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**SUBSTITUTE HOUSE BILL 1383**

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**State of Washington**

**63rd Legislature**

**2013 Regular Session**

**By** House Judiciary (originally sponsored by Representatives Goodman, Fey, Kirby, Orwall, O'Ban, Roberts, Jinkins, Hope, Angel, Smith, Dahlquist, Wilcox, and Kristiansen)

READ FIRST TIME 02/18/13.

1       AN ACT Relating to protection orders for stalking and harassment;  
2 amending RCW 9.41.800, 9.94A.535, 9A.46.040, 9A.46.110, 10.14.070, and  
3 10.31.100; reenacting and amending RCW 26.50.110; adding new sections  
4 to chapter 10.14 RCW; adding a new section to chapter 9A.46 RCW; adding  
5 a new chapter to Title 7 RCW; and prescribing penalties.

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

7       NEW SECTION. **Sec. 1.** Stalking is a crime that affects 3.4 million  
8 people over the age of eighteen each year in the United States. Almost  
9 half of those victims experience at least one unwanted contact per  
10 week. Twenty-nine percent of stalking victims fear that the stalking  
11 will never stop. The prevalence of anxiety, insomnia, social  
12 dysfunction, and severe depression is much higher among stalking  
13 victims than the general population. Three in four stalking victims  
14 are stalked by someone they know, and at least thirty percent of  
15 stalking victims are stalked by a current or former intimate partner.  
16 For many of those victims, the domestic violence protection order is a  
17 tool they can access to help them stay safer. For those who have not  
18 had an intimate relationship with the person stalking them, there are  
19 few remedies for them under the law. Victims who do not report the

1 crime still desire safety and protection from future interactions with  
2 the offender. Some cases in which the stalking is reported are not  
3 prosecuted. In these situations, the victim should be able to seek a  
4 civil remedy requiring that the offender stay away from the victim. It  
5 is the intent of the legislature that the stalking protection order  
6 created by this chapter be a remedy for victims who do not qualify for  
7 a domestic violence order of protection. Moreover, it is the intent of  
8 the legislature that courts specifically distinguish stalking conduct  
9 covered by the stalking protection order from common acts of harassment  
10 or nuisance covered by antiharassment orders. Law enforcement agencies  
11 need to be able to rely on orders that distinguish stalking conduct  
12 from common acts of harassment or nuisance. Victims of stalking  
13 conduct deserve the same protection and access to the court system as  
14 victims of domestic violence and sexual assault, and this protection  
15 can be accomplished without infringing on constitutionally protected  
16 speech or activity. The legislature finds that preventing the issuance  
17 of conflicting orders is in the interest of both petitioners and  
18 respondents.

19 NEW SECTION. **Sec. 2.** The definitions in this section apply  
20 throughout this chapter unless the context clearly requires otherwise.

21 (1) "Petitioner" means any named petitioner for the stalking  
22 protection order or any named victim of stalking conduct on whose  
23 behalf the petition is brought.

24 (2) "Stalking conduct" means any of the following:

25 (a) Any act of stalking as defined under RCW 9A.46.110;

26 (b) Any act of cyberstalking as defined under RCW 9.61.260;

27 (c) Any course of conduct involving repeated or continuing  
28 contacts, attempts to contact, monitoring, tracking, keeping under  
29 observation, or following of another that would cause a reasonable  
30 person to feel intimidated or threatened and that actually causes such  
31 feeling and serves no lawful purpose.

32 (3) "Stalking protection order" means an ex parte temporary order  
33 or a final order granted under this chapter, which includes a remedy  
34 authorized in section 10 of this act.

35 NEW SECTION. **Sec. 3.** There shall exist an action known as a  
36 petition for a stalking protection order.

1 (1) A petition for relief shall allege the existence of stalking  
2 conduct and shall be accompanied by an affidavit made under oath  
3 stating the specific reasons that have caused the petitioner to become  
4 reasonably fearful that the respondent intends to injure the petitioner  
5 or another person, or the petitioner's property or the property of  
6 another. The petition shall disclose the existence of any other  
7 litigation or of any other restraining, protection, or no-contact  
8 orders between the parties.

