
HOUSE BILL 1741

State of Washington 52nd Legislature 1991 Regular Session

By Representatives Ebersole, Forner, H. Myers, Holland, Ogden, Horn, Ludwig, Belcher, Peery, Winsley, Phillips, Fraser, Scott, Nelson, Leonard, Franklin, Spanel, Locke, May, Brough, Jacobsen, Anderson, Cole, Ballard, Ferguson, Van Luven, R. Johnson, Vance, Wineberry, Tate, Roland, Miller, Wang, Bowman, Rasmussen and D. Sommers.

Read first time February 7, 1991. Referred to Committee on Judiciary\ Appropriations.

1 AN ACT Relating to domestic violence; amending RCW 7.68.070,
2 9A.36.031, 9A.36.045, 10.99.020, 10.99.040, 10.99.050, 26.50.110,
3 26.50.010, 26.50.020, and 82.14.340; adding new sections to chapter
4 70.123 RCW; adding a new chapter to Title 18 RCW; creating new
5 sections; repealing RCW 70.123.020; prescribing penalties; and making
6 an appropriation.

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

8 NEW SECTION. **Sec. 1.** The legislature declares that incidents
9 of domestic violence have reached epidemic and abhorrent proportions
10 and will not be tolerated; and that violence within the family is
11 harmful not only to the perpetrator and the victims, but to the very
12 social fabric of our state. It ruptures the family unit, mocks our
13 sense of individual dignity and justice, and denies our children the
14 nurturing environment necessary for their physical, emotional, and
15 intellectual health.

1 The legislature further finds that:

2 The collective costs to the community for domestic violence include
3 the systematic destruction of individuals and their families, lost
4 lives, lost productivity, and increased health care, criminal justice,
5 and social service costs.

6 Despite publicity that focuses on attacks by strangers, the most
7 common cause of women's injuries is abuse at home, occurring more often
8 than auto accidents, muggings, and rapes combined.

9 Children growing up in violent homes are deeply affected by the
10 violence as it happens and could be the next generation of batterers
11 and victims.

12 Many communities have made headway in addressing the effects of
13 domestic violence and have devoted energy and resources to stopping
14 this violence. However, the process for breaking the cycle of abuse is
15 lengthy. No single system intervention is enough in itself.

16 An integrated system has not been adequately funded and structured
17 to assure access to a wide range of services, including those of the
18 law/safety/justice system, human service system, and health care
19 system. These services need to be coordinated and multidisciplinary in
20 approach and address the needs of victims, batterers, and children from
21 violent homes.

22 Given the lethal nature of domestic violence and its effect on all
23 within its range, the community has a vested interest in the methods
24 used to stop and prevent future violence. Clear standards of quality
25 are needed so that perpetrator treatment programs receiving public
26 funds or court-ordered referrals can be required to comply with these
27 standards.

28 Incidents of domestic violence increase in severity and number when
29 perpetrators of domestic violence abuse alcohol and illegal substances.

1 There is a need for consistent training of professionals who deal
2 frequently with domestic violence or are in a position to identify
3 domestic violence and provide support and information.

4 Much has been learned about effective interventions in domestic
5 violence situations; however, much is not yet known and further study
6 is required to know how to best stop this violence.

7 **Sec. 2.** RCW 7.68.070 and 1990 c 3 s 502 are each amended to read
8 as follows:

9 The right to benefits under this chapter and the amount thereof
10 will be governed insofar as is applicable by the provisions contained
11 in chapter 51.32 RCW as now or hereafter amended except as provided in
12 this section:

13 (1) The provisions contained in RCW 51.32.015, 51.32.030,
14 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 as now or
15 hereafter amended are not applicable to this chapter.

16 (2) Each victim injured as a result of a criminal act, including
17 criminal acts committed between July 1, 1981, and January 1, 1983, or
18 the victim's family or dependents in case of death of the victim, are
19 entitled to benefits in accordance with this chapter, subject to the
20 limitations under RCW 7.68.015. The rights, duties, responsibilities,
21 limitations, and procedures applicable to a worker as contained in RCW
22 51.32.010 as now or hereafter amended are applicable to this chapter.

23 (3) The limitations contained in RCW 51.32.020 as now or hereafter
24 amended are applicable to claims under this chapter. In addition
25 thereto, no person or spouse, child, or dependent of such person is
26 entitled to benefits under this chapter when the injury for which
27 benefits are sought, was:

28 (a) The result of consent, provocation, or incitement by the
29 victim, as determined by a reasonable review of the police report and

1 any findings by the court, and taking into consideration the known
2 dynamics of intrafamily violence such as domestic violence;

3 (b) Sustained while the crime victim was engaged in the attempt to
4 commit, or the commission of, a felony; or

5 (c) Sustained while the victim was confined in any county or city
6 jail, federal jail or prison or in any other federal institution, or
7 any state correctional institution maintained and operated by the
8 department of social and health services or the department of
9 corrections, prior to release from lawful custody; or confined or
10 living in any other institution maintained and operated by the
11 department of social and health services or the department of
12 corrections.

