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**SENATE BILL 5681**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senators Dhingra, Das, Pedersen, Hasegawa, Saldaña, McCoy, Lias, Keiser, Kuderer, Nguyen, and Wilson, C.; by request of Uniform Law Commission

Read first time 01/28/19. Referred to Committee on Law & Justice.

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

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

12 **PART 1 - LEGISLATIVE FINDINGS**

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

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

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

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

1 **PART II - CRIMINAL NO-CONTACT ORDERS**

2 NEW SECTION. **Sec. 201.** (1) The legislature believes the  
3 existing language of RCW 10.99.050 has always authorized courts to  
4 issue domestic violence no-contact orders in adult and juvenile cases  
5 that last up to the adult statutory maximum in felony cases and up to  
6 the maximum period for which an adult sentence can be suspended or  
7 deferred in nonfelony cases. However, in *State v. Granath*, 200 Wn.  
8 App. 26, 401 P.3d 405 (2017), aff'd, 190 Wn.2d 548, 415 P.3d 1179  
9 (2018), the court of appeals and supreme court recently interpreted  
10 this provision to limit domestic violence no-contact orders in  
11 nonfelony sentences to the duration of the defendant's conditions of  
12 sentence. The legislature finds that this interpretation inadequately  
13 protects victims of domestic violence. The legislature intends to  
14 clarify the trial courts' authority to issue no-contact orders that  
15 remain in place in adult and juvenile nonfelony cases for the maximum  
16 period of time that an adult sentence could be suspended, and in  
17 adult and juvenile felony cases for the adult statutory maximum.

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

25 **Sec. 202.** RCW 9.95.210 and 2012 1st sp.s. c 6 s 10 are each  
26 amended to read as follows:

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

33 (b) For a defendant sentenced for a domestic violence offense, or  
34 under RCW 46.61.5055, the superior court may suspend the imposition  
35 or the execution of the sentence and may direct that the suspension  
36 continue upon such conditions and for such time as the court shall  
37 designate, not to exceed five years. The court shall have continuing  
38 jurisdiction and authority to suspend the execution of all or any

1 part of the sentence upon stated terms, including installment payment  
2 of fines. A defendant who has been sentenced, and who then fails to  
3 appear for any hearing to address the defendant's compliance with the  
4 terms of probation when ordered to do so by the court shall have the  
5 term of probation tolled until such time as the defendant makes his  
6 or her presence known to the court on the record. Any time before  
7 entering an order terminating probation, the court may modify or  
8 revoke its order suspending the imposition or execution of the  
9 sentence if the defendant violates or fails to carry out any of the  
10 conditions of the suspended sentence.

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

38 (3) The superior court shall order restitution in all cases where  
39 the victim is entitled to benefits under the crime victims'  
40 compensation act, chapter 7.68 RCW. If the superior court does not

1 order restitution and the victim of the crime has been determined to  
2 be entitled to benefits under the crime victims' compensation act,  
3 the department of labor and industries, as administrator of the crime  
4 victims' compensation program, may petition the superior court within  
5 one year of imposition of the sentence for entry of a restitution  
6 order. Upon receipt of a petition from the department of labor and  
7 industries, the superior court shall hold a restitution hearing and  
8 shall enter a restitution order.

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

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

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

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

1       **Sec. 203.** RCW 10.99.050 and 2000 c 119 s 20 are each amended to  
2 read as follows:

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

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

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

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

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

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

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

1 **PART III - RISK ASSESSMENT**

2 NEW SECTION. **Sec. 301.** A new section is added to chapter 26.50  
3 RCW to read as follows:

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

14 (2) The domestic violence risk assessment tool must be based on  
15 best available evidence. In developing the tool, the Washington State  
16 University department of criminal justice shall consult with the  
17 Washington state institute for public policy, the Washington state  
18 supreme court gender and justice commission, the department of  
19 children, youth, and families, the department of corrections,  
20 domestic violence treatment providers, and other appropriate  
21 stakeholders.

22 (3) The Washington State University department of criminal  
23 justice shall make the domestic violence risk assessment tool  
24 available for use no later than July 1, 2020.

25 (4) This section expires July 1, 2021.