9 (2) A petition for relief may be made regardless of whether or not  
10 there is a pending lawsuit, complaint, petition, or other action  
11 between the parties.

12 (3) Forms and instructional brochures and the necessary number of  
13 certified copies shall be provided free of charge.

14 (4) A person is not required to post a bond to obtain relief in any  
15 proceeding under this section.

16 (5) If the petition states that disclosure of the petitioner's  
17 address would risk abuse of the petitioner or any member of the  
18 petitioner's family or household, that address may be omitted from all  
19 documents filed with the court. If the petitioner has not disclosed an  
20 address under this subsection, the petitioner shall designate an  
21 alternative address at which the respondent may serve notice of any  
22 motions.

23 NEW SECTION. **Sec. 4.** A petition for a stalking protection order  
24 may be filed by a person:

25 (1) Who does not qualify for a protection order under chapter 26.50  
26 RCW and who is a victim of stalking conduct; or

27 (2) On behalf of any of the following persons who is a victim of  
28 stalking conduct and who does not qualify for a protection order under  
29 chapter 26.50 RCW:

30 (a) A minor child, where the petitioner is a parent, a legal  
31 custodian, or, where the respondent is not a parent, an adult with whom  
32 the child is currently residing; or

33 (b) A vulnerable adult as defined in RCW 74.34.020 and where the  
34 petitioner is an interested person as defined in RCW 74.34.020(10).

35 NEW SECTION. **Sec. 5.** (1) Any person may seek relief under this

1 chapter by filing a petition with a court alleging that the person has  
2 been the victim of stalking conduct committed by the respondent.

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

6 (3) The district courts shall have original jurisdiction and  
7 cognizance of any civil actions and proceedings brought under this  
8 chapter, except a district court shall transfer such actions and  
9 proceedings to the superior court when it is shown that (a) the  
10 respondent to the petition is under eighteen years of age; (b) the  
11 action involves title or possession of real property; (c) a superior  
12 court has exercised or is exercising jurisdiction over a proceeding  
13 involving the parties; or (d) the action would have the effect of  
14 interfering with a respondent's care, control, or custody of the  
15 respondent's minor child.

16 (4) Municipal courts may exercise jurisdiction and cognizance of  
17 any civil actions and proceedings brought under this chapter by  
18 adoption of local court rule, except a municipal court shall transfer  
19 such actions and proceedings to the superior court when it is shown  
20 that (a) the respondent to the petition is under eighteen years of age;  
21 (b) the action involves title or possession of real property; (c) a  
22 superior court has exercised or is exercising jurisdiction over a  
23 proceeding involving the parties; or (d) the action would have the  
24 effect of interfering with a respondent's care, control, or custody of  
25 the respondent's minor child.

26 (5) Superior courts shall have concurrent jurisdiction to receive  
27 transfer of stalking petitions in cases where a district or municipal  
28 court judge makes findings of fact and conclusions of law showing that  
29 meritorious reasons exist for the transfer. The jurisdiction of  
30 district and municipal courts is limited to enforcement of RCW  
31 26.50.110(1), or the equivalent municipal ordinance, and the issuance  
32 and enforcement of temporary orders provided for in section 12 of this  
33 act if the superior court is exercising jurisdiction over a proceeding  
34 under this chapter involving the parties.

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

1 (7) If a guardian ad litem is appointed for the petitioner or  
2 respondent, the petitioner shall not be required to pay any fee  
3 associated with such appointment.

