
HOUSE BILL 2778

State of Washington

61st Legislature

2010 Regular Session

By Representatives Goodman, Kessler, Santos, Darneille, Maxwell, Kenney, Kagi, Williams, Rolfes, Appleton, Hudgins, Ericks, Morrell, McCoy, Seaquist, Green, O'Brien, Carlyle, Roberts, Pearson, Nelson, and Simpson

Read first time 01/14/10. Referred to Committee on Judiciary.

1 AN ACT Relating to domestic violence; amending RCW 10.31.100,
2 10.99.045, 26.50.020, 26.50.060, 26.50.070, 10.99.040, 9.41.040,
3 9.41.800, 3.66.068, 26.50.150, 7.68.020, 7.68.060, 7.68.070, and
4 68.50.160; reenacting and amending RCW 9.94A.535; adding a new section
5 to chapter 36.28A RCW; adding a new section to chapter 26.50 RCW;
6 adding a new section to chapter 7.90 RCW; adding a new section to
7 chapter 10.14 RCW; adding new sections to chapter 2.56 RCW; adding a
8 new section to chapter 10.99 RCW; and creating a new section.

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

10 **PART ONE**

11 **INTENT**

12 NEW SECTION. **Sec. 101.** The legislature intends to improve the
13 lives of persons who suffer from the adverse effects of domestic
14 violence and to require reasonable, coordinated measures to prevent
15 domestic violence from occurring. The legislature intends to give law
16 enforcement and the courts better tools to identify violent
17 perpetrators of domestic violence and hold them accountable. The
18 legislature intends to: Increase the safety afforded to individuals

1 who seek protection of public and private agencies involved in domestic
2 violence prevention; improve the ability of agencies to address the
3 needs of victims and their children and the delivery of services;
4 upgrade the quality of treatment programs; and enhance the ability of
5 the justice system to respond quickly and fairly to domestic violence.
6 In order to improve the lives of persons who have, or may suffer, the
7 effects of domestic violence the legislature intends to achieve more
8 uniformity in the decision-making processes at public and private
9 agencies that address domestic violence by reducing inconsistencies and
10 duplications allowing domestic violence victims to achieve safety and
11 stability in their lives.

12 **PART TWO**
13 **LAW ENFORCEMENT/ARREST PROVISIONS**

14 **Sec. 201.** RCW 10.31.100 and 2006 c 138 s 23 are each amended to
15 read as follows:

16 A police officer having probable cause to believe that a person has
17 committed or is committing a felony shall have the authority to arrest
18 the person without a warrant. A police officer may arrest a person
19 without a warrant for committing a misdemeanor or gross misdemeanor
20 only when the offense is committed in the presence of the officer,
21 except as provided in subsections (1) through (10) of this section.

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

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

33 (a) An order has been issued of which the person has knowledge
34 under RCW 26.44.063, or chapter 7.90, 10.99, 26.09, 26.10, 26.26,
35 26.50, or 74.34 RCW restraining the person and the person has violated
36 the terms of the order restraining the person from acts or threats of

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

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

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

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

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

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

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

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

11 (f) 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 motor
14 vehicle accident may arrest the driver of a motor vehicle involved in
15 the accident if the officer has probable cause to believe that the
16 driver has committed in connection with the accident a violation of any
17 traffic law or regulation.

18 (5) Any police officer having probable cause to believe that a
19 person has committed or is committing a violation of RCW 79A.60.040
20 shall have the authority to arrest the person.

21 (6) An officer may act upon the request of a law enforcement
22 officer in whose presence a traffic infraction was committed, to stop,
23 detain, arrest, or issue a notice of traffic infraction to the driver
24 who is believed to have committed the infraction. The request by the
25 witnessing officer shall give an officer the authority to take
26 appropriate action under the laws of the state of Washington.

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

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

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

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

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

8 (11) Except as specifically provided in subsections (2), (3), (4),
9 and (6) of this section, nothing in this section extends or otherwise
10 affects the powers of arrest prescribed in Title 46 RCW.

11 (12) No police officer may be held criminally or civilly liable for
12 making an arrest pursuant to (~~RCW 10.31.100~~) subsection (2) or (8) of
13 this section if the police officer acts in good faith and without
14 malice.

15 NEW SECTION. Sec. 202. A new section is added to chapter 36.28A
16 RCW to read as follows:

17 (1)(a) When funded, the Washington association of sheriffs and
18 police chiefs shall convene a work group to develop a model policy
19 regarding the reporting of domestic violence as defined in RCW
20 10.99.020 to law enforcement in cases where the victim is unable or
21 unwilling to make a report in the jurisdiction where the alleged crime
22 occurred.

23 (b) The model policy must include policies and procedures related
24 to:

- 25 (i) Collecting and securing evidence; and
26 (ii) Creating interlocal agreements between law enforcement
27 agencies.

28 (2) In developing the model policy under subsection (1)(a) of this
29 section, the association shall consult with appropriate stakeholders
30 and government agencies.

31 **PART THREE**

32 **NO-CONTACT AND PROTECTION ORDERS**

33 **Sec. 301.** RCW 10.99.045 and 2000 c 119 s 19 are each amended to
34 read as follows:

1 (1) A defendant arrested for an offense involving domestic violence
2 as defined by RCW 10.99.020 shall be required to appear in person
3 before a magistrate within one judicial day after the arrest.

4 (2) A defendant who is charged by citation, complaint, or
5 information with an offense involving domestic violence as defined by
6 RCW 10.99.020 and not arrested shall appear in court for arraignment in
7 person as soon as practicable, but in no event later than fourteen days
8 after the next day on which court is in session following the issuance
9 of the citation or the filing of the complaint or information.

10 (3)(a) At the time of the appearances provided in subsection (1) or
11 (2) of this section, the court shall determine the necessity of
12 imposing a no-contact order or other conditions of pretrial release
13 according to the procedures established by court rule for a preliminary
14 appearance or an arraignment. The court may include in the order any
15 conditions authorized under RCW 9.41.800 and 10.99.040.

16 (b) For the purposes of (a) of this subsection, the prosecutor
17 shall provide for the court's review:

18 (i) The defendant's criminal history, if any, that occurred in
19 Washington or any other state;

20 (ii) If available, the defendant's prior criminal history that
21 occurred in any tribal jurisdiction; and

22 (iii) The defendant's individual order history.

23 (c) For the purposes of (b) of this subsection, criminal history
24 includes all previous convictions and orders of deferred prosecution,
25 as reported through the judicial information system or otherwise
26 available to the court or prosecutor, current to within the period
27 specified in (d) of this subsection before the date of the appearance.

28 (d) The periods applicable to previous convictions and orders of
29 deferred prosecution are:

30 (i) One working day, in the case of previous actions of courts that
31 fully participate in the state judicial information system; and

32 (ii) Seven calendar days, in the case of previous actions of courts
33 that do not fully participate in the judicial information system. For
34 the purposes of this subsection, "fully participate" means regularly
35 providing records to and receiving records from the system by
36 electronic means on a daily basis.

37 (4) Appearances required pursuant to this section are mandatory and
38 cannot be waived.

1 (5) The no-contact order shall be issued and entered with the
2 appropriate law enforcement agency pursuant to the procedures outlined
3 in RCW 10.99.040 (2) and (~~(+4)~~) (6).

4 **Sec. 302.** RCW 26.50.020 and 1992 c 111 s 8 are each amended to
5 read as follows:

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

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

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

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

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

24 (5) The courts defined in RCW 26.50.010(~~(+3)~~) (4) have
25 jurisdiction over proceedings under this chapter. The jurisdiction of
26 district and municipal courts under this chapter shall be limited to
27 enforcement of RCW 26.50.110(1), or the equivalent municipal ordinance,
28 and the issuance and enforcement of temporary orders for protection
29 provided for in RCW 26.50.070 if: (a) A superior court has exercised
30 or is exercising jurisdiction over a proceeding under this title or
31 chapter 13.34 RCW involving the parties; (b) the petition for relief
32 under this chapter presents issues of residential schedule of and
33 contact with children of the parties; or (c) the petition for relief
34 under this chapter requests the court to exclude a party from the
35 dwelling which the parties share. When the jurisdiction of a district
36 or municipal court is limited to the issuance and enforcement of a
37 temporary order, the district or municipal court shall set the full

1 hearing provided for in RCW 26.50.050 in superior court and transfer
2 the case. If the notice and order are not served on the respondent in
3 time for the full hearing, the issuing court shall have concurrent
4 jurisdiction with the superior court to extend the order for
5 protection.

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

11 (7) A person's right to petition for relief under this chapter is
12 not affected by the person leaving the residence or household to avoid
13 abuse.

