7 duties of the sheriff under chapter 36.28 RCW.

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

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

12 As used in this chapter, the following terms shall have the
13 meanings given them:

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

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

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

31 (4) "Electronic monitoring" has the same meaning as in RCW
32 9.94A.030.

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

37 (6) "Family or household members" means ~~((spouses, domestic~~
38 ~~partners, former spouses, former domestic partners, persons who have~~
39 ~~a child in common regardless of whether they have been married or~~

1 ~~have lived together at any time~~); (a) Adult persons related by
2 blood or marriage(~~(7)~~); (b) adult persons who are presently residing
3 together or who have resided together in the past(~~(7 persons sixteen~~
4 ~~years of age or older who are presently residing together or who have~~
5 ~~resided together in the past and who have or have had a dating~~
6 ~~relationship, persons sixteen years of age or older with whom a~~
7 ~~person sixteen years of age or older has or has had a dating~~
8 ~~relationship~~); and (c) persons who have a biological or legal
9 parent-child relationship, including stepparents and stepchildren and
10 grandparents and grandchildren.

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

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

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

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

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

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

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

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

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

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

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

30 (~~(6)~~) (7) An action under this chapter shall be filed in the
31 county or the municipality where the petitioner resides, unless the
32 petitioner has left the residence or household to avoid abuse. In
33 that case, the petitioner may bring an action in the county or
34 municipality of the previous or the new household or residence.

35 (~~(7)~~) (8) A person's right to petition for relief under this
36 chapter is not affected by the person leaving the residence or
37 household to avoid abuse.

38 (~~(8)~~) (9) For the purposes of this section "next friend" means
39 any competent individual, over eighteen years of age, chosen by the

1 minor and who is capable of pursuing the minor's stated interest in
2 the action.

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

4 NEW SECTION. **Sec. 301.** (1) The legislature believes the
5 existing language of RCW 10.99.050 has always authorized courts to
6 issue domestic violence no-contact orders in adult and juvenile cases
7 that last up to the adult statutory maximum in felony cases and up to
8 the maximum period for which an adult sentence can be suspended or
9 deferred in nonfelony cases. However, in *State v. Granath*, 200 Wn.
10 App. 26, 401 P.3d 405 (2017), aff'd, 190 Wn.2d 548, 415 P.3d 1179
11 (2018), the court of appeals and supreme court recently interpreted
12 this provision to limit domestic violence no-contact orders in
13 nonfelony sentences to the duration of the defendant's conditions of
14 sentence. The legislature finds that this interpretation inadequately
15 protects victims of domestic violence. The legislature intends to
16 clarify the trial courts' authority to issue no-contact orders that
17 remain in place in adult and juvenile nonfelony cases for the maximum
18 period of time that an adult sentence could be suspended, and in
19 adult and juvenile felony cases for the adult statutory maximum.

20 (2) The legislature further finds that there is a discrepancy in
21 which sentences for nonfelony domestic violence offenses can be
22 suspended for up to five years in district and municipal courts, but
23 only for up to two years in superior courts in most cases, creating
24 inconsistent protection for victims. The legislature intends to
25 rectify this discrepancy to allow nonfelony domestic violence
26 sentences to be suspended for up to five years in all courts.

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

29 (1)(a) Except as provided in (b) of this subsection in granting
30 probation, the superior court may suspend the imposition or the
31 execution of the sentence and may direct that the suspension may
32 continue upon such conditions and for such time as it shall
33 designate, not exceeding the maximum term of sentence or two years,
34 whichever is longer.