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

9 NEW SECTION. **Sec. 6.** Upon receipt of the petition, the court  
10 shall order a hearing which shall be held not later than fourteen days  
11 from the date of the order. The court may schedule a hearing by  
12 telephone, to reasonably accommodate a disability, or in exceptional  
13 circumstances to protect a petitioner from further stalking behavior.  
14 The court shall require assurances of the petitioner's identity before  
15 conducting a telephonic hearing. Except as provided in section 15 of  
16 this act, personal service shall be made upon the respondent not less  
17 than five court days prior to the hearing. If timely personal service  
18 cannot be made, the court shall set a new hearing date and shall  
19 require additional attempts at obtaining personal service or other  
20 service as permitted under section 15 of this act. The court may issue  
21 an ex parte temporary stalking order pending the hearing as provided in  
22 section 12 of this act.

23 NEW SECTION. **Sec. 7.** Before granting an order under this chapter,  
24 the court may consult the judicial information system, if available, to  
25 determine criminal history or the pendency of other proceedings  
26 involving the parties.

27 NEW SECTION. **Sec. 8.** No fees for filing or service of process may  
28 be charged by a public agency to petitioners seeking relief under this  
29 chapter.

30 NEW SECTION. **Sec. 9.** Victim advocates shall be allowed to  
31 accompany the victim and confer with the victim, unless otherwise  
32 directed by the court. Court administrators shall allow advocates to  
33 assist victims of stalking conduct in the preparation of petitions for

1 stalking protection orders. Advocates are not engaged in the  
2 unauthorized practice of law when providing assistance of the types  
3 specified in this section.

4 NEW SECTION. **Sec. 10.** (1)(a) If the court finds by a  
5 preponderance of the evidence that the petitioner has been a victim of  
6 stalking conduct by the respondent, the court shall issue a stalking  
7 protection order; provided that the petitioner must also satisfy the  
8 requirements of section 13 of this act for final orders.

9 (b) The petitioner shall not be denied a stalking protection order  
10 because the petitioner or the respondent is a minor or because the  
11 petitioner did not report the stalking conduct to law enforcement. The  
12 court, when determining whether or not to issue a stalking protection  
13 order, may not require proof of the respondent's intentions regarding  
14 the acts alleged by the petitioner. Modification and extension of  
15 prior stalking protection orders shall be in accordance with this  
16 chapter.

17 (2) The court may provide relief as follows:

18 (a) Restrain the respondent from having any contact, including  
19 nonphysical contact, with the petitioner directly, indirectly, or  
20 through third parties regardless of whether those third parties know of  
21 the order;

22 (b) Exclude the respondent from the petitioner's residence,  
23 workplace, or school, or from the day care, workplace, or school of the  
24 petitioner's minor children;

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

28 (d) Prohibit the respondent from keeping the petitioner and/or the  
29 petitioner's minor children under surveillance, to include electronic  
30 surveillance;

31 (e) Order any other injunctive relief as necessary or appropriate  
32 for the protection of the petitioner, to include a mental health and/or  
33 chemical dependency evaluation; and

34 (f) Require the respondent to pay the administrative court costs  
35 and service fees, as established by the county or municipality  
36 incurring the expense and to reimburse the petitioner for costs  
37 incurred in bringing the action, including reasonable attorneys' fees.

1 (3) In cases where the petitioner and the respondent attend the  
2 same public or private elementary, middle, or high school, the court,  
3 when issuing a protection order and providing relief, shall consider,  
4 among the other facts of the case, the severity of the act, any  
5 continuing physical danger or emotional distress to the petitioner, and  
6 the expense difficulty, and educational disruption that would be caused  
7 by a transfer of the respondent to another school. The court may order  
8 that the person restrained in the order not attend the public or  
9 approved private elementary, middle, or high school attended by the  
10 person protected by the order. In the event the court orders a  
11 transfer of the restrained person to another school, the parents or  
12 legal guardians of the person restrained in the order are responsible  
13 for transportation and other costs associated with the change of school  
14 by the person restrained in the order. The court shall send notice of  
15 the restriction on attending the same school as the person protected by  
16 the order to the public or approved private school the person  
17 restrained by the order will attend and to the school the person  
18 protected by the order attends.