13 (4) The benefits established upon the death of a worker and
14 contained in RCW 51.32.050 as now or hereafter amended shall be the
15 benefits obtainable under this chapter and provisions relating to
16 payment contained in that section shall equally apply under this
17 chapter: PROVIDED, That benefits for burial expenses shall not exceed
18 the maximum cost used by the department of social and health services
19 for the funeral and burial of a deceased indigent person under chapter
20 74.08 RCW in any claim: PROVIDED FURTHER, That if the criminal act
21 results in the death of a victim who was not gainfully employed at the
22 time of the criminal act, and who was not so employed for at least
23 three consecutive months of the twelve months immediately preceding the
24 criminal act;

25 (a) Benefits payable to an eligible surviving spouse, where there
26 are no children of the victim at the time of the criminal act who have
27 survived the victim or where such spouse has legal custody of all of
28 his or her children, shall be limited to burial expenses and a lump sum
29 payment of seven thousand five hundred dollars without reference to
30 number of children, if any;

1 (b) Where any such spouse has legal custody of one or more but not
2 all of such children, then such burial expenses shall be paid, and such
3 spouse shall receive a lump sum payment of three thousand seven hundred
4 fifty dollars and any such child or children not in the legal custody
5 of such spouse shall receive a lump sum of three thousand seven hundred
6 fifty dollars to be divided equally among such child or children;

7 (c) If any such spouse does not have legal custody of any of the
8 children, the burial expenses shall be paid and the spouse shall
9 receive a lump sum payment of up to three thousand seven hundred fifty
10 dollars and any such child or children not in the legal custody of the
11 spouse shall receive a lump sum payment of up to three thousand seven
12 hundred fifty dollars to be divided equally among the child or
13 children;

14 (d) If no such spouse survives, then such burial expenses shall be
15 paid, and each surviving child of the victim at the time of the
16 criminal act shall receive a lump sum payment of three thousand seven
17 hundred fifty dollars up to a total of two such children and where
18 there are more than two such children the sum of seven thousand five
19 hundred dollars shall be divided equally among such children.

20 No other benefits may be paid or payable under these circumstances.

21 (5) The benefits established in RCW 51.32.060 as now or hereafter
22 amended for permanent total disability proximately caused by the
23 criminal act shall be the benefits obtainable under this chapter, and
24 provisions relating to payment contained in that section apply under
25 this chapter: PROVIDED, That if a victim becomes permanently and
26 totally disabled as a proximate result of the criminal act and was not
27 gainfully employed at the time of the criminal act, the victim shall
28 receive monthly during the period of the disability the following
29 percentages, where applicable, of the average monthly wage determined

1 as of the date of the criminal act pursuant to RCW 51.08.018 as now or
2 hereafter amended:

3 (a) If married at the time of the criminal act, twenty-nine percent
4 of the average monthly wage.

5 (b) If married with one child at the time of the criminal act,
6 thirty-four percent of the average monthly wage.

7 (c) If married with two children at the time of the criminal act,
8 thirty-eight percent of the average monthly wage.

9 (d) If married with three children at the time of the criminal act,
10 forty-one percent of the average monthly wage.

11 (e) If married with four children at the time of the criminal act,
12 forty-four percent of the average monthly wage.

13 (f) If married with five or more children at the time of the
14 criminal act, forty-seven percent of the average monthly wage.

15 (g) If unmarried at the time of the criminal act, twenty-five
16 percent of the average monthly wage.

17 (h) If unmarried with one child at the time of the criminal act,
18 thirty percent of the average monthly wage.

19 (i) If unmarried with two children at the time of the criminal act,
20 thirty-four percent of the average monthly wage.

21 (j) If unmarried with three children at the time of the criminal
22 act, thirty-seven percent of the average monthly wage.

23 (k) If unmarried with four children at the time of the criminal
24 act, forty percent of the average monthly wage.

25 (l) If unmarried with five or more children at the time of the
26 criminal act, forty-three percent of the average monthly wage.

27 (6) The benefits established in RCW 51.32.080 as now or hereafter
28 amended for permanent partial disability shall be the benefits
29 obtainable under this chapter, and provisions relating to payment
30 contained in that section equally apply under this chapter.

1 (7) The benefits established in RCW 51.32.090 as now or hereafter
2 amended for temporary total disability shall be the benefits obtainable
3 under this chapter, and provisions relating to payment contained in
4 that section apply under this chapter: PROVIDED, That no person is
5 eligible for temporary total disability benefits under this chapter if
6 such person was not gainfully employed at the time of the criminal act,
7 and was not so employed for at least three consecutive months of the
8 twelve months immediately preceding the criminal act.

9 (8) The benefits established in RCW 51.32.095 as now or hereafter
10 amended for continuation of benefits during vocational rehabilitation
11 shall be benefits obtainable under this chapter, and provisions
12 relating to payment contained in that section apply under this chapter:
13 PROVIDED, That benefits shall not exceed five thousand dollars for any
14 single injury.

15 (9) The provisions for lump sum payment of benefits upon death or
16 permanent total disability as contained in RCW 51.32.130 as now or
17 hereafter amended apply under this chapter.

18 (10) The provisions relating to payment of benefits to, for or on
19 behalf of workers contained in RCW 51.32.040, 51.32.055, 51.32.100,
20 51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and
21 51.32.210 as now or hereafter amended are applicable to payment of
22 benefits to, for or on behalf of victims under this chapter.