35 (b) For a defendant sentenced for a domestic violence offense, or
36 under RCW 46.61.5055, the superior court may suspend the imposition
37 or the execution of the sentence and may direct that the suspension

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

14 (2) In the order granting probation and as a condition thereof,
15 the superior court may in its discretion imprison the defendant in
16 the county jail for a period not exceeding one year and may fine the
17 defendant any sum not exceeding the statutory limit for the offense
18 committed, and court costs. As a condition of probation, the superior
19 court shall require the payment of the penalty assessment required by
20 RCW 7.68.035. The superior court may also require the defendant to
21 make such monetary payments, on such terms as it deems appropriate
22 under the circumstances, as are necessary: (a) To comply with any
23 order of the court for the payment of family support; (b) to make
24 restitution to any person or persons who may have suffered loss or
25 damage by reason of the commission of the crime in question or when
26 the offender pleads guilty to a lesser offense or fewer offenses and
27 agrees with the prosecutor's recommendation that the offender be
28 required to pay restitution to a victim of an offense or offenses
29 which are not prosecuted pursuant to a plea agreement; (c) to pay
30 such fine as may be imposed and court costs, including reimbursement
31 of the state for costs of extradition if return to this state by
32 extradition was required; (d) following consideration of the
33 financial condition of the person subject to possible electronic
34 monitoring, to pay for the costs of electronic monitoring if that
35 monitoring was required by the court as a condition of release from
36 custody or as a condition of probation; (e) to contribute to a county
37 or interlocal drug fund; and (f) to make restitution to a public
38 agency for the costs of an emergency response under RCW 38.52.430,
39 and may require bonds for the faithful observance of any and all
40 conditions imposed in the probation.

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

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

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

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

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

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

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

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

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

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

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

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

37 (4) If an order prohibiting contact issued pursuant to this
38 section is modified or terminated, the clerk of the court shall
39 notify the law enforcement agency specified in the order on or before

1 the next judicial day. Upon receipt of notice that an order has been
2 terminated, the law enforcement agency shall remove the order from
3 any computer-based criminal intelligence system.

4 **PART IV - RISK ASSESSMENT**

5 NEW SECTION. **Sec. 401.** A new section is added to chapter 9.94A
6 RCW to read as follows:

7 (1) The Washington State University department of criminal
8 justice shall develop an additional module for the Washington one
9 risk assessment that would specifically predict whether the offender
10 will commit domestic violence in the future. The additional module
11 for domestic violence may incorporate relevant court records into the
12 prediction modeling, if practical within the resources allocated. The
13 additional module will be used by the department as part of the
14 current risk, needs, and responsivity assessment process.

15 (2) The Washington State University department of criminal
16 justice shall make the domestic violence risk assessment module
17 available for use by the department no later than January 1, 2021.
18 Beginning January 1, 2021, the department shall use the domestic
19 violence risk assessment module when conducting a Washington one risk
20 assessment for an offender with a current conviction where domestic
21 violence was pleaded and proven.

22 **PART V - SENTENCING**

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

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

30 Except in cases where the defendant shall be sentenced to a term
31 of total confinement for life without the possibility of release or,
32 when authorized by RCW 10.95.030 for the crime of aggravated murder
33 in the first degree, sentenced to death, the court may order the
34 department to complete a risk assessment report. If available before
35 sentencing, the report shall be provided to the court.

1 Unless specifically waived by the court, the court shall order
2 the department to complete a chemical dependency screening report
3 before imposing a sentence upon a defendant who has been convicted of
4 a violation of the uniform controlled substances act under chapter
5 69.50 RCW, a criminal solicitation to commit such a violation under
6 chapter 9A.28 RCW, or any felony where the court finds that the
7 offender has a chemical dependency that has contributed to his or her
8 offense. In addition, the court shall, at the time of plea or
9 conviction, order the department to complete a presentence report
10 before imposing a sentence upon a defendant who has been convicted of
11 a felony sexual offense. The department of corrections shall give
12 priority to presentence investigations for sexual offenders. If the
13 court determines that the defendant may be a mentally ill person as
14 defined in RCW 71.24.025, although the defendant has not established
15 that at the time of the crime he or she lacked the capacity to commit
16 the crime, was incompetent to commit the crime, or was insane at the
17 time of the crime, the court shall order the department to complete a
18 presentence report before imposing a sentence.

19 Unless specifically waived by the court, the court shall order
20 the department to complete a presentence investigation before
21 imposing a drug offender sentencing alternative upon a defendant who
22 has been convicted of a felony offense where domestic violence has
23 been pleaded and proven.