26 **PART IV - SENTENCING**

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

29 When sentencing an offender convicted of a domestic violence  
30 offense, the court, in addition to imposing the provisions of this  
31 chapter, shall order the offender to undergo alcohol or chemical  
32 dependency treatment or domestic violence treatment services during  
33 incarceration. The offender is responsible for the cost of treatment  
34 unless the court finds the offender indigent and no third-party  
35 insurance coverage is available.

1       **Sec. 402.** RCW 9.94A.500 and 2013 c 200 s 33 are each amended to  
2 read as follows:

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

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

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

32       Unless specifically waived by the court, in cases of domestic  
33 violence the court shall order the department to complete a  
34 presentence investigation and domestic violence risk assessment  
35 before imposing a drug offender sentencing alternative or residential  
36 drug offender sentencing alternative upon a defendant who has been  
37 convicted of a domestic violence offense under chapter 26.50 RCW or  
38 any felony where the court finds that domestic violence contributed  
39 to his or her offense.



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

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

24 (2) To prevent wrongful disclosure of information and records  
25 related to mental health services, as described in RCW 71.05.445 and  
26 70.02.250, a court may take only those steps necessary during a  
27 sentencing hearing or any hearing in which the department presents  
28 information related to mental health services to the court. The steps  
29 may be taken on motion of the defendant, the prosecuting attorney, or  
30 on the court's own motion. The court may seal the portion of the  
31 record relating to information relating to mental health services,  
32 exclude the public from the hearing during presentation or discussion  
33 of information and records relating to mental health services, or  
34 grant other relief to achieve the result intended by this subsection,  
35 but nothing in this subsection shall be construed to prevent the  
36 subsequent release of information and records related to mental  
37 health services as authorized by RCW 71.05.445, 70.02.250, or  
38 72.09.585. Any person who otherwise is permitted to attend any  
39 hearing pursuant to chapter 7.69 or 7.69A RCW shall not be excluded

1 from the hearing solely because the department intends to disclose or  
2 discloses information related to mental health services.

3 **Sec. 403.** RCW 9.94A.660 and 2016 sp.s. c 29 s 524 are each  
4 amended to read as follows:

5 (1) An offender is eligible for the special drug offender  
6 sentencing alternative if:

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

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

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

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

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

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

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

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

36 (3) If the sentencing court determines that the offender is  
37 eligible for an alternative sentence under this section and that the  
38 alternative sentence is appropriate, the court shall waive imposition  
39 of a sentence within the standard sentence range and impose a

1 sentence consisting of either a prison-based alternative under RCW  
2 9.94A.662 or a residential chemical dependency treatment-based  
3 alternative under RCW 9.94A.664. The residential chemical dependency  
4 treatment-based alternative is only available if the midpoint of the  
5 standard range is twenty-four months or less.

6 (4) To assist the court in making its determination, the court  
7 may order the department to complete either or both a risk assessment  
8 report and a chemical dependency screening report as provided in RCW  
9 9.94A.500. To assist the court in making its determination in  
10 domestic violence cases, the court shall order the department to  
11 complete a domestic violence risk assessment validated by the  
12 Washington State University department of criminal justice and a  
13 chemical dependency screening report as provided in RCW 9.94A.500.

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

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

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

21 (iii) Whether, in cases of domestic violence, the offender's  
22 domestic violence crime and domestic violence history is such that  
23 there is a probability the offender will commit domestic violence in  
24 the future;

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

31 ((iv)) (v) Whether the offender and the community will benefit  
32 from the use of the alternative.

33 (b) The examination report must contain:

34 (i) A proposed monitoring plan, including any requirements  
35 regarding living conditions, lifestyle requirements, and monitoring  
36 by family members and others; ((and))

37 (ii) Recommended crime-related prohibitions and affirmative  
38 conditions; and

39 (iii) Use of a domestic violence risk assessment tool validated  
40 by the Washington State University department of criminal justice.

1 (6) When a court imposes a sentence of community custody under  
2 this section:

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

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

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

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

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

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

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

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

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

1       **Sec. 404.** RCW 9.94A.662 and 2009 c 389 s 4 are each amended to  
2 read as follows:

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

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

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

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

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

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

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

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

37       (4) If an offender sentenced to the prison-based alternative  
38 under this section is found by the United States attorney general to  
39 be subject to a deportation order, a hearing shall be held by the  
40 department unless waived by the offender, and, if the department

1 finds that the offender is subject to a valid deportation order, the  
2 department may administratively terminate the offender from the  
3 program and reclassify the offender to serve the remaining balance of  
4 the original sentence.