19 NEW SECTION. **Sec. 11.** For the purposes of issuing a stalking  
20 protection order, deciding what relief should be included in the order,  
21 and enforcing the order, RCW 9A.08.020 shall govern whether the  
22 respondent is legally accountable for the conduct of another person.

23 NEW SECTION. **Sec. 12.** (1) Where it appears from the petition and  
24 any additional evidence that the respondent has engaged in stalking  
25 conduct and that irreparable injury could result if an order is not  
26 issued immediately without prior notice, the court may grant an ex  
27 parte temporary order for protection, pending a full hearing and grant  
28 such injunctive relief as it deems proper, including the relief as  
29 specified under section 10 (2)(a) through (d) and (3) of this act.

30 (2) Irreparable injury under this section includes, but is not  
31 limited to, situations in which the respondent has recently threatened  
32 the petitioner with bodily injury or has engaged in acts of stalking  
33 conduct against the petitioner.

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

1 (4) An ex parte temporary stalking protection order shall be  
2 effective for a fixed period not to exceed fourteen days or twenty-four  
3 days if the court has permitted service by publication or mail. The ex  
4 parte order may be reissued. A full hearing, as provided in this  
5 chapter, shall be set for not later than fourteen days from the  
6 issuance of the temporary order or not later than twenty-four days if  
7 service by publication or by mail is permitted. Unless the court has  
8 permitted service by publication or mail, the respondent shall be  
9 personally served with a copy of the ex parte order along with a copy  
10 of the petition and notice of the date set for the hearing.

11 (5) Any order issued under this section shall contain the date and  
12 time of issuance and the expiration date and shall be entered into a  
13 statewide judicial information system by the clerk of the court within  
14 one judicial day after issuance.

15 (6) If the court declines to issue an ex parte temporary stalking  
16 protection order, the court shall state the particular reasons for the  
17 court's denial. The court's denial of a motion for an ex parte  
18 temporary order shall be filed with the court.

19 (7) A knowing violation of a court order issued under this section  
20 is punishable under RCW 26.50.110.

21 NEW SECTION. **Sec. 13.** (1) Except as otherwise provided in this  
22 section or section 16 of this act, a final stalking protection order  
23 shall be effective for a fixed period of time or be permanent.

24 (2) Any ex parte temporary or final stalking protection order may  
25 be renewed one or more times. The petitioner may apply for renewal of  
26 the order by filing a petition for renewal at any time within the three  
27 months before the order expires. If the motion for renewal is  
28 uncontested and the petitioner seeks no modification of the order, the  
29 order may be renewed on the basis of the petitioner's motion or  
30 affidavit stating that there has been no material change in relevant  
31 circumstances since entry of the order and stating the reason for the  
32 requested renewal. The court shall grant the petition for renewal  
33 unless the respondent proves by a preponderance of the evidence that  
34 the respondent will not resume acts of stalking conduct against the  
35 petitioner or the petitioner's children or family or household members  
36 when the order expires. The court may renew the stalking protection  
37 order for another fixed time period or may enter a permanent order as



1 provided in this section. The court may award court costs, service  
2 fees, and reasonable attorneys' fees as provided in section 10 of this  
3 act.

4 (3) Any stalking protection order which would expire on a court  
5 holiday shall instead expire at the close of the next court business  
6 day.

7 (4) The practice of dismissing or suspending a criminal prosecution  
8 in exchange for the issuance of a stalking protection order undermines  
9 the purposes of this chapter. This section shall not be construed as  
10 encouraging that practice.

11 (5) If the court declines to issue an order for protection or  
12 declines to renew an order for protection, the court shall state in  
13 writing on the order the particular reasons for the court's denial.

14 NEW SECTION. **Sec. 14.** (1) Any stalking protection order shall  
15 describe each remedy granted by the court, in reasonable detail and not  
16 by reference to any other document, so that the respondent may clearly  
17 understand what he or she must do or refrain from doing.