23 (11) No person or spouse, child, or dependent of such person is
24 entitled to benefits under this chapter where the person making a claim
25 for such benefits has refused to give reasonable cooperation to state
26 or local law enforcement agencies in their efforts to apprehend and
27 convict the perpetrator(s) of the criminal act which gave rise to the
28 claim.

29 (12) In addition to other benefits provided under this chapter,
30 victims of sexual assault are entitled to receive appropriate

1 counseling. Fees for such counseling shall be determined by the
2 department in accordance with RCW 51.04.030, subject to the limitations
3 of RCW 7.68.080. Counseling services may include, if determined
4 appropriate by the department, counseling of members of the victim's
5 immediate family, other than the perpetrator of the assault.

6 (13) Except for medical benefits authorized under RCW 7.68.080, no
7 more than thirty thousand dollars shall be granted as a result of a
8 single injury or death, except that benefits granted as the result of
9 total permanent disability or death shall not exceed forty thousand
10 dollars.

11 (14) Notwithstanding other provisions of this chapter and Title 51
12 RCW, benefits payable for total temporary disability under subsection
13 (7) of this section, shall be limited to fifteen thousand dollars.

14 (15) Any person who is responsible for the victim's injuries, or
15 who would otherwise be unjustly enriched as a result of the victim's
16 injuries, shall not be a beneficiary under this chapter.

17 (16) Crime victims' compensation is not available to pay for
18 services covered under chapter 74.09 RCW or Title XIX of the federal
19 social security act, except to the extent that the costs for such
20 services exceed service limits established by the department of social
21 and health services.

22 (17) In addition to other benefits provided under this chapter,
23 victims of domestic violence as defined in RCW 10.99.020 are entitled
24 to receive appropriate counseling. Fees for counseling shall be
25 determined by the department in accordance with RCW 51.04.030, subject
26 to the limitations of RCW 7.68.080. Counseling services may be
27 provided for members of the victim's family who were living in the home
28 and affected by the domestic violence, even if the family member did
29 not witness the domestic violence. Victims of domestic violence may be
30 provided a one-time assistance award to aid in emergency relocation.

1 Procedures for applying for a relocation award shall be determined by
2 the department. Benefits for victims of domestic violence and family
3 members of victims of domestic violence shall be based on the entire
4 abusive relationship.

5 **Sec. 3.** RCW 9A.36.031 and 1990 c 236 s 1 are each amended to read
6 as follows:

7 (1) A person is guilty of assault in the third degree if he or she,
8 under circumstances not amounting to assault in the first or second
9 degree:

10 (a) With intent to prevent or resist the execution of any lawful
11 process or mandate of any court officer or the lawful apprehension or
12 detention of himself or another person, assaults another; or

13 (b) Assaults a person employed as a transit operator or driver by
14 a public or private transit company while that person is operating or
15 is in control of a vehicle that is owned or operated by the transit
16 company and that is occupied by one or more passengers; or

17 (c) Assaults a school bus driver employed by a school district or
18 a private company under contract for transportation services with a
19 school district while the driver is operating or is in control of a
20 school bus that is occupied by one or more passengers; or

21 (d) With criminal negligence, causes bodily harm to another person
22 by means of a weapon or other instrument or thing likely to produce
23 bodily harm; or

24 (e) Assaults a fire fighter or other employee of a fire department
25 or fire protection district who was performing his or her official
26 duties at the time of the assault; or

27 (f) With criminal negligence, causes bodily harm accompanied by
28 substantial pain that extends for a period sufficient to cause
29 considerable suffering; or

1 (g) Assaults a law enforcement officer or other employee of a law
2 enforcement agency who was performing his or her official duties at the
3 time of the assault; or

4 (h) Assaults a person and the assault is in violation of a court
5 order issued pursuant to chapter 10.99 or 26.50 RCW.

6 (2) Assault in the third degree is a class C felony.

7 **Sec. 4.** RCW 9A.36.045 and 1989 c 271 s 109 are each amended to
8 read as follows:

9 (1) A person is guilty of reckless endangerment in the first degree
10 when he or she recklessly discharges a firearm in a manner which
11 creates a substantial risk of death or serious physical injury to
12 another person and the discharge is either from a motor vehicle or from
13 the immediate area of a motor vehicle that was used to transport the
14 shooter or the firearm to the scene of the discharge.

15 (2) A person who unlawfully discharges a firearm from a moving
16 motor vehicle may be inferred to have engaged in reckless conduct,
17 unless the discharge is shown by evidence satisfactory to the trier of
18 fact to have been made without such recklessness.

19 (3) A person is guilty of reckless endangerment in the first degree
20 when he or she recklessly engages in conduct which creates a
21 substantial risk of death or serious physical injury to another person
22 and the conduct is in violation of a court order issued pursuant to
23 chapter 10.99 or 26.50 RCW.

24 (4) Reckless endangerment in the first degree is a class C felony.