24 The court shall consider the risk assessment report and
25 presentence reports, if any, including any victim impact statement
26 and criminal history, and allow arguments from the prosecutor, the
27 defense counsel, the offender, the victim, the survivor of the
28 victim, or a representative of the victim or survivor, and an
29 investigative law enforcement officer as to the sentence to be
30 imposed.

31 A criminal history summary relating to the defendant from the
32 prosecuting authority or from a state, federal, or foreign
33 governmental agency shall be prima facie evidence of the existence
34 and validity of the convictions listed therein. If the court is
35 satisfied by a preponderance of the evidence that the defendant has a
36 criminal history, the court shall specify the convictions it has
37 found to exist. All of this information shall be part of the record.
38 Copies of all risk assessment reports and presentence reports
39 presented to the sentencing court and all written findings of facts
40 and conclusions of law as to sentencing entered by the court shall be

1 sent to the department by the clerk of the court at the conclusion of
2 the sentencing and shall accompany the offender if the offender is
3 committed to the custody of the department. Court clerks shall
4 provide, without charge, certified copies of documents relating to
5 criminal convictions requested by prosecuting attorneys.

6 (2) To prevent wrongful disclosure of information and records
7 related to mental health services, as described in RCW 71.05.445 and
8 70.02.250, a court may take only those steps necessary during a
9 sentencing hearing or any hearing in which the department presents
10 information related to mental health services to the court. The steps
11 may be taken on motion of the defendant, the prosecuting attorney, or
12 on the court's own motion. The court may seal the portion of the
13 record relating to information relating to mental health services,
14 exclude the public from the hearing during presentation or discussion
15 of information and records relating to mental health services, or
16 grant other relief to achieve the result intended by this subsection,
17 but nothing in this subsection shall be construed to prevent the
18 subsequent release of information and records related to mental
19 health services as authorized by RCW 71.05.445, 70.02.250, or
20 72.09.585. Any person who otherwise is permitted to attend any
21 hearing pursuant to chapter 7.69 or 7.69A RCW shall not be excluded
22 from the hearing solely because the department intends to disclose or
23 discloses information related to mental health services.

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

26 (1) An offender is eligible for the special drug offender
27 sentencing alternative if:

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

31 (b) The offender is convicted of a felony that is not a felony
32 driving while under the influence of intoxicating liquor or any drug
33 under RCW 46.61.502(6) or felony physical control of a vehicle while
34 under the influence of intoxicating liquor or any drug under RCW
35 46.61.504(6);

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

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

7 (e) The offender has not been found by the United States attorney
8 general to be subject to a deportation detainer or order and does not
9 become subject to a deportation order during the period of the
10 sentence;

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

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

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

18 (3) If the sentencing court determines that the offender is
19 eligible for an alternative sentence under this section and that the
20 alternative sentence is appropriate, the court shall waive imposition
21 of a sentence within the standard sentence range and impose a
22 sentence consisting of either a prison-based alternative under RCW
23 9.94A.662 or a residential chemical dependency treatment-based
24 alternative under RCW 9.94A.664. The residential chemical dependency
25 treatment-based alternative is only available if the midpoint of the
26 standard range is twenty-four months or less.

27 (4) (a) To assist the court in making its determination, the court
28 may order the department to complete either or both a risk assessment
29 report and a chemical dependency screening report as provided in RCW
30 9.94A.500.

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

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

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

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

3 (iii) Whether effective treatment for the offender's addiction is
4 available from a provider that has been licensed or certified by the
5 department of (~~social and health services~~) health, and where
6 applicable, whether effective domestic violence perpetrator treatment
7 is available from a state-certified domestic violence treatment
8 provider pursuant to chapter 26.50 RCW; and

9 (iv) Whether the offender and the community will benefit from the
10 use of the alternative.

11 (b) The examination report must contain:

12 (i) A proposed monitoring plan, including any requirements
13 regarding living conditions, lifestyle requirements, and monitoring
14 by family members and others; and

15 (ii) Recommended crime-related prohibitions and affirmative
16 conditions.