18 (2) A stalking protection order shall further state the following:

19 (a) The name of each petitioner that the court finds was the victim  
20 of stalking by the respondent;

21 (b) The date and time the stalking protection order was issued,  
22 whether it is an ex parte temporary or final order, and the duration of  
23 the order;

24 (c) The date, time, and place for any scheduled hearing for renewal  
25 of that stalking protection order or for another order of greater  
26 duration or scope;

27 (d) For each remedy in an ex parte temporary stalking protection  
28 order, the reason for entering that remedy without prior notice to the  
29 respondent or greater notice than was actually given;

30 (e) For ex parte temporary stalking protection orders, that the  
31 respondent may petition the court, to modify or terminate the order if  
32 he or she did not receive actual prior notice of the hearing and if the  
33 respondent alleges that he or she had a meritorious defense to the  
34 order or that the order or its remedy is not authorized by this  
35 chapter.

36 (3) A stalking protection order shall include the following notice,  
37 printed in conspicuous type: "A knowing violation of this stalking

1 protection order is a criminal offense under chapter 26.50 RCW and will  
2 subject a violator to arrest. You can be arrested even if any person  
3 protected by the order invites or allows you to violate the order's  
4 prohibitions. You have the sole responsibility to avoid or refrain  
5 from violating the order's provisions. Only the court can change the  
6 order."

7 NEW SECTION. **Sec. 15.** (1) An order issued under this chapter  
8 shall be personally served upon the respondent, except as provided in  
9 subsection (6), (7), or (8) of this section.

10 (2) The sheriff of the county or the peace officers of the  
11 municipality in which the respondent resides shall serve the respondent  
12 personally unless the petitioner elects to have the respondent served  
13 by a private party.

14 (3) If service by a sheriff or municipal peace officer is to be  
15 used, the clerk of the court shall have a copy of any order issued  
16 under this chapter forwarded on or before the next judicial day to the  
17 appropriate law enforcement agency specified in the order for service  
18 upon the respondent. Service of an order issued under this chapter  
19 shall take precedence over the service of other documents unless they  
20 are of a similar emergency nature.

21 (4) If the sheriff or municipal peace officer cannot complete  
22 service upon the respondent within ten days, the sheriff or municipal  
23 peace officer shall notify the petitioner. The petitioner shall  
24 provide information sufficient to permit notification.

25 (5) Returns of service under this chapter shall be made in  
26 accordance with the applicable court rules.

27 (6) If an order entered by the court recites that the respondent  
28 appeared in person before the court, the necessity for further service  
29 is waived and proof of service of that order is not necessary.

30 (7) If the respondent was not personally served with the petition,  
31 notice of hearing, and ex parte order before the hearing, the court  
32 shall reset the hearing for twenty-four days from the date of entry of  
33 the order and may order service by publication instead of personal  
34 service under the following circumstances:

35 (a) The sheriff or municipal officer files an affidavit stating  
36 that the officer was unable to complete personal service upon the

1 respondent. The affidavit must describe the number and types of  
2 attempts the officer made to complete service;

3 (b) The petitioner files an affidavit stating that the petitioner  
4 believes that the respondent is hiding from the server to avoid  
5 service. The petitioner's affidavit must state the reasons for the  
6 belief that the respondent is avoiding service;

7 (c) The server has deposited a copy of the summons, in  
8 substantially the form prescribed in (f) of this subsection, notice of  
9 hearing, and the ex parte order of protection in the post office,  
10 directed to the respondent at the respondent's last known address,  
11 unless the server states that the server does not know the respondent's  
12 address;

13 (d) The court finds reasonable grounds exist to believe that the  
14 respondent is concealing himself or herself to avoid service, and that  
15 further attempts to personally serve the respondent would be futile or  
16 unduly burdensome;

17 (e) The court shall reissue the temporary order of protection not  
18 to exceed another twenty-four days from the date of reissuing the ex  
19 parte protection order and order to provide service by publication; and