25 **Sec. 5.** RCW 10.99.020 and 1986 c 257 s 8 are each amended to read
26 as follows:

27 Unless the context clearly requires otherwise, the definitions in
28 this section apply throughout this chapter.

1 (1) "Family or household members" means spouses, former spouses,
2 (~~adult~~) persons related by blood or marriage, persons who are
3 presently residing together or who have resided together in the past,
4 and persons who have a child in common regardless of whether they have
5 been married or have lived together at any time.

6 (2) "Domestic violence" includes but is not limited to any of the
7 following crimes when committed by one family or household member
8 against another:

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

10 (b) Assault in the second degree (RCW 9A.36.021);

11 (c) Assault in the third degree (RCW 9A.36.031);

12 (d) Assault in the fourth degree (RCW 9A.36.041);

13 (e) Reckless endangerment in the first degree (RCW 9A.36.045);

14 (~~f~~) Reckless endangerment (~~{in the second degree}~~) in the second
15 degree (RCW 9A.36.050);

16 (~~f~~) (~~g~~) Coercion (RCW 9A.36.070);

17 (~~g~~) (~~h~~) Burglary in the first degree (RCW 9A.52.020);

18 (~~h~~) (~~i~~) Burglary in the second degree (RCW 9A.52.030);

19 (~~i~~) (~~j~~) Criminal trespass in the first degree (RCW 9A.52.070);

20 (~~j~~) (~~k~~) Criminal trespass in the second degree (RCW 9A.52.080);

21 (~~k~~) (~~l~~) Malicious mischief in the first degree (RCW 9A.48.070);

22 (~~l~~) (~~m~~) Malicious mischief in the second degree (RCW
23 9A.48.080);

24 (~~m~~) (~~n~~) Malicious mischief in the third degree (RCW 9A.48.090);

25 (~~n~~) (~~o~~) Kidnapping in the first degree (RCW 9A.40.020);

26 (~~o~~) (~~p~~) Kidnapping in the second degree (RCW 9A.40.030);

27 (~~p~~) (~~q~~) Unlawful imprisonment (RCW 9A.40.040);

28 (~~q~~) (~~r~~) Violation of the provisions of a restraining order
29 restraining the person or excluding the person from a residence (RCW
30 26.09.300);

1 (~~(r)~~) (s) Violation of the provisions of a protection order
2 restraining the person or excluding the person from a residence (RCW
3 26.50.060, 26.50.070, or 26.50.130);

4 (~~(s)~~) (t) Rape in the first degree (RCW 9A.44.040); and

5 (~~(t)~~) (u) Rape in the second degree (RCW 9A.44.050).

6 (3) "Victim" means a family or household member who has been
7 subjected to domestic violence.

8 **Sec. 6.** RCW 10.99.040 and 1985 c 303 s 10 are each amended to read
9 as follows:

10 (1) Because of the serious nature of domestic violence, the court
11 in domestic violence actions:

12 (a) Shall not dismiss any charge or delay disposition because of
13 concurrent dissolution or other civil proceedings;

14 (b) Shall not require proof that either party is seeking a
15 dissolution of marriage prior to instigation of criminal proceedings;

16 (c) Shall waive any requirement that the victim's location be
17 disclosed to any person, other than the attorney of a criminal
18 defendant, upon a showing that there is a possibility of further
19 violence: PROVIDED, That the court may order a criminal defense
20 attorney not to disclose to his client the victim's location; and

21 (d) Shall identify by any reasonable means on docket sheets those
22 criminal actions arising from acts of domestic violence.

23 (2) Because of the likelihood of repeated violence directed at
24 those who have been victims of domestic violence in the past, when any
25 person charged with or arrested for a crime involving domestic violence
26 is released from custody before arraignment or trial on bail or
27 personal recognizance, the court authorizing the release may prohibit
28 that person from having any contact with the victim. The jurisdiction
29 authorizing the release shall determine whether that person should be

1 prohibited from having any contact with the victim. If there is no
2 outstanding restraining or protective order prohibiting that person
3 from having contact with the victim, the court authorizing release may
4 issue, by telephone, a no-contact order prohibiting the person charged
5 or arrested from having contact with the victim. The no-contact order
6 shall also be issued in writing as soon as possible. If the court has
7 probable cause to believe that the person charged or arrested is likely
8 to use or display or threaten to use a deadly weapon as defined in RCW
9 9A.04.110 in any further acts of violence, the court may also require
10 that person to surrender any deadly weapon in that person's immediate
11 possession or control, or subject to that person's immediate possession
12 or control, to the sheriff of the county or chief of police of the
13 municipality in which that person resides or to the defendant's counsel
14 for safekeeping.

15 (3) At the time of arraignment the court shall determine whether a
16 no-contact order shall be issued or extended.

17 (4) Willful violation of a court order issued under subsection (2)
18 or (3) of this section is a misdemeanor. The written order releasing
19 the person charged or arrested shall contain the court's directives and
20 shall bear the legend: Violation of this order is a criminal offense
21 under chapter 10.99 RCW and will subject a violator to arrest; any
22 assault that is a violation of this order is a felony under RCW
23 9A.36.031; and reckless endangerment that is a violation of this order
24 is a felony under RCW 9A.36.045. A certified copy of the order shall
25 be provided to the victim. If a no-contact order has been issued prior
26 to charging, that order shall expire at arraignment or within seventy-
27 two hours if charges are not filed. Such orders need not be entered
28 into the computer information system in this state which is used by law
29 enforcement agencies to list outstanding warrants.