14 **Sec. 303.** RCW 26.50.060 and 2009 c 439 s 2 are each amended to
15 read as follows:

16 (1) Upon notice and after hearing, the court may provide relief as
17 follows:

18 (a) Restrain the respondent from committing acts of domestic
19 violence;

20 (b) Exclude the respondent from the dwelling that the parties
21 share, from the residence, workplace, or school of the petitioner, or
22 from the day care or school of a child;

23 (c) Prohibit the respondent from knowingly coming within, or
24 knowingly remaining within, a specified distance from a specified
25 location;

26 (d) On the same basis as is provided in chapter 26.09 RCW, the
27 court shall make residential provision with regard to minor children of
28 the parties. However, parenting plans as specified in chapter 26.09
29 RCW shall not be required under this chapter;

30 (e) Order the respondent to participate in a domestic violence
31 perpetrator treatment program approved under RCW 26.50.150;

32 (f) Order other relief as it deems necessary for the protection of
33 the petitioner and other family or household members sought to be
34 protected, including orders or directives to a peace officer, as
35 allowed under this chapter;

36 (g) Require the respondent to pay the administrative court costs

1 and service fees, as established by the county or municipality
2 incurring the expense and to reimburse the petitioner for costs
3 incurred in bringing the action, including reasonable attorneys' fees;

4 (h) Restrain the respondent from having any contact with the victim
5 of domestic violence or the victim's children or members of the
6 victim's household;

7 (i) Restrain the respondent from harassing, following, keeping
8 under physical or electronic surveillance, cyberstalking as defined in
9 RCW 9.61.260, and using telephonic, audiovisual, or other electronic
10 means to monitor the actions, location, or communication of a victim of
11 domestic violence, the victim's children, or members of the victim's
12 household. For the purposes of this subsection, "communication"
13 includes both "wire communication" and "electronic communication" as
14 defined in RCW 9.73.260;

15 (j) Require the respondent to submit to electronic monitoring. The
16 order shall specify who shall provide the electronic monitoring
17 services and the terms under which the monitoring must be performed.
18 The order also may include a requirement that the respondent pay the
19 costs of the monitoring. The court shall consider the ability of the
20 respondent to pay for electronic monitoring;

21 ~~((+j))~~ (k) Consider the provisions of RCW 9.41.800;

22 ~~((+k))~~ (l) Order possession and use of essential personal effects.
23 The court shall list the essential personal effects with sufficient
24 specificity to make it clear which property is included. Personal
25 effects may include pets. The court may order that a petitioner be
26 granted the exclusive custody or control of any pet owned, possessed,
27 leased, kept, or held by the petitioner, respondent, or minor child
28 residing with either the petitioner or respondent and may prohibit the
29 respondent from interfering with the petitioner's efforts to remove the
30 pet. The court may also prohibit the respondent from knowingly coming
31 within, or knowingly remaining within, a specified distance of
32 specified locations where the pet is regularly found; and

33 ~~((+l))~~ (m) Order use of a vehicle.

34 (2) If a protection order restrains the respondent from contacting
35 the respondent's minor children the restraint shall be for a fixed
36 period not to exceed one year. This limitation is not applicable to
37 orders for protection issued under chapter 26.09, 26.10, or 26.26 RCW.
38 With regard to other relief, if the petitioner has petitioned for

1 relief on his or her own behalf or on behalf of the petitioner's family
2 or household members or minor children, and the court finds that the
3 respondent is likely to resume acts of domestic violence against the
4 petitioner or the petitioner's family or household members or minor
5 children when the order expires, the court may either grant relief for
6 a fixed period or enter a permanent order of protection.

7 If the petitioner has petitioned for relief on behalf of the
8 respondent's minor children, the court shall advise the petitioner that
9 if the petitioner wants to continue protection for a period beyond one
10 year the petitioner may either petition for renewal pursuant to the
11 provisions of this chapter or may seek relief pursuant to the
12 provisions of chapter 26.09 or 26.26 RCW.

13 (3) If the court grants an order for a fixed time period, the
14 petitioner may apply for renewal of the order by filing a petition for
15 renewal at any time within the three months before the order expires.
16 The petition for renewal shall state the reasons why the petitioner
17 seeks to renew the protection order. Upon receipt of the petition for
18 renewal the court shall order a hearing which shall be not later than
19 fourteen days from the date of the order. Except as provided in RCW
20 26.50.085, personal service shall be made on the respondent not less
21 than five days before the hearing. If timely service cannot be made
22 the court shall set a new hearing date and shall either require
23 additional attempts at obtaining personal service or permit service by
24 publication as provided in RCW 26.50.085 or by mail as provided in RCW
25 26.50.123. If the court permits service by publication or mail, the
26 court shall set the new hearing date not later than twenty-four days
27 from the date of the order. If the order expires because timely
28 service cannot be made the court shall grant an ex parte order of
29 protection as provided in RCW 26.50.070. The court shall grant the
30 petition for renewal unless the respondent proves by a preponderance of
31 the evidence that the respondent will not resume acts of domestic
32 violence against the petitioner or the petitioner's children or family
33 or household members when the order expires. The court may renew the
34 protection order for another fixed time period or may enter a permanent
35 order as provided in this section. The court may award court costs,
36 service fees, and reasonable attorneys' fees as provided in subsection
37 (1)(g) of this section.

1 (4) In providing relief under this chapter, the court may realign
2 the designation of the parties as "petitioner" and "respondent" where
3 the court finds that the original petitioner is the abuser and the
4 original respondent is the victim of domestic violence and may issue an
5 ex parte temporary order for protection in accordance with RCW
6 26.50.070 on behalf of the victim until the victim is able to prepare
7 a petition for an order for protection in accordance with RCW
8 26.50.030.

9 (5) Except as provided in subsection (4) of this section, no order
10 for protection shall grant relief to any party except upon notice to
11 the respondent and hearing pursuant to a petition or counter-petition
12 filed and served by the party seeking relief in accordance with RCW
13 26.50.050.

14 (6) The court order shall specify the date the order expires if
15 any. The court order shall also state whether the court issued the
16 protection order following personal service, service by publication, or
17 service by mail and whether the court has approved service by
18 publication or mail of an order issued under this section.

19 (7) If the court declines to issue an order for protection or
20 declines to renew an order for protection, the court shall state in
21 writing on the order the particular reasons for the court's denial.

22 **Sec. 304.** RCW 26.50.070 and 2000 c 119 s 16 are each amended to
23 read as follows:

24 (1) Where an application under this section alleges that
25 irreparable injury could result from domestic violence if an order is
26 not issued immediately without prior notice to the respondent, the
27 court may grant an ex parte temporary order for protection, pending a
28 full hearing, and grant relief as the court deems proper, including an
29 order:

30 (a) Restraining any party from committing acts of domestic
31 violence;

32 (b) Restraining any party from going onto the grounds of or
33 entering the dwelling that the parties share, from the residence,
34 workplace, or school of the other, or from the day care or school of a
35 child until further order of the court;

36 (c) Prohibiting any party from knowingly coming within, or

1 knowingly remaining within, a specified distance from a specified
2 location;

3 (d) Restraining any party from interfering with the other's custody
4 of the minor children or from removing the children from the
5 jurisdiction of the court;

6 (e) Restraining any party from having any contact with the victim
7 of domestic violence or the victim's children or members of the
8 victim's household; (~~and~~))

9 (f) Considering the provisions of RCW 9.41.800; and

10 (g) Restraining the respondent from harassing, following, keeping
11 under physical or electronic surveillance, cyberstalking as defined in
12 RCW 9.61.260, and using telephonic, audiovisual, or other electronic
13 means to monitor the actions, location, or communication of a victim of
14 domestic violence, the victim's children, or members of the victim's
15 household. For the purposes of this subsection, "communication"
16 includes both "wire communication" and "electronic communication" as
17 defined in RCW 9.73.260.

18 (2) Irreparable injury under this section includes but is not
19 limited to situations in which the respondent has recently threatened
20 petitioner with bodily injury or has engaged in acts of domestic
21 violence against the petitioner.

22 (3) The court shall hold an ex parte hearing in person or by
23 telephone on the day the petition is filed or on the following judicial
24 day.

25 (4) An ex parte temporary order for protection shall be effective
26 for a fixed period not to exceed fourteen days or twenty-four days if
27 the court has permitted service by publication under RCW 26.50.085 or
28 by mail under RCW 26.50.123. The ex parte order may be reissued. A
29 full hearing, as provided in this chapter, shall be set for not later
30 than fourteen days from the issuance of the temporary order or not
31 later than twenty-four days if service by publication or by mail is
32 permitted. Except as provided in RCW 26.50.050, 26.50.085, and
33 26.50.123, the respondent shall be personally served with a copy of the
34 ex parte order along with a copy of the petition and notice of the date
35 set for the hearing.

36 (5) Any order issued under this section shall contain the date and
37 time of issuance and the expiration date and shall be entered into a

1 statewide judicial information system by the clerk of the court within
2 one judicial day after issuance.

3 (6) If the court declines to issue an ex parte temporary order for
4 protection the court shall state the particular reasons for the court's
5 denial. The court's denial of a motion for an ex parte order of
6 protection shall be filed with the court.