20 (f) The publication shall be made in a newspaper of general  
21 circulation in the county where the petition was brought and in the  
22 county of the last known address of the respondent once a week for  
23 three consecutive weeks. The newspaper selected must be one of the  
24 three most widely circulated papers in the county. The publication of  
25 summons shall not be made until the court orders service by publication  
26 under this section. Service of the summons shall be considered  
27 complete when the publication has been made for three consecutive  
28 weeks. The summons must be signed by the petitioner. The summons  
29 shall contain the date of the first publication, and shall require the  
30 respondent upon whom service by publication is desired, to appear and  
31 answer the petition on the date set for the hearing. The summons shall  
32 also contain a brief statement of the reason for the petition and a  
33 summary of the provisions under the ex parte order. The summons shall  
34 be essentially in the following form:

35

36 In the ..... court of the state of Washington for  
37 the county of .....

1 ..... , Petitioner  
2 vs. No. ....  
3 ..... , Respondent

4 The state of Washington to ..... (respondent):  
5 You are hereby summoned to appear on the .... day  
6 of ....., 20..., at .... a.m./p.m., and respond to the  
7 petition. If you fail to respond, an order of protection will  
8 be issued against you pursuant to the provisions of the  
9 stalking protection order act, chapter 7.-- RCW (the new  
10 chapter created in section 33 of this act), for a minimum of  
11 one year from the date you are required to appear. A  
12 temporary order of protection has been issued against you,  
13 restraining you from the following: (Insert a brief statement  
14 of the provisions of the ex parte order.) A copy of the  
15 petition, notice of hearing, and ex parte order has been filed  
16 with the clerk of this court.

17 .....  
18 Petitioner .....

19 (8) In circumstances justifying service by publication under  
20 subsection (7) of this section, if the serving party files an affidavit  
21 stating facts from which the court determines that service by mail is  
22 just as likely to give actual notice as service by publication and that  
23 the serving party is unable to afford the cost of service by  
24 publication, the court may order that service be made by mail. Such  
25 service shall be made by any person over eighteen years of age, who is  
26 competent to be a witness, other than a party, by mailing copies of the  
27 order and other process to the party to be served at his or her last  
28 known address or any other address determined by the court to be  
29 appropriate. Two copies shall be mailed, postage prepaid, one by  
30 ordinary first-class mail and the other by a form of mail requiring a  
31 signed receipt showing when and to whom it was delivered. The  
32 envelopes must bear the return address of the sender.

33 (a) Proof of service under this section shall be consistent with  
34 court rules for civil proceedings.

35 (b) Service under this section may be used in the same manner and  
36 shall have the same jurisdictional effect as service by publication for

1 purposes of this chapter. Service shall be deemed complete upon the  
2 mailing of two copies as prescribed in this section.

3 NEW SECTION. **Sec. 16.** (1)(a) When any person charged with or  
4 arrested for stalking as defined in RCW 9A.46.110 or any other stalking  
5 related offense under RCW 9A.46.060 is released from custody before  
6 arraignment or trial on bail or personal recognizance, the court  
7 authorizing the release may prohibit that person from having any  
8 contact with the victim. The jurisdiction authorizing the release  
9 shall determine whether that person should be prohibited from having  
10 any contact with the victim. If there is no outstanding restraining or  
11 protective order prohibiting that person from having contact with the  
12 victim, and the victim does not qualify for a domestic violence  
13 protection order under chapter 26.50 RCW, the court authorizing release  
14 may issue, by telephone, a stalking protection order prohibiting the  
15 person charged or arrested from having contact with the victim or from  
16 knowingly coming within, or knowingly remaining within, a specified  
17 distance of a location.

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

20 (c) The stalking protection order shall also be issued in writing  
21 as soon as possible.

22 (2)(a) At the time of arraignment or whenever a motion is brought  
23 to modify the conditions of the defendant's release, the court shall  
24 determine whether a stalking protection order shall be issued or  
25 extended. If a stalking protection order is issued or extended, the  
26 court may also include in the conditions of release a requirement that  
27 the defendant submit to electronic monitoring, including real-time  
28 global position satellite monitoring with victim notification. If  
29 electronic monitoring is ordered, the court shall specify who shall  
30 provide the monitoring services, and the terms under which the  
31 monitoring shall be performed. Upon conviction, the court may require  
32 as a condition of the sentence that the defendant reimburse the  
33 providing agency for the costs of the electronic monitoring, including  
34 costs relating to real-time global position satellite monitoring with  
35 victim notification.