17 (6) When a court imposes a sentence of community custody under
18 this section:

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

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

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

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

35 (c) The court may order the offender to serve a term of total
36 confinement within the standard range of the offender's current
37 offense at any time during the period of community custody if the
38 offender violates the conditions or requirements of the sentence or
39 if the offender is failing to make satisfactory progress in
40 treatment.

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

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

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

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

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

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

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

23 (b) One-half the midpoint of the standard sentence range as a
24 term of community custody, which must include appropriate substance
25 abuse treatment in a program that has been approved by the division
26 of alcohol and substance abuse of the department of social and health
27 services, and for co-occurring drug and domestic violence cases, must
28 also include an appropriate domestic violence treatment program by a
29 state-certified domestic violence treatment provider pursuant to
30 chapter 26.50 RCW;

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

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

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

38 (2) (a) During incarceration in the state facility, offenders
39 sentenced under this section shall undergo a comprehensive substance

1 abuse assessment and receive, within available resources, treatment
2 services appropriate for the offender. The substance abuse treatment
3 services shall be designed by the division of alcohol and substance
4 abuse of the department of social and health services, in cooperation
5 with the department of corrections.

6 (b) When applicable for cases involving domestic violence,
7 domestic violence treatment must be provided by a state-certified
8 domestic violence treatment provider pursuant to chapter 26.50 RCW
9 during the term of community custody.

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

16 (4) If an offender sentenced to the prison-based alternative
17 under this section is found by the United States attorney general to
18 be subject to a deportation order, a hearing shall be held by the
19 department unless waived by the offender, and, if the department
20 finds that the offender is subject to a valid deportation order, the
21 department may administratively terminate the offender from the
22 program and reclassify the offender to serve the remaining balance of
23 the original sentence.

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

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

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

36 (b) If the court imposes a term of community custody, the
37 department shall, within available resources, make chemical
38 dependency assessment and treatment services available to the
39 offender during the term of community custody, and within available

1 resources, make domestic violence treatment services available to a
2 domestic violence offender during the term of community custody.

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

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

12 (c) Before the progress hearing and treatment termination
13 hearing, the treatment provider and the department shall submit
14 written reports to the court and parties regarding the offender's
15 compliance with treatment and monitoring requirements, and
16 recommendations regarding termination from treatment.

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

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

22 (b) Continue the hearing to a date before the expiration date of
23 community custody, with or without modifying the conditions of
24 community custody; or

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

28 (5) If the court imposes a term of total confinement, the
29 department shall, within available resources, make chemical
30 dependency assessment and treatment services available to the
31 offender during the term of total confinement and subsequent term of
32 community custody.

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

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

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

1 (2) (a) The department shall assess the offender's risk of
2 reoffense and may establish and modify additional conditions of
3 community custody based upon the risk to 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 shall supervise offenders during community
7 custody on the basis of risk to community safety and conditions
8 imposed by the court. The secretary shall adopt rules to implement
9 the provisions of this subsection (2) (b).

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

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

13 (b) Remain within prescribed geographical boundaries;

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

16 (d) Pay the supervision fee assessment; and

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

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

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

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

37 (b) Impose electronic monitoring. Within the resources made
38 available by the department for this purpose, the department shall
39 carry out any electronic monitoring using the most appropriate
40 technology given the individual circumstances of the offender. As

1 used in this section, "electronic monitoring" has the same meaning as
2 in RCW 9.94A.030.