7 NEW SECTION. **Sec. 305.** A new section is added to chapter 26.50
8 RCW to read as follows:

9 (1) In a proceeding in which a petition for an order for protection
10 under this chapter is sought, a court of this state may exercise
11 personal jurisdiction over a nonresident individual if:

12 (a) The individual is personally served with a petition within this
13 state;

14 (b) The individual submits to the jurisdiction of this state by
15 consent, entering a general appearance, or filing a responsive document
16 having the effect of waiving any objection to consent to personal
17 jurisdiction;

18 (c) The act or acts of the individual or the individual's agent
19 giving rise to the petition or enforcement of an order for protection
20 either:

21 (i) Occurred within this state; or

22 (ii) Occurred outside this state and are part of a continuing
23 course of conduct having an adverse effect on a person in this state;

24 (d) As a result of the acts of the individual, the petitioner
25 resides in this state; or

26 (e) There is any other basis consistent with RCW 4.28.185 or with
27 the Constitutions of this state and the United States.

28 (2) For the purposes of this section, an act or acts that "occurred
29 within this state" includes, but is not limited to, an oral or written
30 statement made or published by a person outside of this state to any
31 person in this state by means of the mail, interstate commerce, or
32 foreign commerce. Oral or written statements sent by electronic mail
33 or the internet are deemed to have "occurred within this state."

34 NEW SECTION. **Sec. 306.** A new section is added to chapter 7.90 RCW
35 to read as follows:

1 (1) In a proceeding in which a petition for a sexual assault
2 protection order is sought under this chapter, a court of this state
3 may exercise personal jurisdiction over a nonresident individual if:

4 (a) The individual is personally served with a petition within this
5 state;

6 (b) The individual submits to the jurisdiction of this state by
7 consent, entering a general appearance, or filing a responsive document
8 having the effect of waiving any objection to consent to personal
9 jurisdiction;

10 (c) The act or acts of the individual or the individual's agent
11 giving rise to the petition or enforcement of a sexual assault
12 protection order either:

13 (i) Occurred within this state; or

14 (ii) Occurred outside this state and are part of a continuing
15 course of conduct having an adverse effect on a person in this state;

16 (d) As a result of the acts of the individual, the petitioner
17 resides in this state; or

18 (e) There is any other basis consistent with RCW 4.28.185 or with
19 the constitutions of this state and the United States.

20 (2) For the purposes of this section, an act or acts that "occurred
21 within this state" includes, but is not limited to, an oral or written
22 statement made or published by a person outside of this state to any
23 person in this state by means of the mail, interstate commerce, or
24 foreign commerce. Oral or written statements sent by electronic mail
25 or the internet are deemed to have "occurred within this state."

26 NEW SECTION. **Sec. 307.** A new section is added to chapter 10.14
27 RCW to read as follows:

28 (1) In a proceeding in which a petition for an order for protection
29 under this chapter is sought, a court of this state may exercise
30 personal jurisdiction over a nonresident individual if:

31 (a) The individual is personally served with a petition within this
32 state;

33 (b) The individual submits to the jurisdiction of this state by
34 consent, entering a general appearance, or filing a responsive document
35 having the effect of waiving any objection to consent to personal
36 jurisdiction;

1 (c) The act or acts of the individual or the individual's agent
2 giving rise to the petition or enforcement of an order for protection
3 either:

4 (i) Occurred within this state; or

5 (ii) Occurred outside this state and are part of a continuing
6 course of conduct having an adverse effect on a person in this state;

7 (d) As a result of the acts of the individual, the petitioner
8 resides in this state; or

9 (e) There is any other basis consistent with RCW 4.28.185 or with
10 the constitutions of this state and the United States.

11 (2) For the purposes of this section, an act or acts that "occurred
12 within this state" includes, but is not limited to, an oral or written
13 statement made or published by a person outside of this state to any
14 person in this state by means of the mail, interstate commerce, or
15 foreign commerce. Oral or written statements sent by electronic mail
16 or the internet are deemed to have "occurred within this state."

17 **Sec. 308.** RCW 10.99.040 and 2000 c 119 s 18 are each amended to
18 read as follows:

19 (1) Because of the serious nature of domestic violence, the court
20 in domestic violence actions:

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

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

25 (c) Shall waive any requirement that the victim's location be
26 disclosed to any person, other than the attorney of a criminal
27 defendant, upon a showing that there is a possibility of further
28 violence: PROVIDED, That the court may order a criminal defense
29 attorney not to disclose to his or her client the victim's location;
30 and

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

33 (2)(a) Because of the likelihood of repeated violence directed at
34 those who have been victims of domestic violence in the past, when any
35 person charged with or arrested for a crime involving domestic violence
36 is released from custody before arraignment or trial on bail or
37 personal recognizance, the court authorizing the release may prohibit

1 that person from having any contact with the victim. The jurisdiction
2 authorizing the release shall determine whether that person should be
3 prohibited from having any contact with the victim. If there is no
4 outstanding restraining or protective order prohibiting that person
5 from having contact with the victim, the court authorizing release may
6 issue, by telephone, a no-contact order prohibiting the person charged
7 or arrested from having contact with the victim or from knowingly
8 coming within, or knowingly remaining within, a specified distance of
9 a location.

10 (b) In issuing the order, the court shall consider the provisions
11 of RCW 9.41.800.

12 (c) The no-contact order shall also be issued in writing as soon as
13 possible. By January 1, 2011, the administrative office of the courts
14 shall develop a pattern form for all no-contact orders issued under
15 this chapter. A no-contact order issued under this chapter must
16 substantially comply with the pattern form developed by the
17 administrative office of the courts.

18 (3) At the time of arraignment the court shall determine whether a
19 no-contact order shall be issued or extended. The no-contact order
20 shall terminate if the defendant is acquitted or the charges are
21 dismissed. If a no-contact order is issued or extended, the court may
22 also include in the conditions of release a requirement that the
23 defendant submit to electronic monitoring. If electronic monitoring is
24 ordered, the court shall specify who shall provide the monitoring
25 services, and the terms under which the monitoring shall be performed.
26 Upon conviction, the court may require as a condition of the sentence
27 that the defendant reimburse the providing agency for the costs of the
28 electronic monitoring.

29 (4)(a) Willful violation of a court order issued under subsection
30 (2) or (3) of this section is punishable under RCW 26.50.110.

31 (b) The written order releasing the person charged or arrested
32 shall contain the court's directives and shall bear the legend:
33 "Violation of this order is a criminal offense under chapter 26.50 RCW
34 and will subject a violator to arrest; any assault, drive-by shooting,
35 or reckless endangerment that is a violation of this order is a felony.
36 You can be arrested even if any person protected by the order invites
37 or allows you to violate the order's prohibitions. You have the sole

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

3 (c) A certified copy of the order shall be provided to the victim.

4 (5) If a no-contact order has been issued prior to charging, that
5 order shall expire at arraignment or within seventy-two hours if
6 charges are not filed. Such orders need not be entered into the
7 computer-based criminal intelligence information system in this state
8 which is used by law enforcement agencies to list outstanding warrants.

9 (6) Whenever a no-contact order is issued, modified, or terminated
10 under subsection (2) or (3) of this section, the clerk of the court
11 shall forward a copy of the order on or before the next judicial day to
12 the appropriate law enforcement agency specified in the order. Upon
13 receipt of the copy of the order the law enforcement agency shall enter
14 the order for one year or until the expiration date specified on the
15 order into any computer-based criminal intelligence information system
16 available in this state used by law enforcement agencies to list
17 outstanding warrants. Entry into the computer-based criminal
18 intelligence information system constitutes notice to all law
19 enforcement agencies of the existence of the order. The order is fully
20 enforceable in any jurisdiction in the state. Upon receipt of notice
21 that an order has been terminated under subsection (3) of this section,
22 the law enforcement agency shall remove the order from the computer-
23 based criminal intelligence information system.

24 (7) All courts shall develop policies and procedures by January 1,
25 2011, to grant victims a process to modify or rescind a no-contact
26 order issued under this chapter. The administrative office of the
27 courts shall develop a model policy to assist the courts in
28 implementing the requirements of this subsection.

29 NEW SECTION. Sec. 309. A new section is added to chapter 2.56 RCW
30 to read as follows:

31 (1) The administrative office of the courts shall develop
32 guidelines by December 1, 2011, for all courts to establish a process
33 to reconcile duplicate or conflicting no-contact or protection orders
34 issued by courts in this state.

35 (2) The guidelines developed under subsection (1) of this section
36 must include:

1 (a) A process to allow any party named in a no-contact or
2 protection order to petition for the purpose of reconciling duplicate
3 or conflicting orders; and

4 (b) A procedure to address no-contact and protection order data
5 sharing between court jurisdictions in this state.

6 (3) By January 1, 2011, the administrative office of the courts
7 shall provide a report back to the legislature concerning the progress
8 made to develop the guidelines required by this section.

9 **Sec. 310.** RCW 9.41.040 and 2009 c 293 s 1 are each amended to read
10 as follows:

11 (1)(a) A person, whether an adult or juvenile, is guilty of the
12 crime of unlawful possession of a firearm in the first degree, if the
13 person owns, has in his or her possession, or has in his or her control
14 any firearm after having previously been convicted or found not guilty
15 by reason of insanity in this state or elsewhere of any serious offense
16 as defined in this chapter.

17 (b) Unlawful possession of a firearm in the first degree is a class
18 B felony punishable according to chapter 9A.20 RCW.