36 (b) A stalking protection order issued by the court in conjunction  
37 with criminal charges shall terminate if the defendant is acquitted or

1 the charges are dismissed, unless the victim files an independent  
2 action for a stalking protection order. If the victim files an  
3 independent action for a stalking protection order, the order may be  
4 continued by the court until a full hearing is conducted pursuant to  
5 section 6 of this act.

6 (3)(a) The written order releasing the person charged or arrested  
7 shall contain the court's directives and shall bear the legend:  
8 "Violation of this order is a criminal offense under chapter 26.50 RCW  
9 and will subject a violator to arrest. You can be arrested even if any  
10 person protected by the order invites or allows you to violate the  
11 order's prohibitions. You have the sole responsibility to avoid or  
12 refrain from violating the order's provisions. Only the court can  
13 change the order."

14 (b) A certified copy of the order shall be provided to the victim  
15 at no charge.

16 (4) If a stalking protection order has been issued prior to  
17 charging, that order shall expire at arraignment or within seventy-two  
18 hours if charges are not filed.

19 (5) Whenever an order prohibiting contact is issued pursuant to  
20 subsection (2) of this section, the clerk of the court shall forward a  
21 copy of the order on or before the next judicial day to the appropriate  
22 law enforcement agency specified in the order. Upon receipt of the  
23 copy of the order, the law enforcement agency shall enter the order for  
24 one year unless a different expiration date is specified on the order  
25 into any computer-based criminal intelligence information system  
26 available in this state used by law enforcement agencies to list  
27 outstanding warrants. Entry into the computer-based criminal  
28 intelligence information system constitutes notice to all law  
29 enforcement agencies of the existence of the order. The order is fully  
30 enforceable in any jurisdiction in the state.

31 (6)(a) When a defendant is found guilty of stalking as defined in  
32 RCW 9A.46.110 or any other stalking related offense under RCW 9A.46.060  
33 and a condition of the sentence restricts the defendant's ability to  
34 have contact with the victim, and the victim does not qualify for a  
35 domestic violence protection order under chapter 26.50 RCW, the  
36 condition shall be recorded as a stalking protection order.

37 (b) The written order entered as a condition of sentencing shall  
38 contain the court's directives and shall bear the legend: "Violation

1 of this order is a criminal offense under chapter 26.50 RCW and will  
2 subject a violator to arrest. You can be arrested even if any person  
3 protected by the order invites or allows you to violate the order's  
4 prohibitions. You have the sole responsibility to avoid or refrain  
5 from violating the order's provisions. Only the court can change the  
6 order."

7 (c) A final stalking protection order entered in conjunction with  
8 a criminal prosecution shall remain in effect for a period of five  
9 years from the date of entry.

10 (d) A certified copy of the order shall be provided to the victim  
11 at no charge.

12 (7) A knowing violation of a court order issued under subsection  
13 (1), (2), or (6) of this section is punishable under RCW 26.50.110.

14 (8) Whenever a stalking protection order is issued, modified, or  
15 terminated under subsection (1), (2), or (6) of this section, the clerk  
16 of the court shall forward a copy of the order on or before the next  
17 judicial day to the appropriate law enforcement agency specified in the  
18 order. Upon receipt of the copy of the order, the law enforcement  
19 agency shall enter the order for one year unless a different expiration  
20 date is specified on the order into any computer-based criminal  
21 intelligence information system available in this state used by law  
22 enforcement agencies to list outstanding warrants. Entry into the  
23 computer-based criminal intelligence information system constitutes  
24 notice to all law enforcement agencies of the existence of the order.  
25 The order is fully enforceable in any jurisdiction in the state. Upon  
26 receipt of notice that an order has been terminated under subsection  
27 (2) of this section, the law enforcement agency shall remove the order  
28 from the computer-based criminal intelligence information system.