1 (5) Whenever an order prohibiting contact is issued, modified, or
2 terminated under subsection (2) or (3) of this section, the clerk of
3 the court shall forward a copy of the order on or before the next
4 judicial day to the appropriate law enforcement agency specified in the
5 order. Upon receipt of the copy of the order the law enforcement
6 agency shall forthwith enter the order for one year or until the
7 expiration date specified on the order into any computer information
8 system available in this state used by law enforcement agencies to list
9 outstanding warrants. Entry into the law enforcement information
10 system constitutes notice to all law enforcement agencies of the
11 existence of the order. The order is fully enforceable in any
12 jurisdiction in the state.

13 **Sec. 7.** RCW 10.99.050 and 1985 c 303 s 12 are each amended to read
14 as follows:

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

19 (2) Willful violation of a court order issued under this section is
20 a misdemeanor. The written order shall contain the court's directives
21 and shall bear the legend: Violation of this order is a criminal
22 offense under chapter 10.99 RCW and will subject a violator to arrest;
23 any assault that is a violation of this order is a felony under RCW
24 9A.36.031; and reckless endangerment that is a violation of this order
25 is a felony under RCW 9A.36.045.

26 (3) Whenever an order prohibiting contact is issued pursuant to
27 this section, the clerk of the court shall forward a copy of the order
28 on or before the next judicial day to the appropriate law enforcement
29 agency specified in the order. Upon receipt of the copy of the order

1 the law enforcement agency shall forthwith enter the order for one year
2 into any computer-based criminal intelligence information system
3 available in this state used by law enforcement agencies to list
4 outstanding warrants. Entry into the law enforcement information system
5 constitutes notice to all law enforcement agencies of the existence of
6 the order. The order is fully enforceable in any jurisdiction in the
7 state.

8 **Sec. 8.** RCW 26.50.110 and 1984 c 263 s 12 are each amended to read
9 as follows:

10 (1) Whenever an order for protection is granted under this chapter
11 and the respondent or person to be restrained knows of the order, a
12 violation of the restraint provisions or of a provision excluding the
13 person from a residence is a misdemeanor.

14 (2) A peace officer shall arrest without a warrant and take into
15 custody a person whom the peace officer has probable cause to believe
16 has violated an order issued under this chapter that restrains the
17 person or excludes the person from a residence, if the person
18 restrained knows of the order.

19 (3) A violation of an order for protection shall also constitute
20 contempt of court, and is subject to the penalties prescribed by law.

21 (4) An assault that is a violation of an order for protection is a
22 felony under RCW 9A.36.031; and reckless endangerment that is a
23 violation of an order for protection is a felony under RCW 9A.36.045.

24 (5) Upon the filing of an affidavit by the petitioner or any peace
25 officer alleging that the respondent has violated an order for
26 protection granted under this chapter, the court may issue an order to
27 the respondent, requiring the respondent to appear and show cause
28 within fourteen days why the respondent should not be found in contempt
29 of court and punished accordingly. The hearing may be held in the

1 court of any county or municipality in which the petitioner or
2 respondent temporarily or permanently resides at the time of the
3 alleged violation.

4 NEW SECTION. **Sec. 9.** Unless the context clearly requires
5 otherwise, the definitions in this section apply throughout this
6 chapter:

7 (1) "Certified domestic violence perpetrator counselor" means a
8 certified mental health counselor pursuant to RCW 18.19.120, a
9 certified marriage and family therapist pursuant to RCW 18.19.130, a
10 certified social worker pursuant to RCW 18.19.110, a licensed
11 psychologist pursuant to chapter 18.83 RCW, or a licensed psychiatrist
12 pursuant to chapter 18.71 RCW, who is certified to examine and treat
13 domestic violence perpetrators.

14 (2) "Department" means the department of health.

15 (3) "Secretary" means the secretary of health.

16 NEW SECTION. **Sec. 10.** (1) No person shall represent himself or
17 herself as a certified domestic violence perpetrator counselor without
18 first applying for and receiving a certificate pursuant to this
19 chapter.

20 (2) Only a certified domestic violence perpetrator counselor may
21 perform or provide treatment of convicted domestic violence offenders
22 who are sentenced and ordered into treatment.