19 (2)(a) A person, whether an adult or juvenile, is guilty of the
20 crime of unlawful possession of a firearm in the second degree, if the
21 person does not qualify under subsection (1) of this section for the
22 crime of unlawful possession of a firearm in the first degree and the
23 person owns, has in his or her possession, or has in his or her control
24 any firearm:

25 (i) After having previously been convicted or found not guilty by
26 reason of insanity in this state or elsewhere of any felony not
27 specifically listed as prohibiting firearm possession under subsection
28 (1) of this section(~~(, or)~~);

29 (ii) After having previously been convicted or found not guilty by
30 reason of insanity in this state or elsewhere of any of the following
31 crimes when committed by one family or household member against
32 another, committed on or after July 1, 1993: Assault in the fourth
33 degree, coercion, stalking, reckless endangerment, criminal trespass in
34 the first degree, harassment, or violation of the provisions of a
35 protection order or no-contact order restraining the person or
36 excluding the person from a residence (RCW 26.50.060, 26.50.070,
37 26.50.130, or 10.99.040);

1 ~~((+ii+))~~ (iii) During any period of time that the person is subject
2 to an order issued under chapter 10.99, 26.50, or 26.52 RCW that:

3 (A) Was issued after a hearing of which the person received actual
4 notice, and at which the person had an opportunity to participate; and

5 (B) Restrains the person from causing physical harm or bodily
6 injury, assaulting, sexually assaulting, molesting, harassing,
7 threatening, or stalking, a family or household member of the person,
8 or a minor child of the family or household member;

9 (iv) After having previously been involuntarily committed for
10 mental health treatment under RCW 71.05.240, 71.05.320, 71.34.740,
11 71.34.750, chapter 10.77 RCW, or equivalent statutes of another
12 jurisdiction, unless his or her right to possess a firearm has been
13 restored as provided in RCW 9.41.047;

14 ~~((+iii+))~~ (v) If the person is under eighteen years of age, except
15 as provided in RCW 9.41.042; and/or

16 ~~((+iv+))~~ (vi) If the person is free on bond or personal
17 recognizance pending trial, appeal, or sentencing for a serious offense
18 as defined in RCW 9.41.010.

19 (b) Unlawful possession of a firearm in the second degree is a
20 class C felony punishable according to chapter 9A.20 RCW.

21 (3) Notwithstanding RCW 9.41.047 or any other provisions of law, as
22 used in this chapter, a person has been "convicted", whether in an
23 adult court or adjudicated in a juvenile court, at such time as a plea
24 of guilty has been accepted, or a verdict of guilty has been filed,
25 notwithstanding the pendency of any future proceedings including but
26 not limited to sentencing or disposition, post-trial or post-
27 factfinding motions, and appeals. Conviction includes a dismissal
28 entered after a period of probation, suspension or deferral of
29 sentence, and also includes equivalent dispositions by courts in
30 jurisdictions other than Washington state. A person shall not be
31 precluded from possession of a firearm if the conviction has been the
32 subject of a pardon, annulment, certificate of rehabilitation, or other
33 equivalent procedure based on a finding of the rehabilitation of the
34 person convicted or the conviction or disposition has been the subject
35 of a pardon, annulment, or other equivalent procedure based on a
36 finding of innocence. Where no record of the court's disposition of
37 the charges can be found, there shall be a rebuttable presumption that
38 the person was not convicted of the charge.

1 (4) Notwithstanding subsection (1) or (2) of this section, a person
2 convicted or found not guilty by reason of insanity of an offense
3 prohibiting the possession of a firearm under this section other than
4 murder, manslaughter, robbery, rape, indecent liberties, arson,
5 assault, kidnapping, extortion, burglary, or violations with respect to
6 controlled substances under RCW 69.50.401 and 69.50.410, who received
7 a probationary sentence under RCW 9.95.200, and who received a
8 dismissal of the charge under RCW 9.95.240, shall not be precluded from
9 possession of a firearm as a result of the conviction or finding of not
10 guilty by reason of insanity. Notwithstanding any other provisions of
11 this section, if a person is prohibited from possession of a firearm
12 under subsection (1) or (2) of this section and has not previously been
13 convicted or found not guilty by reason of insanity of a sex offense
14 prohibiting firearm ownership under subsection (1) or (2) of this
15 section and/or any felony defined under any law as a class A felony or
16 with a maximum sentence of at least twenty years, or both, the
17 individual may petition a court of record to have his or her right to
18 possess a firearm restored:

19 (a) Under RCW 9.41.047; and/or

20 (b)(i) If the conviction or finding of not guilty by reason of
21 insanity was for a felony offense, after five or more consecutive years
22 in the community without being convicted or found not guilty by reason
23 of insanity or currently charged with any felony, gross misdemeanor, or
24 misdemeanor crimes, if the individual has no prior felony convictions
25 that prohibit the possession of a firearm counted as part of the
26 offender score under RCW 9.94A.525; or

27 (ii) If the conviction or finding of not guilty by reason of
28 insanity was for a nonfelony offense, after three or more consecutive
29 years in the community without being convicted or found not guilty by
30 reason of insanity or currently charged with any felony, gross
31 misdemeanor, or misdemeanor crimes, if the individual has no prior
32 felony convictions that prohibit the possession of a firearm counted as
33 part of the offender score under RCW 9.94A.525 and the individual has
34 completed all conditions of the sentence.

35 (5) In addition to any other penalty provided for by law, if a
36 person under the age of eighteen years is found by a court to have
37 possessed a firearm in a vehicle in violation of subsection (1) or (2)
38 of this section or to have committed an offense while armed with a

1 firearm during which offense a motor vehicle served an integral
2 function, the court shall notify the department of licensing within
3 twenty-four hours and the person's privilege to drive shall be revoked
4 under RCW 46.20.265.

5 (6) Nothing in chapter 129, Laws of 1995 shall ever be construed or
6 interpreted as preventing an offender from being charged and
7 subsequently convicted for the separate felony crimes of theft of a
8 firearm or possession of a stolen firearm, or both, in addition to
9 being charged and subsequently convicted under this section for
10 unlawful possession of a firearm in the first or second degree.
11 Notwithstanding any other law, if the offender is convicted under this
12 section for unlawful possession of a firearm in the first or second
13 degree and for the felony crimes of theft of a firearm or possession of
14 a stolen firearm, or both, then the offender shall serve consecutive
15 sentences for each of the felony crimes of conviction listed in this
16 subsection.

17 (7) Each firearm unlawfully possessed under this section shall be
18 a separate offense.

19 **Sec. 311.** RCW 9.41.800 and 2002 c 302 s 704 are each amended to
20 read as follows:

21 (1) Any court when entering an order authorized under RCW
22 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060,
23 26.10.040, 26.10.115, 26.26.130, 26.50.060, 26.50.070, or 26.26.590
24 shall, upon a showing by clear and convincing evidence, that a party
25 has: Used, displayed, or threatened to use a firearm or other
26 dangerous weapon in a felony, or previously committed any offense that
27 makes him or her ineligible to possess a firearm under the provisions
28 of RCW 9.41.040:

29 (a) Require the party to surrender any firearm or other dangerous
30 weapon;

31 (b) Require the party to surrender any concealed pistol license
32 issued under RCW 9.41.070;

33 (c) Prohibit the party from obtaining or possessing a firearm or
34 other dangerous weapon;

35 (d) Prohibit the party from obtaining or possessing a concealed
36 pistol license.

1 (2) Any court when entering an order authorized under RCW
2 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060,
3 26.10.040, 26.10.115, 26.26.130, 26.50.060, 26.50.070, or 26.26.590
4 may, upon a showing by a preponderance of the evidence but not by clear
5 and convincing evidence, that a party has: Used, displayed, or
6 threatened to use a firearm or other dangerous weapon in a felony, or
7 previously committed any offense that makes him or her ineligible to
8 possess a pistol under the provisions of RCW 9.41.040:

9 (a) Require the party to surrender any firearm or other dangerous
10 weapon;

11 (b) Require the party to surrender a concealed pistol license
12 issued under RCW 9.41.070;

13 (c) Prohibit the party from obtaining or possessing a firearm or
14 other dangerous weapon;

15 (d) Prohibit the party from obtaining or possessing a concealed
16 pistol license.

17 (3) Any court when entering an order under RCW 10.99.040,
18 10.99.045, or 26.50.060 that restrains the party from causing physical
19 harm or bodily injury, assaulting, sexually assaulting, molesting,
20 harassing, threatening, or stalking, a family or household member of
21 the party, or a minor child of the family or household member, shall:

22 (a) Require the party to surrender any firearm or other dangerous
23 weapon; and

24 (b) Prohibit the party from obtaining or possessing a firearm or
25 other dangerous weapon.

26 (4) The court may order temporary surrender of a firearm or other
27 dangerous weapon without notice to the other party if it finds, on the
28 basis of the moving affidavit or other evidence, that irreparable
29 injury could result if an order is not issued until the time for
30 response has elapsed.

31 ((+4)) (5) In addition to the provisions of subsections (1), (2),
32 ((and)) (3), and (4) of this section, the court may enter an order
33 requiring a party to comply with the provisions in subsection (1) of
34 this section if it finds that the possession of a firearm or other
35 dangerous weapon by any party presents a serious and imminent threat to
36 public health or safety, or to the health or safety of any individual.