5 **PART V - COMMUNITY CUSTODY AND REENTRY**

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

8 Subject to the availability of funds appropriated for this  
9 specific purpose, the department shall develop and monitor transition  
10 and relapse prevention strategies, including risk assessment and  
11 release plans, to reduce risk to the community after domestic  
12 violence offenders' terms of confinement in the custody of the  
13 department.

14 **Sec. 502.** RCW 9.94A.664 and 2009 c 389 s 5 are each amended to  
15 read as follows:

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

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

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

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

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

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

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

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

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

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

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

26 **Sec. 503.** RCW 9.94A.704 and 2016 c 108 s 1 are each amended to  
27 read as follows:

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

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

34 (ii) For domestic violence crimes, the department shall assess  
35 the offender's risk of domestic violence reoffense pursuant to a risk  
36 assessment tool validated by the Washington State University  
37 department of criminal justice, and the department may establish and  
38 modify additional conditions of community custody based on the risk  
39 to community safety.

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

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

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

11 (b) Remain within prescribed geographical boundaries;

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

14 (d) Pay the supervision fee assessment; and

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

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

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

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

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



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

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

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

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

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

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

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

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

- 38 (i) The crime of conviction;
- 39 (ii) The offender's risk of reoffending;
- 40 (iii) The safety of the community;

1 (iv) The offender's risk of domestic violence reoffense.

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

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

15 **Sec. 504.** RCW 9.94A.722 and 2004 c 166 s 9 are each amended to  
16 read as follows:

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

28 **PART VI - DEFERRED PROSECUTIONS**

29 **Sec. 601.** RCW 10.05.010 and 2008 c 282 s 15 are each amended to  
30 read as follows:

31 (1) In a court of limited jurisdiction a person charged with a  
32 misdemeanor or gross misdemeanor may petition the court to be  
33 considered for a deferred prosecution program. The petition shall be  
34 filed with the court at least seven days before the date set for  
35 trial but, upon a written motion and affidavit establishing good  
36 cause for the delay and failure to comply with this section, the  
37 court may waive this requirement subject to the defendant's

1 reimbursement to the court of the witness fees and expenses due for  
2 subpoenaed witnesses who have appeared on the date set for trial.

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

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

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

28 **Sec. 602.** RCW 10.05.015 and 1985 c 352 s 5 are each amended to  
29 read as follows:

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

35 **Sec. 603.** RCW 10.05.020 and 2016 sp.s. c 29 s 525 are each  
36 amended to read as follows:

37 (1) Except as provided in subsection (2) of this section, the  
38 petitioner shall allege under oath in the petition that the wrongful

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

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

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

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

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

31 **Sec. 604.** RCW 10.05.030 and 2016 sp.s. c 29 s 526 are each  
32 amended to read as follows:

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

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

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

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

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

8       **Sec. 605.** RCW 10.05.040 and 2018 c 201 s 9005 are each amended  
9 to read as follows:

10       The program to which such person is referred, or the department  
11 of social and health services if the petition is brought under RCW  
12 10.05.020(2), shall conduct an investigation and examination to  
13 determine:

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

15       (2) Whether the problem is such that if not treated, or if no  
16 child welfare services are provided, there is a probability that  
17 similar misconduct will occur in the future. For petitions alleging  
18 domestic violence, the examination must include a domestic violence  
19 risk assessment validated by the Washington State University  
20 department of criminal justice;

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

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

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

26       **Sec. 606.** RCW 10.05.120 and 2003 c 220 s 1 are each amended to  
27 read as follows:

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

35       (2) When a deferred prosecution is ordered pursuant to a petition  
36 brought under RCW 10.05.020(2) and the court has received proof that  
37 the petitioner has successfully completed the child welfare service  
38 plan, or the plan has been terminated because the alleged victim has

1 reached his or her majority and there are no other minor children in  
2 the home, the court shall dismiss the charges pending against the  
3 petitioner: PROVIDED, That in any case where the petitioner's  
4 parental rights have been terminated with regard to the alleged  
5 victim due to abuse or neglect that occurred during the pendency of  
6 the deferred prosecution, the termination shall be per se evidence  
7 that the petitioner did not successfully complete the child welfare  
8 service plan.