23 NEW SECTION. **Sec. 11.** In addition to any other authority
24 provided by law, the secretary shall have the following authority:

25 (1) To set all fees required in this chapter in accordance with RCW
26 43.70.250;

27 (2) To establish forms necessary to administer this chapter;

1 (3) To issue a certificate to any applicant who has met the
2 education, training, and examination requirements for certification and
3 deny a certificate to applicants who do not meet the minimum
4 qualifications for certification. Proceedings concerning the denial of
5 certificates based on unprofessional conduct or impaired practice shall
6 be governed by the uniform disciplinary act, chapter 18.130 RCW;

7 (4) To hire clerical, administrative, and investigative staff as
8 needed to implement and administer this chapter and to hire individuals
9 including those certified under this chapter to serve as examiners or
10 consultants as necessary to implement and administer this chapter;

11 (5) To maintain the official department record of all applicants
12 and certifications;

13 (6) To conduct a hearing on an appeal of a denial of a certificate
14 on the applicant's failure to meet the minimum qualifications for
15 certification. The hearing shall be conducted pursuant to chapter
16 34.05 RCW;

17 (7) To issue subpoenas, statements of charges, statements of intent
18 to deny certificates, and orders and to delegate in writing to a
19 designee the authority to issue subpoenas, statements of charges, and
20 statements of intent to deny certificates;

21 (8) To determine the minimum education, work experience, and
22 training requirements for certification, including but not limited to
23 approval of educational programs;

24 (9) To prepare and administer or approve the preparation and
25 administration of examinations for certification;

26 (10) To establish by rule the procedure for appeal of an
27 examination failure;

28 (11) To adopt rules implementing a continuing competency program;
29 and

1 (12) To adopt rules in accordance with chapter 34.05 RCW as
2 necessary to implement this chapter.

3 NEW SECTION. **Sec. 12.** (1) The domestic violence perpetrator
4 counselors advisory committee is established to advise the secretary
5 concerning the administration of this chapter.

6 (2) The secretary shall appoint the members of the advisory
7 committee who shall consist of the following persons:

8 (a) One superior court judge;

9 (b) Three domestic violence perpetrator counselors;

10 (c) One mental health practitioner who specializes in treating
11 victims of domestic violence;

12 (d) One defense attorney with experience representing persons
13 charged with domestic violence offenses;

14 (e) One representative from the Washington association of
15 prosecuting attorneys;

16 (f) The secretary of the department of social and health services
17 or his or her designee; and

18 (g) One probation officer with experience supervising persons
19 convicted of domestic violence.

20 The secretary shall develop and implement the certification
21 procedures with the advice of the committee by July 1, 1992. Following
22 implementation of these procedures by the secretary, the committee
23 shall be a permanent body. The members shall serve staggered three-
24 year terms, to be set by the secretary. No person other than the
25 member representing the department of social and health services may
26 serve more than two consecutive terms.

27 The secretary may remove any member of the advisory committee for
28 cause as specified by rule. In a case of a vacancy, the secretary

1 shall appoint a person to serve for the remainder of the unexpired
2 term.

3 (3) Committee members shall be reimbursed for travel expenses in
4 accordance with RCW 43.03.050 and 43.03.060.

5 (4) The committee shall elect officers as deemed necessary to
6 administer its duties. A simple majority of the committee members
7 currently serving shall constitute a quorum of the committee.

8 (5) Members of the advisory committee shall be residents of this
9 state. The members who are domestic violence perpetrator counselors
10 must have a minimum of five years of extensive work experience in
11 treating domestic violence offenders to qualify for appointment to the
12 initial committee, which shall develop and implement the certification
13 program. After July 1, 1992, the domestic violence perpetrator
14 counselors on the committee must be certified pursuant to this chapter.

15 (6) The committee shall meet at times as necessary to conduct
16 committee business.

17 NEW SECTION. **Sec. 13.** The secretary, members of the committee,
18 and individuals acting on their behalf are immune from suit in any
19 action, civil or criminal, based on any acts performed in the course of
20 their duties.

21 NEW SECTION. **Sec. 14.** The department shall issue a certificate
22 to any applicant who meets the following requirements:

23 (1) Successful completion of an educational program approved by the
24 secretary or successful completion of alternative training that meets
25 the criteria of the secretary;

26 (2) Successful completion of any experience requirement established
27 by the secretary;

1 (3) Successful completion of an examination administered or
2 approved by the secretary;

3 (4) To not have engaged in unprofessional conduct, and to be able
4 to practice with reasonable skill and safety without physical or mental
5 impairment; and

6 (5) Other requirements established by the secretary that impact the
7 competence of the domestic violence perpetrator counselor.

8 NEW SECTION. **Sec. 15.** The secretary shall establish by rule
9 standards and procedures for approval of the following:

10 (1) Educational programs and alternative training;

11 (2) Examination procedures;

12 (3) Certifying applicants who have a comparable certification in
13 another jurisdiction;

14 (4) Application method and forms;

15 (5) Requirements for renewals of certificates;

16 (6) Requirements of certified domestic violence perpetrator
17 counselors who seek inactive status; and

18 (7) Other rules as appropriate to carry out the purposes of this
19 chapter.

20 NEW SECTION. **Sec. 16.** The uniform disciplinary act, chapter
21 18.130 RCW, governs unauthorized practice, the issuance and denial of
22 certificates, and the discipline of certified domestic violence
23 perpetrator counselors under this chapter.

24 **Sec. 17.** RCW 26.50.010 and 1984 c 263 s 2 are each amended to read
25 as follows:

26 As used in this chapter, the following terms shall have the
27 meanings given them:

1 (1) "Domestic violence" means: (a) Physical harm, bodily injury,
2 assault, or the infliction of fear of imminent physical harm, bodily
3 injury or assault, between family or household members; or (b) sexual
4 assault of one family or household member by another, except for child
5 abuse as defined in RCW 26.44.020.