37 ((+5)) (6) The requirements of subsections (1), (2), and ((+4))

1 (5) of this section may be for a period of time less than the duration
2 of the order.

3 ~~((+6+))~~ (7) The court may require the party to surrender any
4 firearm or other dangerous weapon in his or her immediate possession or
5 control or subject to his or her immediate possession or control to the
6 sheriff of the county having jurisdiction of the proceeding, the chief
7 of police of the municipality having jurisdiction, or to the restrained
8 or enjoined party's counsel or to any person designated by the court.

9 **PART FOUR**

10 **SENTENCING REFORMS**

11 **Sec. 401.** RCW 9.94A.535 and 2008 c 276 s 303 and 2008 c 233 s 9
12 are each reenacted and amended to read as follows:

13 The court may impose a sentence outside the standard sentence range
14 for an offense if it finds, considering the purpose of this chapter,
15 that there are substantial and compelling reasons justifying an
16 exceptional sentence. Facts supporting aggravated sentences, other
17 than the fact of a prior conviction, shall be determined pursuant to
18 the provisions of RCW 9.94A.537.

19 Whenever a sentence outside the standard sentence range is imposed,
20 the court shall set forth the reasons for its decision in written
21 findings of fact and conclusions of law. A sentence outside the
22 standard sentence range shall be a determinate sentence.

23 If the sentencing court finds that an exceptional sentence outside
24 the standard sentence range should be imposed, the sentence is subject
25 to review only as provided for in RCW 9.94A.585(4).

26 A departure from the standards in RCW 9.94A.589 (1) and (2)
27 governing whether sentences are to be served consecutively or
28 concurrently is an exceptional sentence subject to the limitations in
29 this section, and may be appealed by the offender or the state as set
30 forth in RCW 9.94A.585 (2) through (6).

31 (1) Mitigating Circumstances - Court to Consider

32 The court may impose an exceptional sentence below the standard
33 range if it finds that mitigating circumstances are established by a
34 preponderance of the evidence. The following are illustrative only and
35 are not intended to be exclusive reasons for exceptional sentences.

1 (a) To a significant degree, the victim was an initiator, willing
2 participant, aggressor, or provoker of the incident.

3 (b) Before detection, the defendant compensated, or made a good
4 faith effort to compensate, the victim of the criminal conduct for any
5 damage or injury sustained.

6 (c) The defendant committed the crime under duress, coercion,
7 threat, or compulsion insufficient to constitute a complete defense but
8 which significantly affected his or her conduct.

9 (d) The defendant, with no apparent predisposition to do so, was
10 induced by others to participate in the crime.

11 (e) The defendant's capacity to appreciate the wrongfulness of his
12 or her conduct, or to conform his or her conduct to the requirements of
13 the law, was significantly impaired. Voluntary use of drugs or alcohol
14 is excluded.

15 (f) The offense was principally accomplished by another person and
16 the defendant manifested extreme caution or sincere concern for the
17 safety or well-being of the victim.

18 (g) The operation of the multiple offense policy of RCW 9.94A.589
19 results in a presumptive sentence that is clearly excessive in light of
20 the purpose of this chapter, as expressed in RCW 9.94A.010.

21 (h) The defendant or the defendant's children suffered a continuing
22 pattern of physical or sexual abuse by the victim of the offense and
23 the offense is a response to that abuse.

24 (i) The current offense involved domestic violence, as defined in
25 RCW 10.99.020, and the defendant suffered a continuing pattern of
26 coercion, control, or abuse by the victim of the offense and the
27 offense is a response to that coercion, control, or abuse.

28 (2) Aggravating Circumstances - Considered and Imposed by the Court
29 The trial court may impose an aggravated exceptional sentence
30 without a finding of fact by a jury under the following circumstances:

31 (a) The defendant and the state both stipulate that justice is best
32 served by the imposition of an exceptional sentence outside the
33 standard range, and the court finds the exceptional sentence to be
34 consistent with and in furtherance of the interests of justice and the
35 purposes of the sentencing reform act.

36 (b) The defendant's prior unscored misdemeanor or prior unscored
37 foreign criminal history results in a presumptive sentence that is

1 clearly too lenient in light of the purpose of this chapter, as
2 expressed in RCW 9.94A.010.

3 (c) The defendant has committed multiple current offenses and the
4 defendant's high offender score results in some of the current offenses
5 going unpunished.

6 (d) The failure to consider the defendant's prior criminal history
7 which was omitted from the offender score calculation pursuant to RCW
8 9.94A.525 results in a presumptive sentence that is clearly too
9 lenient.

10 (3) Aggravating Circumstances - Considered by a Jury -Imposed by
11 the Court

12 Except for circumstances listed in subsection (2) of this section,
13 the following circumstances are an exclusive list of factors that can
14 support a sentence above the standard range. Such facts should be
15 determined by procedures specified in RCW 9.94A.537.

16 (a) The defendant's conduct during the commission of the current
17 offense manifested deliberate cruelty to the victim.

18 (b) The defendant knew or should have known that the victim of the
19 current offense was particularly vulnerable or incapable of resistance.

20 (c) The current offense was a violent offense, and the defendant
21 knew that the victim of the current offense was pregnant.

22 (d) The current offense was a major economic offense or series of
23 offenses, so identified by a consideration of any of the following
24 factors:

25 (i) The current offense involved multiple victims or multiple
26 incidents per victim;

27 (ii) The current offense involved attempted or actual monetary loss
28 substantially greater than typical for the offense;

29 (iii) The current offense involved a high degree of sophistication
30 or planning or occurred over a lengthy period of time; or

31 (iv) The defendant used his or her position of trust, confidence,
32 or fiduciary responsibility to facilitate the commission of the current
33 offense.

34 (e) The current offense was a major violation of the Uniform
35 Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to
36 trafficking in controlled substances, which was more onerous than the
37 typical offense of its statutory definition: The presence of ANY of
38 the following may identify a current offense as a major VUCSA:

1 (i) The current offense involved at least three separate
2 transactions in which controlled substances were sold, transferred, or
3 possessed with intent to do so;

4 (ii) The current offense involved an attempted or actual sale or
5 transfer of controlled substances in quantities substantially larger
6 than for personal use;

7 (iii) The current offense involved the manufacture of controlled
8 substances for use by other parties;

9 (iv) The circumstances of the current offense reveal the offender
10 to have occupied a high position in the drug distribution hierarchy;

11 (v) The current offense involved a high degree of sophistication or
12 planning, occurred over a lengthy period of time, or involved a broad
13 geographic area of disbursement; or

14 (vi) The offender used his or her position or status to facilitate
15 the commission of the current offense, including positions of trust,
16 confidence or fiduciary responsibility (e.g., pharmacist, physician, or
17 other medical professional).

18 (f) The current offense included a finding of sexual motivation
19 pursuant to RCW 9.94A.835.

20 (g) The offense was part of an ongoing pattern of sexual abuse of
21 the same victim under the age of eighteen years manifested by multiple
22 incidents over a prolonged period of time.

23 (h) The current offense involved domestic violence, as defined in
24 RCW 10.99.020, and one or more of the following was present:

25 (i) The offense was part of an ongoing pattern of psychological,
26 physical, or sexual abuse of ~~((the))~~ a victim or multiple victims
27 manifested by multiple incidents over a prolonged period of time;

28 (ii) The offense occurred within sight or sound of ~~((the victim's~~
29 ~~or the offender's))~~ minor children under the age of eighteen years; or

30 (iii) The offender's conduct during the commission of the current
31 offense manifested deliberate cruelty or intimidation of the victim.

32 (i) The offense resulted in the pregnancy of a child victim of
33 rape.

34 (j) The defendant knew that the victim of the current offense was
35 a youth who was not residing with a legal custodian and the defendant
36 established or promoted the relationship for the primary purpose of
37 victimization.

1 (k) The offense was committed with the intent to obstruct or impair
2 human or animal health care or agricultural or forestry research or
3 commercial production.

4 (l) The current offense is trafficking in the first degree or
5 trafficking in the second degree and any victim was a minor at the time
6 of the offense.

7 (m) The offense involved a high degree of sophistication or
8 planning.

9 (n) The defendant used his or her position of trust, confidence, or
10 fiduciary responsibility to facilitate the commission of the current
11 offense.

12 (o) The defendant committed a current sex offense, has a history of
13 sex offenses, and is not amenable to treatment.

14 (p) The offense involved an invasion of the victim's privacy.

15 (q) The defendant demonstrated or displayed an egregious lack of
16 remorse.

17 (r) The offense involved a destructive and foreseeable impact on
18 persons other than the victim.

19 (s) The defendant committed the offense to obtain or maintain his
20 or her membership or to advance his or her position in the hierarchy of
21 an organization, association, or identifiable group.

22 (t) The defendant committed the current offense shortly after being
23 released from incarceration.

24 (u) The current offense is a burglary and the victim of the
25 burglary was present in the building or residence when the crime was
26 committed.