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

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

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

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

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

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

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

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

40 (i) The crime of conviction;

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

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

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

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

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

30 **PART VII - DEFERRED PROSECUTIONS**

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

33 (1) In a court of limited jurisdiction a person charged with a
34 misdemeanor or gross misdemeanor may petition the court to be
35 considered for a deferred prosecution program. The petition shall be
36 filed with the court at least seven days before the date set for
37 trial but, upon a written motion and affidavit establishing good

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

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

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

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

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

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

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

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

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

35 (3) Before entry of an order deferring prosecution, a petitioner
36 shall be advised of his or her rights as an accused and execute, as a
37 condition of receiving treatment, a statement that contains: (a) An
38 acknowledgment of his or her rights; (b) an acknowledgment and waiver
39 of the right to testify, the right to a speedy trial, the right to
40 call witnesses to testify, the right to present evidence in his or

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

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

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

35 The arraignment judge upon consideration of the petition and with
36 the concurrence of the prosecuting attorney may continue the
37 arraignment and refer such person for a diagnostic investigation and
38 evaluation to:

1 (1) An approved substance use disorder treatment program as
2 designated in chapter 71.24 RCW((~~7~~)) if the petition alleges a
3 substance use disorder((~~7-10~~));

4 (2) An approved mental health center((~~7~~)) if the petition alleges
5 a mental problem((~~7-09~~));

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

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

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

13 (1) Three years after receiving proof of successful completion of
14 the two-year treatment program, and following proof to the court that
15 the petitioner has complied with the conditions imposed by the court
16 following successful completion of the two-year treatment program,
17 but not before five years following entry of the order of deferred
18 prosecution pursuant to a petition brought under RCW 10.05.020(1),
19 the court shall dismiss the charges pending against the petitioner.

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

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

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

1 (1) As a condition of granting a deferred prosecution petition,
2 the court shall order that the petitioner shall not operate a motor
3 vehicle upon the public highways without a valid operator's license
4 and proof of liability insurance. The amount of liability insurance
5 shall be established by the court at not less than that established
6 by RCW 46.29.490. As a condition of granting a deferred prosecution
7 petition on any alcohol-dependency based case, the court shall also
8 order the installation of an ignition interlock under RCW 46.20.720.
9 The required periods of use of the interlock shall be not less than
10 the periods provided for in RCW 46.20.720. As a condition of granting
11 a deferred prosecution petition, the court may order the petitioner
12 to make restitution and to pay costs as defined in RCW 10.01.160. To
13 help ensure continued sobriety and reduce the likelihood of
14 reoffense, the court may order reasonable conditions during the
15 period of the deferred prosecution including, but not limited to,
16 attendance at self-help recovery support groups for alcoholism or
17 drugs, complete abstinence from alcohol and all nonprescribed mind-
18 altering drugs, periodic urinalysis or breath analysis, and
19 maintaining law-abiding behavior. The court may terminate the
20 deferred prosecution program upon violation of the deferred
21 prosecution order.

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

24 (a) The court shall order the petitioner not to possess firearms
25 and order the petitioner to surrender firearms under RCW 9.41.800;
26 and

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

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

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

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

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

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

9 ~~((3))~~ (4) Failure of the court to comply with the requirements
10 of RCW 10.05.100;

11 ~~((4))~~ (5) Failure of the evaluation facility to provide the
12 information required in RCW 10.05.040 and 10.05.050, if the defendant
13 has been referred to the facility for treatment. If an appeal on such
14 basis is successful, the trial court may consider the use of another
15 treatment program;

16 ~~((5))~~ (6) Failure of the court to order the installation of an
17 ignition interlock or other device under RCW 10.05.140.

18 NEW SECTION. Sec. 708. A new section is added to chapter 10.05
19 RCW to read as follows:

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

23 (1) Completion of a risk assessment;

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

26 (3) Compliance with the contract for treatment;

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

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

34 (6) Signature of the petitioner agreeing to the terms and
35 conditions of the treatment program;

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

PART VIII - DOMESTIC VIOLENCE WORK GROUPS

NEW SECTION. **Sec. 801.** In 2017 the legislature established two work groups managed by the Washington state supreme court gender and justice commission to study domestic violence treatment and domestic violence risk. The work groups successfully pulled together stakeholders from across the state and published two reports with groundbreaking recommendations. The legislature finds that there is a need to continue the work groups. The work groups shall review best practices for alternatives to mandatory arrest in cases of domestic violence, and the work groups shall monitor implementation of prior recommendations for the purpose of promoting effective strategies to reduce domestic violence homicides, serious injuries, and recidivism.