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

14 **Sec. 607.** RCW 10.05.140 and 2016 c 203 s 11 are each amended to  
15 read as follows:

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

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

1 (a) The court shall order the petitioner not to possess firearms  
2 and order the petitioner to surrender firearms under RCW 9.41.800;  
3 and

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

15 **Sec. 608.** RCW 10.05.160 and 2010 c 269 s 11 are each amended to  
16 read as follows:

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

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

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

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

25 ~~((3))~~ (4) Failure of the court to comply with the requirements  
26 of RCW 10.05.100;

27 ~~((4))~~ (5) Failure of the evaluation facility to provide the  
28 information required in RCW 10.05.040 and 10.05.050, if the defendant  
29 has been referred to the facility for treatment. If an appeal on such  
30 basis is successful, the trial court may consider the use of another  
31 treatment program;

32 ~~((5))~~ (6) Failure of the court to order the installation of an  
33 ignition interlock or other device under RCW 10.05.140.

34 NEW SECTION. **Sec. 609.** A new section is added to chapter 10.05  
35 RCW to read as follows:

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



- 1 (1) Completion of a domestic violence risk assessment;
- 2 (2) Participation in the level of treatment recommended by the
- 3 program as outlined in the current treatment plan;
- 4 (3) Compliance with the contract for treatment;
- 5 (4) Participation in any ancillary or co-occurring treatments
- 6 that are determined to be necessary for the successful completion of
- 7 the domestic violence intervention treatment including, but not
- 8 limited to, mental health or substance use treatment;
- 9 (5) Domestic violence intervention treatment within the purview
- 10 of this section to be completed with a state-certified domestic
- 11 violence intervention treatment program;
- 12 (6) Signature of the petitioner agreeing to the terms and
- 13 conditions of the treatment program;
- 14 (7) Proof of compliance with any active order to surrender
- 15 weapons issued in this program or related civil protection orders or
- 16 no-contact orders.

17 **PART VII - EVALUATION OF DOMESTIC VIOLENCE TREATMENT**

18 NEW SECTION. **Sec. 701.** A new section is added to chapter 26.50  
19 RCW to read as follows:

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

32 (2) The institute shall publish its initial findings and submit a  
33 report to the appropriate committees of the legislature and the  
34 governor no later than December 1, 2022, and the institute shall  
35 publish and submit a final report no later than December 1, 2024.

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

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

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

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

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

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

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

1 outcomes, and increase the courts' confidence in domestic violence  
2 perpetrator treatment.

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

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

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

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

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

17 (iv) Provide recommendations on other items deemed appropriate by  
18 the work group.

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

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

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

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

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

1 ~~challenges as Washington and now utilize risk assessment as a best~~  
2 ~~practice to assist in the response to domestic violence.))~~

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

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

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

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

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

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

36 (3) (~~At a minimum,~~) (a) For its initial report in 2018, the  
37 work group shall research, review, and make recommendations on the  
38 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  
30 criminal and civil definitions of domestic violence should be amended  
31 to separate "intimate partner violence" and "family violence," and  
32 whether the civil definition of domestic violence appropriately  
33 accounts for issues of coercive control;

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

38       (iii) Monitor, evaluate, and provide recommendations on the  
39 development and use of the assessment tool under section 301 of this  
40 act; and

1 (iv) Provide recommendations on other items deemed appropriate by  
2 the work group.

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

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

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

8 **PART IX - UNIFORM RECOGNITION AND ENFORCEMENT OF CANADIAN DOMESTIC**  
9 **VIOLENCE PROTECTION ORDERS**

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

13 NEW SECTION. Sec. 902. DEFINITIONS. The definitions in this  
14 section apply throughout this chapter unless the context clearly  
15 requires otherwise.

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

20 (a) Being in physical proximity to a protected individual or  
21 following a protected individual;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (b) A respondent.

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

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

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

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

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

34 (d) The order was issued after:

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

37 (ii) In the case of an ex parte order, the respondent was given  
38 reasonable notice and had or will have an opportunity to be heard



1 within a reasonable time after the order was issued, in a manner  
2 consistent with the right of the respondent to due process.

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

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

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

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

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

34 (4) After a Canadian domestic violence protection order is  
35 registered under this section, the clerk of the court shall provide  
36 the individual registering the order a certified copy of the  
37 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 (~~or~~) 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 401 through 404, 501 through  
26 504, and 601 through 609 of this act take effect July 1, 2020.

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.

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