27 (v) The offense was committed against a law enforcement officer who
28 was performing his or her official duties at the time of the offense,
29 the offender knew that the victim was a law enforcement officer, and
30 the victim's status as a law enforcement officer is not an element of
31 the offense.

32 (w) The defendant committed the offense against a victim who was
33 acting as a good samaritan.

34 (x) The defendant committed the offense against a public official
35 or officer of the court in retaliation of the public official's
36 performance of his or her duty to the criminal justice system.

37 (y) The victim's injuries substantially exceed the level of bodily

1 harm necessary to satisfy the elements of the offense. This aggravator
2 is not an exception to RCW 9.94A.530(2).

3 (z)(i)(A) The current offense is theft in the first degree, theft
4 in the second degree, possession of stolen property in the first
5 degree, or possession of stolen property in the second degree; (B) the
6 stolen property involved is metal property; and (C) the property damage
7 to the victim caused in the course of the theft of metal property is
8 more than three times the value of the stolen metal property, or the
9 theft of the metal property creates a public hazard.

10 (ii) For purposes of this subsection, "metal property" means
11 commercial metal property, private metal property, or nonferrous metal
12 property, as defined in RCW 19.290.010.

13 (aa) The defendant committed the offense with the intent to
14 directly or indirectly cause any benefit, aggrandizement, gain, profit,
15 or other advantage to or for a criminal street gang as defined in RCW
16 9.94A.030, its reputation, influence, or membership.

17 NEW SECTION. **Sec. 402.** A new section is added to chapter 10.99
18 RCW to read as follows:

19 (1) In sentencing for a crime of domestic violence as defined in
20 this chapter, courts of limited jurisdiction shall consider, among
21 other factors, whether:

22 (a) The defendant suffered a continuing pattern of coercion,
23 control, or abuse by the victim of the offense and the offense is a
24 response to that coercion, control, or abuse;

25 (b) The offense was part of an ongoing pattern of psychological,
26 physical, or sexual abuse of a victim or multiple victims manifested by
27 multiple incidents over a prolonged period of time; and

28 (c) The offense occurred within sight or sound of minor children
29 under the age of eighteen years.

30 (2)(a) In sentencing for a crime of domestic violence as defined in
31 this chapter, the prosecutor shall provide for the court's review:

32 (i) The defendant's criminal history, if any, that occurred in
33 Washington or any other state;

34 (ii) If available, the defendant's prior criminal history that
35 occurred in any tribal jurisdiction; and

36 (iii) The defendant's individual order history.

1 (b) For the purposes of (a) of this subsection, criminal history
2 includes all previous convictions and orders of deferred prosecution,
3 as reported through the judicial information system or otherwise
4 available to the court or prosecutor, current to within the period
5 specified in (c) of this subsection before the date of sentencing.

6 (c) The periods applicable to previous convictions and orders of
7 deferred prosecution are:

8 (i) One working day, in the case of previous actions of courts that
9 fully participate in the state judicial information system; and

10 (ii) Seven calendar days, in the case of previous actions of courts
11 that do not fully participate in the judicial information system. For
12 the purposes of this subsection, "fully participate" means regularly
13 providing records to and receiving records from the system by
14 electronic means on a daily basis.

15 **Sec. 403.** RCW 3.66.068 and 2001 c 94 s 2 are each amended to read
16 as follows:

17 For a period not to exceed five years after imposition of sentence
18 for a defendant sentenced for a domestic violence offense or under RCW
19 46.61.5055 and two years after imposition of sentence for all other
20 offenses, the court has continuing jurisdiction and authority to
21 suspend or defer the execution of all or any part of its sentence upon
22 stated terms, including installment payment of fines. A defendant who
23 has been sentenced, or whose sentence has been deferred, and who then
24 fails to appear for any hearing to address the defendant's compliance
25 with the terms of probation when ordered to do so by the court, shall
26 have the term of probation tolled until such time as the defendant
27 makes his or her presence known to the court on the record. However,
28 the jurisdiction period in this section does not apply to the
29 enforcement of orders issued under RCW 46.20.720. For the purposes of
30 this section, "domestic violence offense" means a crime listed in RCW
31 10.99.020 that is not a felony offense.

32 **PART FIVE**

33 **TREATMENT/SERVICES FOR PERPETRATORS AND VICTIMS**

34 **Sec. 501.** RCW 26.50.150 and 1999 c 147 s 1 are each amended to
35 read as follows:

1 Any program that provides domestic violence treatment to
2 perpetrators of domestic violence must be certified by the department
3 of social and health services and meet minimum standards for domestic
4 violence treatment purposes. The department of social and health
5 services shall adopt rules for standards of approval of domestic
6 violence perpetrator programs (~~(that accept perpetrators of domestic~~
7 ~~violence into treatment to satisfy court orders or that represent the~~
8 ~~programs as ones that treat domestic violence perpetrators)~~). The
9 treatment must meet the following minimum qualifications:

10 (1) All treatment must be based upon a full, complete clinical
11 intake including but not limited to: Current and past violence
12 history; a lethality risk assessment; history of treatment from past
13 domestic violence perpetrator treatment programs; a complete diagnostic
14 evaluation; a substance abuse assessment; criminal history; assessment
15 of cultural issues, learning disabilities, literacy, and special
16 language needs; and a treatment plan that adequately and appropriately
17 addresses the treatment needs of the individual.

18 (2) To facilitate communication necessary for periodic safety
19 checks and case monitoring, the program must require the perpetrator to
20 sign the following releases:

21 (a) A release for the program to inform the victim and victim's
22 community and legal advocates that the perpetrator is in treatment with
23 the program, and to provide information, for safety purposes, to the
24 victim and victim's community and legal advocates;

25 (b) A release to prior and current treatment agencies to provide
26 information on the perpetrator to the program; and

27 (c) A release for the program to provide information on the
28 perpetrator to relevant legal entities including: Lawyers, courts,
29 parole, probation, child protective services, and child welfare
30 services.

31 (3) Treatment must be for a minimum treatment period defined by the
32 secretary of the department by rule. The weekly treatment sessions
33 must be in a group unless there is a documented, clinical reason for
34 another modality. Any other therapies, such as individual, marital, or
35 family therapy, substance abuse evaluations or therapy, medication
36 reviews, or psychiatric interviews, may be concomitant with the weekly
37 group treatment sessions described in this section but not a substitute
38 for it.

1 (4) The treatment must focus primarily on ending the violence,
2 holding the perpetrator accountable for his or her violence, and
3 changing his or her behavior. The treatment must be based on
4 nonvictim-blaming strategies and philosophies and shall include
5 education about the individual, family, and cultural dynamics of
6 domestic violence. If the perpetrator or the victim has a minor child,
7 treatment must specifically include education regarding the effects of
8 domestic violence on children, such as the emotional impacts of
9 domestic violence on children and the long-term consequences that
10 exposure to incidents of domestic violence may have on children.

11 (5) Satisfactory completion of treatment must be contingent upon
12 the perpetrator meeting specific criteria, defined by rule by the
13 secretary of the department, and not just upon the end of a certain
14 period of time or a certain number of sessions.

15 (6) The program must have policies and procedures for dealing with
16 reoffenses and noncompliance.

17 (7) All evaluation and treatment services must be provided by, or
18 under the supervision of, qualified personnel.

19 (8) The secretary of the department may adopt rules and establish
20 fees as necessary to implement this section.

21 (9) The department may conduct on-site monitoring visits as part of
22 its plan for certifying domestic violence perpetrator programs and
23 monitoring implementation of the rules adopted by the secretary of the
24 department to determine compliance with the minimum qualifications for
25 domestic violence perpetrator programs. The applicant or certified
26 domestic violence perpetrator program shall cooperate fully with the
27 department in the monitoring visit and provide all program and
28 management records requested by the department to determine the
29 program's compliance with the minimum certification qualifications and
30 rules adopted by the department.

31 **Sec. 502.** RCW 7.68.020 and 2006 c 268 s 1 are each amended to read
32 as follows:

33 The following words and phrases as used in this chapter have the
34 meanings set forth in this section unless the context otherwise
35 requires.

36 (1) "Department" means the department of labor and industries.