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

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

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

(3) (a) For its initial report in 2018, the work group shall:
~~((a))~~ (i) Review laws, regulations, and court and agency practices pertaining to domestic violence perpetrator treatment used in civil and criminal contexts, including criminal domestic violence felony and misdemeanor offenses, family law, child welfare, and protection orders; ~~((b))~~ (ii) consider the development of a universal diagnostic evaluation tool to be used by treatment providers and the department of corrections to assess the treatment needs of domestic violence perpetrators; and ~~((c))~~ (iii) develop recommendations on

1 changes to existing laws, regulations, and court and agency practices
2 to improve victim safety, decrease recidivism, advance treatment
3 outcomes, and increase the courts' confidence in domestic violence
4 perpetrator treatment.

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

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

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

13 (ii) Monitor, evaluate, and provide recommendations for the
14 implementation of the newly established domestic violence treatment
15 administrative codes;

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

19 (iv) Provide recommendations on other items deemed appropriate by
20 the work group.

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

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

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

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

28 ~~(1) ((The legislature finds that Washington state has a serious
29 problem with domestic violence offender recidivism and lethality. The
30 Washington state institute for public policy studied domestic
31 violence offenders finding not just high rates of domestic violence
32 recidivism but among the highest rates of general criminal and
33 violent recidivism. The Washington state coalition against domestic
34 violence has issued fatality reviews of domestic violence homicides
35 in Washington under chapter 43.235 RCW for over fifteen years. These
36 fatality reviews demonstrate the significant impact of domestic
37 violence on our communities as well as the barriers and high rates of
38 lethality faced by victims. The legislature further notes there have
39 been several high profile domestic violence homicides with multiple~~

1 ~~prior domestic violence incidents not accounted for in the legal~~
2 ~~response. Many jurisdictions nationally have encountered the same~~
3 ~~challenges as Washington and now utilize risk assessment as a best~~
4 ~~practice to assist in the response to domestic violence.))~~

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

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

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

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

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

- 33 (i) Treatment providers;
- 34 (ii) City law enforcement;
- 35 (iii) County law enforcement;
- 36 (iv) Court administrators; and
- 37 (v) Domestic violence victims or family members of a victim.

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

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

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

7 ~~((c))~~ (iii) Promoting access to domestic violence risk
8 assessment for advocates, police, prosecutors, corrections, and
9 courts to improve domestic violence response;

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

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

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

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

20 ~~((h))~~ (viii) Whether or how risk assessment can improve
21 prosecution and encourage prosecutors to aggressively enforce
22 domestic violence laws; and

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

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

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

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

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

1 (iii) Monitor, evaluate, and provide recommendations on the
2 development and use of the risk assessment module under section 401
3 of this act; and

4 (iv) Provide recommendations on other items deemed appropriate by
5 the work group.

6 (b) The work group shall compile its findings and recommendations
7 into a final report and provide its report to the appropriate
8 committees of the legislature and governor by June 30, 2020.

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

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

11 **PART IX - UNIFORM RECOGNITION AND ENFORCEMENT OF CANADIAN DOMESTIC**
12 **VIOLENCE PROTECTION ORDERS**

13 NEW SECTION. Sec. 901. SHORT TITLE. This chapter may be cited
14 as the uniform recognition and enforcement of Canadian domestic
15 violence protection orders act.

16 NEW SECTION. Sec. 902. DEFINITIONS. The definitions in this
17 section apply throughout this chapter unless the context clearly
18 requires otherwise.

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

23 (a) Being in physical proximity to a protected individual or
24 following a protected individual;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (3) If a record of a Canadian domestic violence protection order
38 is not presented as provided in subsection (2) of this section, a law
39 enforcement officer may consider other information in determining

1 whether there is probable cause to believe that a valid Canadian
2 domestic violence protection order exists.

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

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

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

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

24 (b) A respondent.

25 (2) In a proceeding under subsection (1) of this section, the
26 tribunal shall follow the procedures of this state for enforcement of
27 a domestic protection order. An order entered under this section is
28 limited to the enforcement of the terms of the Canadian domestic
29 violence protection order as defined in section 902 of this act.