6 (2) "Family or household members" means spouses, former spouses,
7 (~~adult~~) persons related by blood or marriage, persons who are
8 presently residing together, or who have resided together in the past,
9 and persons who have a child in common regardless of whether they have
10 been married or have lived together at any time.

11 (3) "Court" includes the superior, district, and municipal courts
12 of the state of Washington.

13 (4) "Judicial day" does not include Saturdays, Sundays, or legal
14 holidays.

15 **Sec. 18.** RCW 26.50.020 and 1989 c 375 s 28 are each amended to
16 read as follows:

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

22 (2) The courts defined in RCW 26.50.010(3) have jurisdiction over
23 proceedings under this chapter including concurrent jurisdiction over
24 juveniles who are respondents in an action involving domestic violence.
25 The jurisdiction of district and municipal courts under this chapter
26 shall be limited to enforcement of RCW 26.50.110(1), or the equivalent
27 municipal ordinance, and the issuance and enforcement of temporary
28 orders for protection provided for in RCW 26.50.070 if: (a) A superior
29 court has exercised or is exercising jurisdiction over a proceeding

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

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

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

21 NEW SECTION. **Sec. 19.** Unless the context clearly requires
22 otherwise, the definitions in this section apply throughout this
23 chapter.

24 (1) "Community advocate" means a person employed by a local
25 domestic violence program to provide ongoing assistance to victims of
26 domestic violence in assessing safety needs, documenting the incidents
27 and the extent of violence for possible use in the legal system, making
28 appropriate social service referrals, and developing protocols and
29 maintaining ongoing contacts necessary for local systems coordination.

1 (2) "Department" means the department of social and health
2 services.

3 (3) "Domestic violence" has the same meaning as in RCW 10.99.020
4 and 26.50.010.

5 (4) "Domestic violence program" means an agency that provides
6 shelter, advocacy, and counseling for domestic violence victims in a
7 supportive environment.

8 (5) "Family or household member" has the same meaning as in RCW
9 26.50.010.

10 (6) "Legal advocate" means a person employed by a domestic violence
11 program or court system to advocate for victims of domestic violence,
12 within the criminal and civil justice systems, by attending court
13 proceedings, assisting in document and case preparation, and ensuring
14 linkage with the community advocate.

15 (7) "Secretary" means the secretary of the department of social and
16 health services or the secretary's designee.

17 (8) "Shelter" means a temporary refuge, offered on a twenty-four
18 hour, seven day per week basis to victims of domestic violence and
19 their children.

20 (9) "Victim" means a victim of domestic violence.

21 NEW SECTION. **Sec. 20.** Client records maintained by domestic
22 violence programs shall not be made available unless:

23 (1) A written pretrial motion is made to a court stating that
24 discovery is requested of the client's domestic violence records;

25 (2) The written motion is accompanied by an affidavit or affidavits
26 setting forth specifically the reasons why discovery is requested of
27 the domestic violence program's records;

28 (3) The court reviews the domestic violence program's records in
29 camera to determine whether the domestic violence program's records are

1 relevant and whether the probative value of the records is outweighed
2 by the victim's privacy interest in the confidentiality of such
3 records, taking into account the further trauma that may be inflicted
4 upon the victim by the disclosure of the records; and

5 (4) The court enters an order stating whether the records or any
6 part of the records are discoverable and setting forth the basis for
7 the court's findings.

8 NEW SECTION. **Sec. 21.** The department of social and health
9 services shall establish a technical assistance grant program to assist
10 local communities in determining how to respond to domestic violence.
11 The goals of the program shall be to coordinate and expand existing
12 services to:

13 (1) Serve any individual affected by domestic violence with the
14 primary focus being the safety of the victim;

15 (2) Assure an integrated, comprehensive, accountable community
16 response that is adequately funded and sensitive to the diverse needs
17 of the community;

18 (3) Create a continuum of services that range from prevention,
19 crisis intervention, and counseling through shelter, advocacy, legal
20 intervention, and representation to longer term support, counseling,
21 and training; and

22 (4) Coordinate the efforts of government, the legal system, the
23 private sector, and a range of service providers, such as doctors,
24 nurses, social workers, teachers, and child care workers.

25 NEW SECTION. **Sec. 22.** (1) A county or group of counties may
26 apply to the department for a technical assistance grant to develop a
27 comprehensive county plan for dealing with domestic violence. The

1 county authority may contract with a local nonprofit entity to develop
2 the plan.

3 (2) County comprehensive plans shall be developed in consultation
4 with the department, domestic violence programs, schools, law
5 enforcement, and health care, legal, and social service providers that
6 provide services to persons affected by domestic violence.

7 (3) County comprehensive plans shall be based on the following
8 principles:

9 (a) The safety of the victim is primary;

10 (b) The community needs to be well-educated about domestic
11 violence;

12 (c) Those who want to and who should intervene need to know how to
13 do so effectively;

14 (d) Adequate services, both crisis and long-term support, should
15 exist throughout all parts of the county;

16 (e) Police and courts should hold the batterer accountable for his
17 crimes;

18 (f) Treatment for batterers should be provided by qualified
19 counselors; and

20 (g) Coordination teams are needed to ensure that the system
21 continues to work over the coming decades.