1 (2) "Criminal act" means an act committed or attempted in this
2 state which is: (a) Punishable as a federal offense that is comparable
3 to a felony or gross misdemeanor in this state; (b) punishable as a
4 felony or gross misdemeanor under the laws of this state; (c) an act
5 committed outside the state of Washington against a resident of the
6 state of Washington which would be compensable had it occurred inside
7 this state and the crime occurred in a state which does not have a
8 crime victims compensation program, for which the victim is eligible as
9 set forth in the Washington compensation law; or (d) an act of
10 terrorism as defined in 18 U.S.C. Sec. 2331, as it exists on May 2,
11 1997, committed outside of the United States against a resident of the
12 state of Washington, except as follows:

13 (i) The operation of a motor vehicle, motorcycle, train, boat, or
14 aircraft in violation of law does not constitute a "criminal act"
15 unless:

16 (A) The injury or death was intentionally inflicted;

17 (B) The operation thereof was part of the commission of another
18 non-vehicular criminal act as defined in this section;

19 (C) The death or injury was the result of the operation of a motor
20 vehicle after July 24, 1983, and a preponderance of the evidence
21 establishes that the death was the result of vehicular homicide under
22 RCW 46.61.520, or a conviction of vehicular assault under RCW
23 46.61.522, has been obtained: PROVIDED, That in cases where a probable
24 criminal defendant has died in perpetration of vehicular assault or, in
25 cases where the perpetrator of the vehicular assault is unascertainable
26 because he or she left the scene of the accident in violation of RCW
27 46.52.020 or, because of physical or mental infirmity or disability the
28 perpetrator is incapable of standing trial for vehicular assault, the
29 department may, by a preponderance of the evidence, establish that a
30 vehicular assault had been committed and authorize benefits;

31 (D) The injury or death was caused by a driver in violation of RCW
32 46.61.502; or

33 (E) The injury or death was caused by a driver in violation of RCW
34 46.61.655(7)(a), failure to secure a load in the first degree;

35 (ii) Neither an acquittal in a criminal prosecution nor the absence
36 of any such prosecution is admissible in any claim or proceeding under
37 this chapter as evidence of the noncriminal character of the acts

1 giving rise to such claim or proceeding, except as provided for in
2 (d)(i)(C) of this subsection;

3 (iii) Evidence of a criminal conviction arising from acts which are
4 the basis for a claim or proceeding under this chapter is admissible in
5 such claim or proceeding for the limited purpose of proving the
6 criminal character of the acts; and

7 (iv) Acts which, but for the insanity or mental irresponsibility of
8 the perpetrator, would constitute criminal conduct are deemed to be
9 criminal conduct within the meaning of this chapter.

10 (3) "Victim" means a person who suffers bodily injury or death as
11 a proximate result of a criminal act of another person, the victim's
12 own good faith and reasonable effort to prevent a criminal act, or his
13 or her good faith effort to apprehend a person reasonably suspected of
14 engaging in a criminal act. For the purposes of receiving benefits
15 pursuant to this chapter, "victim" is interchangeable with "employee"
16 or "worker" as defined in chapter 51.08 RCW as now or hereafter
17 amended.

18 (4) "Child," "accredited school," "dependent," "beneficiary,"
19 "average monthly wage," "director," "injury," "invalid," "permanent
20 partial disability," and "permanent total disability" have the meanings
21 assigned to them in chapter 51.08 RCW as now or hereafter amended.

22 (5) "Gainfully employed" means engaging on a regular and continuous
23 basis in a lawful activity from which a person derives a livelihood.

24 (6) "Private insurance" means any source of recompense provided by
25 contract available as a result of the claimed injury or death at the
26 time of such injury or death, or which becomes available any time
27 thereafter.

28 (7) "Public insurance" means any source of recompense provided by
29 statute, state or federal, available as a result of the claimed injury
30 or death at the time of such injury or death, or which becomes
31 available any time thereafter.

32 (8) "Domestic violence offense" means any felony or nonfelony
33 domestic violence offense under chapter 10.99, 26.09, 26.10, 26.26, or
34 26.50 RCW.

35 **Sec. 503.** RCW 7.68.060 and 2001 c 153 s 1 are each amended to read
36 as follows:

37 (1) For the purposes of applying for benefits under this chapter,

1 the rights, privileges, responsibilities, duties, limitations and
2 procedures contained in RCW 51.28.020, 51.28.030, 51.28.040 and
3 51.28.060 shall apply: PROVIDED, That except for applications received
4 pursuant to subsection (4) of this section, no compensation of any kind
5 shall be available under this chapter if:

6 (a) An application for benefits is not received by the department
7 within two years after the date the criminal act was reported to a
8 local police department or sheriff's office or the date the rights of
9 dependents or beneficiaries accrued, unless the director has determined
10 that "good cause" exists to expand the time permitted to receive the
11 application. "Good cause" shall be determined by the department on a
12 case-by-case basis and may extend the period of time in which an
13 application can be received for up to five years after the date the
14 criminal act was reported to a local police department or sheriff's
15 office or the date the rights of dependents or beneficiaries accrued;
16 or

17 (b) The criminal act is not reported by the victim or someone on
18 his or her behalf to a local police department or sheriff's office
19 within twelve months of its occurrence or, if it could not reasonably
20 have been reported within that period, within twelve months of the time
21 when a report could reasonably have been made. In making
22 determinations as to reasonable time limits, the department shall give
23 greatest weight to the needs of the victims.

24 (2) This section shall apply only to criminal acts reported after
25 December 31, 1985 and domestic violence offenses reported after July 1,
26 2010.

27 (3) Because victims of childhood criminal acts may repress
28 conscious memory of such criminal acts far beyond the age of eighteen,
29 the rights of adult victims of childhood criminal acts shall accrue at
30 the time the victim discovers or reasonably should have discovered the
31 elements of the crime. In making determinations as to reasonable time
32 limits, the department shall give greatest weight to the needs of the
33 victim.

34 (4) A right to benefits under this chapter is available to any
35 victim of a person against whom the state initiates proceedings under
36 chapter 71.09 RCW. The right created under this subsection shall
37 accrue when the victim is notified of proceedings under chapter 71.09
38 RCW or the victim is interviewed, deposed, or testifies as a witness in

1 connection with the proceedings. An application for benefits under
2 this subsection must be received by the department within two years
3 after the date the victim's right accrued unless the director
4 determines that good cause exists to expand the time to receive the
5 application. The director shall determine "good cause" on a case-by-
6 case basis and may extend the period of time in which an application
7 can be received for up to five years after the date the right of the
8 victim accrued. Benefits under this subsection shall be limited to
9 compensation for costs or losses incurred on or after the date the
10 victim's right accrues for a claim allowed under this subsection.

11 (5)(a) A right to benefits under this chapter is available to any
12 child under the age of eighteen years old who: (i) Resides with a
13 person that has been a victim of a domestic violence offense; and (ii)
14 was a direct witness by sight or sound to the domestic violence offense
15 that occurred.

16 (b) The domestic violence offense must be reported by the victim or
17 someone on his or her behalf to a local police department or sheriff's
18 office within twelve months of its occurrence, or, if it could not
19 reasonably have been reported within that period, within twelve months
20 of the time when a report could reasonably have been made. Benefits
21 under this subsection are limited to compensation for domestic violence
22 treatment and counseling costs incurred as a result of a child being
23 the direct witness of the domestic violence offense occurring.

24 **Sec. 504.** RCW 7.68.070 and 2009 c 38 s 1 are each amended to read
25 as follows:

26 The right to benefits under this chapter and the amount thereof
27 will be governed insofar as is applicable by the provisions contained
28 in chapter 51.32 RCW except as provided in this section:

29 (1) The provisions contained in RCW 51.32.015, 51.32.030,
30 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 are not
31 applicable to this chapter.

32 (2) Each victim injured as a result of a criminal act, including
33 criminal acts committed between July 1, 1981, and January 1, 1983, or
34 the victim's family or dependents in case of death of the victim, are
35 entitled to benefits in accordance with this chapter, subject to the
36 limitations under RCW 7.68.015. The rights, duties, responsibilities,

1 limitations, and procedures applicable to a worker as contained in RCW
2 51.32.010 are applicable to this chapter.

3 (3) The limitations contained in RCW 51.32.020 are applicable to
4 claims under this chapter. In addition thereto, no person or spouse,
5 child, or dependent of such person is entitled to benefits under this
6 chapter when the injury for which benefits are sought, was:

7 (a) The result of consent, provocation, or incitement by the
8 victim, unless an injury resulting from a criminal act caused the death
9 of the victim;

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

12 (c) Sustained while the victim was confined in any county or city
13 jail, federal jail or prison or in any other federal institution, or
14 any state correctional institution maintained and operated by the
15 department of social and health services or the department of
16 corrections, prior to release from lawful custody; or confined or
17 living in any other institution maintained and operated by the
18 department of social and health services or the department of
19 corrections.

20 (4) The benefits established upon the death of a worker and
21 contained in RCW 51.32.050 shall be the benefits obtainable under this
22 chapter and provisions relating to payment contained in that section
23 shall equally apply under this chapter: PROVIDED, That benefits for
24 burial expenses shall not exceed the amount paid by the department in
25 case of the death of a worker as provided in chapter 51.32 RCW in any
26 claim: PROVIDED FURTHER, That if the criminal act results in the death
27 of a victim who was not gainfully employed at the time of the criminal
28 act, and who was not so employed for at least three consecutive months
29 of the twelve months immediately preceding the criminal act;

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

36 (b) Where any such spouse has legal custody of one or more but not
37 all of such children, then such burial expenses shall be paid, and such
38 spouse shall receive a lump sum payment of three thousand seven hundred

1 fifty dollars and any such child or children not in the legal custody
2 of such spouse shall receive a lump sum of three thousand seven hundred
3 fifty dollars to be divided equally among such child or children;

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

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

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

18 (5) The benefits established in RCW 51.32.060 for permanent total
19 disability proximately caused by the criminal act shall be the benefits
20 obtainable under this chapter, and provisions relating to payment
21 contained in that section apply under this chapter: PROVIDED, That if
22 a victim becomes permanently and totally disabled as a proximate result
23 of the criminal act and was not gainfully employed at the time of the
24 criminal act, the victim shall receive monthly during the period of the
25 disability the following percentages, where applicable, of the average
26 monthly wage determined as of the date of the criminal act pursuant to
27 RCW 51.08.018:

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

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

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

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

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

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

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

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

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

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

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

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

15 (6) The benefits established in RCW 51.32.080 for permanent partial
16 disability shall be the benefits obtainable under this chapter, and
17 provisions relating to payment contained in that section equally apply
18 under this chapter.