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

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

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

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

36 (d) The order was issued after:

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

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

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

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

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

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

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

36 (4) After a Canadian domestic violence protection order is
37 registered under this section, the clerk of the court shall provide
38 the individual registering the order a certified copy of the
39 registered order.

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

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

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

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

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

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

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

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

1 NEW SECTION. **Sec. 910.** TRANSITION. This chapter applies to a
2 Canadian domestic violence protection order issued before, on, or
3 after the effective date of this section and to a continuing action
4 for enforcement of a Canadian domestic violence protection order
5 commenced before, on, or after the effective date of this section. A
6 request for enforcement of a Canadian domestic violence protection
7 order made on or after the effective date of this section for a
8 violation of the order occurring before, on, or after the effective
9 date of this section is governed by this chapter.

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

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

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

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

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

1 distance of a location or, in the case of an order issued under RCW
2 26.44.063, imposing any other restrictions or conditions upon the
3 person; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 qualify as a prior offense as defined in RCW 46.61.5055 if it were a
2 conviction.

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (1)(a) Whenever an order is granted under this chapter, chapter
38 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10,
39 (~~26.26~~) 26.26A, 26.26B, or 74.34 RCW, any temporary order for

1 protection is granted under chapter 7.40 RCW pursuant to chapter
2 74.34 RCW, (~~(or)~~) there is a valid foreign protection order as
3 defined in RCW 26.52.020, or there is a valid Canadian domestic
4 violence protection order as defined in section 902 of this act, and
5 the respondent or person to be restrained knows of the order, a
6 violation of any of the following provisions of the order is a gross
7 misdemeanor, except as provided in subsections (4) and (5) of this
8 section:

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

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

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

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

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

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

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

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

37 (2) A peace officer shall arrest without a warrant and take into
38 custody a person whom the peace officer has probable cause to believe
39 has violated an order issued under this chapter, chapter 7.92, 7.90,
40 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10, (~~(26.26)~~) 26.26A,

1 26.26B, or 74.34 RCW, any temporary order for protection granted
2 under chapter 7.40 RCW pursuant to chapter 74.34 RCW, (~~(or)~~) a valid
3 foreign protection order as defined in RCW 26.52.020, or a valid
4 Canadian domestic violence protection order as defined in section 902
5 of this act, that restrains the person or excludes the person from a
6 residence, workplace, school, or day care, or prohibits the person
7 from knowingly coming within, or knowingly remaining within, a
8 specified distance of a location, if the person restrained knows of
9 the order. Presence of the order in the law enforcement computer-
10 based criminal intelligence information system is not the only means
11 of establishing knowledge of the order.

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

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

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

1 act. The previous convictions may involve the same victim or other
2 victims specifically protected by the orders the offender violated.

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

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

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

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

1 relief was sought shall be included in the database as a party rather
2 than the guardian or appropriate department;

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

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

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

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

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

38 (2) An appointed or elected official, public employee, or public
39 agency as defined in RCW 4.24.470, or combination of units of

1 government and its employees, as provided in RCW 36.28A.010, are
2 immune from civil liability for damages for any release of
3 information or the failure to release information related to the
4 statewide automated protected person notification system in this
5 section, so long as the release or failure to release was without
6 gross negligence. The immunity provided under this subsection applies
7 to the release of relevant and necessary information to other public
8 officials, public employees, or public agencies, and to the general
9 public.

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

16 **PART X - MISCELLANEOUS**

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

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

23 NEW SECTION. **Sec. 1003.** Sections 901 through 915, 1001, and
24 1002 of this act take effect January 1, 2020.

25 NEW SECTION. **Sec. 1004.** Sections 501 through 504, 601, 602, and
26 701 through 708 of this act take effect January 1, 2021.

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

31 NEW SECTION. **Sec. 1006.** If specific funding for the purposes of
32 this act, referencing this act by bill or chapter number, is not

1 provided by June 30, 2019, in the omnibus appropriations act, this
2 act is null and void.

--- **END** ---