22 (4) County comprehensive plans shall provide for the following:

23 (a) Public education about domestic violence;

24 (b) Training for professionals on how to recognize domestic
25 violence and assist those affected by it;

26 (c) Development of protocols among agencies so that professionals
27 respond to domestic violence in an effective, consistent manner;

28 (d) Development of services to victims of domestic violence and
29 their families, including shelters, safe homes, transitional housing,
30 community and legal advocates, and children's services; and

1 (e) Local and regional teams to oversee implementation of the
2 system, ensure that efforts continue over the years, and assist with
3 day-to-day and system-wide coordination.

4 **Sec. 23.** RCW 82.14.340 and 1990 2nd ex.s. c 1 s 901 are each
5 amended to read as follows:

6 The legislative authority of any county with a population of two
7 hundred thousand or more, and any other county with a population of one
8 hundred fifty thousand or more that has had its population increase by
9 at least twenty-four percent during the preceding nine years, as
10 certified by the office of financial management for the first day of
11 April of each year, may and, if requested by resolution of the
12 governing bodies of cities in the county with an aggregate population
13 equal to or greater than fifty percent of the total population of the
14 county, as last determined by the office of financial management, shall
15 submit an authorizing proposition to the voters of the county and if
16 approved by a majority of persons voting, fix and impose a sales and
17 use tax in accordance with the terms of this chapter.

18 The tax authorized in this section shall be in addition to any
19 other taxes authorized by law and shall be collected from those persons
20 who are taxable by the state pursuant to chapters 82.08 and 82.12 RCW
21 upon the occurrence of any taxable event within such county. The rate
22 of tax shall equal one-tenth of one percent of the selling price (in
23 the case of a sales tax) or value of the article used (in the case of
24 a use tax).

25 When distributing moneys collected under this section, the state
26 treasurer shall distribute ten percent of the moneys to the county in
27 which the tax was collected. The remainder of the moneys collected
28 under this section shall be distributed to the county and the cities
29 within the county ratably based on population as last determined by the

1 office of financial management. In making the distribution based on
2 population, the county shall receive that proportion that the
3 unincorporated population of the county bears to the total population
4 of the county and each city shall receive that proportion that the city
5 incorporated population bears to the total county population.

6 Moneys received from any tax imposed under this section shall be
7 expended exclusively for criminal justice purposes, including domestic
8 violence community advocates as defined in section 19 of this act, and
9 shall not be used to replace or supplant existing funding.

10 This section expires January 1, 1994.

11 NEW SECTION. **Sec. 24.** The speaker of the house of
12 representatives and the president of the senate, shall direct the
13 appropriate standing committees of the legislature to undertake studies
14 of various domestic violence issues. A report shall be submitted to
15 the legislature by December 1991, that includes:

16 (1) Recommendations for solving judicial process problems that
17 diminish the effectiveness of legal remedies in domestic violence
18 cases;

19 (2) Recommendations on revising the client/therapist privilege for
20 communications between victims of domestic violence and licensed
21 counselors;

22 (3) Recommendations, developed in consultation with associated
23 professional organizations, on disseminating appropriate information
24 and material about identification of and response to domestic violence
25 for continuing education programs for doctors, nurses, attorneys,
26 psychologists, social workers, and emergency medical services
27 personnel;

28 (4) Recommendations, developed in consultation with persons
29 responsible for developing curriculum within institutions of higher

1 education, for curriculum changes in the areas of law, criminal
2 justice, health care, and social service to address identification of
3 and response to domestic violence;

4 (5) State and local governmental funding needs for operating
5 domestic violence programs;

6 (6) State and local governmental funding options for providing
7 assistance in the full operational funding of domestic violence
8 programs;

9 (7) State and local governmental options for funding the capital
10 needs of domestic violence programs, including provisions for shelter,
11 transitional housing, and safe home expansion;

12 (8) Recommendations for ensuring the right to health insurance
13 privacy for victims of domestic violence;

14 (9) Recommendations on the need for a statute that would prohibit
15 the issuance of protection orders against any person unless the person
16 seeking relief has filed a petition or counterclaim;

17 (10) The need and methods available for cultural education, K-12
18 curriculum, and other means to educate the public and its leaders on
19 the costs, problems, and threats to society in general caused by
20 domestic violence;

21 (11) Recommendations to make liability insurance available and
22 affordable for domestic violence programs; and

23 (12) Recommendations on the appropriate period of time for the
24 effectiveness of temporary protection orders issued pursuant to chapter
25 26.50 RCW.

26 NEW SECTION. **Sec. 25.** RCW 70.123.020 and 1979 ex.s. c 245 s 2
27 are each repealed.

1 NEW SECTION. **Sec. 26.** The sum of four million dollars, or as
2 much thereof as may be necessary, is appropriated from the general fund
3 to the department of social and health services for the biennium ending
4 June 30, 1993, for domestic violence programs.

5 NEW SECTION. **Sec. 27.** Sections 9 through 16 of this act shall
6 constitute a new chapter in Title 18 RCW.

7 NEW SECTION. **Sec. 28.** Sections 19 through 22 of this act are
8 each added to chapter 70.123 RCW.