19 (7) The benefits established in RCW 51.32.090 for temporary total
20 disability shall be the benefits obtainable under this chapter, and
21 provisions relating to payment contained in that section apply under
22 this chapter: PROVIDED, That no person is eligible for temporary total
23 disability benefits under this chapter if such person was not gainfully
24 employed at the time of the criminal act, and was not so employed for
25 at least three consecutive months of the twelve months immediately
26 preceding the criminal act.

27 (8) The benefits established in RCW 51.32.095 for continuation of
28 benefits during vocational rehabilitation shall be benefits obtainable
29 under this chapter, and provisions relating to payment contained in
30 that section apply under this chapter: PROVIDED, That benefits shall
31 not exceed five thousand dollars for any single injury.

32 (9) The provisions for lump sum payment of benefits upon death or
33 permanent total disability as contained in RCW 51.32.130 apply under
34 this chapter.

35 (10) The provisions relating to payment of benefits to, for or on
36 behalf of workers contained in RCW 51.32.040, 51.32.055, 51.32.100,
37 51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and

1 51.32.210 are applicable to payment of benefits to, for or on behalf of
2 victims under this chapter.

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

9 (12) In addition to other benefits provided under this chapter,
10 victims of sexual assault are entitled to receive appropriate
11 counseling. Fees for such counseling shall be determined by the
12 department in accordance with RCW 51.04.030, subject to the limitations
13 of RCW 7.68.080. Counseling services may include, if determined
14 appropriate by the department, counseling of members of the victim's
15 immediate family, other than the perpetrator of the assault.

16 (13) Except for medical benefits authorized under RCW 7.68.080, no
17 more than thirty thousand dollars shall be granted as a result of a
18 single injury or death, except that benefits granted as the result of
19 total permanent disability or death shall not exceed forty thousand
20 dollars.

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

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

27 (16) Crime victims' compensation is not available to pay for
28 services covered under chapter 74.09 RCW or Title XIX of the federal
29 social security act, except to the extent that the costs for such
30 services exceed service limits established by the department of social
31 and health services or, during the 1993-95 fiscal biennium, to the
32 extent necessary to provide matching funds for federal medicaid
33 reimbursement.

34 (17) In addition to other benefits provided under this chapter,
35 immediate family members of a homicide victim may receive appropriate
36 counseling to assist in dealing with the immediate, near-term
37 consequences of the related effects of the homicide. Fees for
38 counseling shall be determined by the department in accordance with RCW

1 51.04.030, subject to the limitations of RCW 7.68.080. Payment of
2 counseling benefits under this section may not be provided to the
3 perpetrator of the homicide. The benefits under this subsection may be
4 provided only with respect to homicides committed on or after July 1,
5 1992.

6 (18) A dependent mother, father, stepmother, or stepfather, as
7 defined in RCW 51.08.050, who is a survivor of her or his child's
8 homicide, who has been requested by a law enforcement agency or a
9 prosecutor to assist in the judicial proceedings related to the death
10 of the victim, and who is not domiciled in Washington state at the time
11 of the request, may receive a lump-sum payment upon arrival in this
12 state. Total benefits under this subsection may not exceed seven
13 thousand five hundred dollars. If more than one dependent parent is
14 eligible for this benefit, the lump-sum payment of seven thousand five
15 hundred dollars shall be divided equally among the dependent parents.

16 (19) A victim whose crime occurred in another state who qualifies
17 for benefits under RCW 7.68.060(4) may receive appropriate mental
18 health counseling to address distress arising from participation in the
19 civil commitment proceedings. Fees for counseling shall be determined
20 by the department in accordance with RCW 51.04.030, subject to the
21 limitations of RCW 7.68.080.

22 (20)(a) A child under the age of eighteen years old who: (i)
23 Resides with a person that is a victim of a domestic violence offense;
24 and (ii) was a direct witness by sight or sound to the domestic
25 violence offense occurring, qualifies for benefits under RCW
26 7.68.060(5) and may receive appropriate counseling and treatment to
27 address distress arising from the domestic violence offense where he or
28 she was a direct witness.

29 (b) The department shall determine fees for counseling and
30 treatment services, subject to the limitations of RCW 7.68.080.

31 PART SIX

32 MISCELLANEOUS PROVISIONS

33 **Sec. 601.** RCW 68.50.160 and 2007 c 156 s 24 are each amended to
34 read as follows:

35 (1) A person has the right to control the disposition of his or her
36 own remains without the predeath or postdeath consent of another

1 person. A valid written document expressing the decedent's wishes
2 regarding the place or method of disposition of his or her remains,
3 signed by the decedent in the presence of a witness, is sufficient
4 legal authorization for the procedures to be accomplished.

5 (2) Prearrangements that are prepaid, or filed with a licensed
6 funeral establishment or cemetery authority, under RCW 18.39.280
7 through 18.39.345 and chapter 68.46 RCW are not subject to cancellation
8 or substantial revision by survivors. Absent actual knowledge of
9 contrary legal authorization under this section, a licensed funeral
10 establishment or cemetery authority shall not be held criminally nor
11 civilly liable for acting upon such prearrangements.

12 (3) Except as provided in subsection (4) of this subsection, if the
13 decedent has not made a prearrangement as set forth in subsection (2)
14 of this section or the costs of executing the decedent's wishes
15 regarding the disposition of the decedent's remains exceeds a reason-
16 able amount or directions have not been given by the decedent, the
17 right to control the disposition of the remains of a deceased person
18 vests in, and the duty of disposition and the liability for the
19 reasonable cost of preparation, care, and disposition of such remains
20 devolves upon the following in the order named:

21 (a) The surviving spouse or state registered domestic partner.

22 (b) The surviving adult children of the decedent.

23 (c) The surviving parents of the decedent.

24 (d) The surviving siblings of the decedent.

25 (e) A person acting as a representative of the decedent under the
26 signed authorization of the decedent.

27 (4) A person listed in subsection (3) of this section does not have
28 the right to control the disposition of a decedent's remains if the
29 person has been arrested for or charged with first or second degree
30 murder, homicide by abuse, or first or second degree manslaughter by
31 reason of the death of the decedent. The right to control the
32 disposition of the decedent's remains vests in an eligible person in
33 the next applicable class in accordance with subsection (3) of this
34 section.

35 (5) If a cemetery authority as defined in RCW 68.04.190 or a
36 funeral establishment licensed under chapter 18.39 RCW has made a good
37 faith effort to locate the person cited in subsection (3)(a) through
38 (e) of this section or the legal representative of the decedent's

1 estate, the cemetery authority or funeral establishment shall have the
2 right to rely on an authority to bury or cremate the human remains,
3 executed by the most responsible party available, and the cemetery
4 authority or funeral establishment may not be held criminally or
5 civilly liable for burying or cremating the human remains. In the
6 event any government agency provides the funds for the disposition of
7 any human remains and the government agency elects to provide funds for
8 cremation only, the cemetery authority or funeral establishment may not
9 be held criminally or civilly liable for cremating the human remains.

10 ~~((+5+))~~ (6) The liability for the reasonable cost of preparation,
11 care, and disposition devolves jointly and severally upon all kin of
12 the decedent in the same degree of kindred, in the order listed in
13 subsection (3) of this section, and upon the estate of the decedent.

14 NEW SECTION. Sec. 602. A new section is added to chapter 2.56 RCW
15 to read as follows:

16 (1)(a) The administrative office of the courts shall, within
17 existing resources, convene a work group to address the issue of
18 transmitting information regarding revocation of concealed pistol
19 licenses, upon the entry of orders issued under chapter 10.99, 26.50,
20 or 26.52 RCW.

21 (b) The work group must include a superior court judge, a district
22 court judge, a municipal court judge, an attorney whose practice
23 includes a significant amount of time representing defendants in
24 criminal trials, and representatives from the following entities: The
25 Washington state patrol, the Washington association of sheriffs and
26 police chiefs, the prosecuting attorneys association, the department of
27 licensing, and the county clerks. Other members may be added as deemed
28 appropriate by the work group.

29 (2) The work group shall review the methods currently used to
30 transfer information between the courts, the county clerks, the
31 prosecutors, the department of licensing, the Washington state patrol,
32 and local law enforcement agencies regarding the suspension and
33 revocation of concealed pistol licenses.

34 (3) The goal of the work group is to identify methods to expedite
35 the transfer of information to enhance the safety of law enforcement
36 and the public.

1 (4) The work group shall report its recommendations to the affected
2 entities and the legislature not later than December 1, 2010. All
3 agency representatives shall cooperate fully with the work group's
4 efforts.

--- END ---