29 NEW SECTION. **Sec. 17.** (1) In a proceeding in which a petition for  
30 a stalking protection order is sought under this chapter, a court of  
31 this state may exercise personal jurisdiction over a nonresident  
32 individual if:

33 (a) The individual is personally served with a petition within this  
34 state;

35 (b) The individual submits to the jurisdiction of this state by  
36 consent, entering a general appearance, or filing a responsive document

1 having the effect of waiving any objection to consent to personal  
2 jurisdiction;

3 (c) The act or acts of the individual or the individual's agent  
4 giving rise to the petition or enforcement of a stalking protection  
5 order occurred within this state;

6 (d)(i) The act or acts of the individual or the individual's agent  
7 giving rise to the petition or enforcement of a stalking protection  
8 order occurred outside this state and are part of an ongoing pattern of  
9 stalking behavior that has an adverse effect on the petitioner or a  
10 member of the petitioner's family or household and the petitioner  
11 resides in this state; or

12 (ii) As a result of acts of stalking behavior, the petitioner or a  
13 member of the petitioner's family or household has sought safety or  
14 protection in this state and currently resides in this state; or

15 (e) There is any other basis consistent with RCW 4.28.185 or with  
16 the Constitution of this state and the Constitution of the United  
17 States.

18 (2) For jurisdiction to be exercised under subsection (1)(d)(i) or  
19 (ii) of this section, the individual must have communicated with the  
20 petitioner or a member of the petitioner's family, directly or  
21 indirectly, or made known a threat to the safety of the petitioner or  
22 member of the petitioner's family while the petitioner or family member  
23 resides in this state. For the purposes of subsection (1)(d)(i) or  
24 (ii) of this section, "communicated or made known" includes, but is not  
25 limited to, through the mail, telephonically, or a posting on an  
26 electronic communication site or medium. Communication on any  
27 electronic medium that is generally available to any individual  
28 residing in the state shall be sufficient to exercise jurisdiction  
29 under subsection (1)(d)(i) or (ii) of this section.

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

36 NEW SECTION. **Sec. 18.** (1) A copy of a stalking protection order  
37 granted under this chapter shall be forwarded by the clerk of the court



1 on or before the next judicial day to the appropriate law enforcement  
2 agency specified in the order. Upon receipt of the order, the law  
3 enforcement agency shall immediately enter the order into any  
4 computer-based criminal intelligence information system available in  
5 this state used by law enforcement agencies to list outstanding  
6 warrants. The order shall remain in the computer for one year unless  
7 a different expiration date is specified on the order. Upon receipt of  
8 notice that an order has been terminated, the law enforcement agency  
9 shall remove the order from the computer-based criminal intelligence  
10 information system. The law enforcement agency shall only expunge from  
11 the computer-based criminal intelligence information system orders that  
12 are expired, vacated, terminated, or superseded. Entry into the law  
13 enforcement information system constitutes notice to all law  
14 enforcement agencies of the existence of the order. The order is fully  
15 enforceable in any county in the state.

16 (2) The information entered into the computer-based criminal  
17 intelligence information system shall include notice to law enforcement  
18 whether the order was personally served, served by publication, or  
19 served by mail.

20 NEW SECTION. **Sec. 19.** (1) Upon application with notice to all  
21 parties and after a hearing, the court may modify the terms of an  
22 existing stalking protection order.

23 (2) A respondent's motion to modify or terminate an existing  
24 stalking protection order must include a declaration setting forth  
25 facts supporting the requested order for termination or modification.  
26 The nonmoving parties to the proceeding may file opposing declarations.  
27 The court shall deny the motion unless it finds that adequate cause for  
28 hearing the motion is established by the declarations. If the court  
29 finds that the respondent established adequate cause, the court shall  
30 set a date for hearing the respondent's motion.

31 (3) The court may not terminate or modify an existing stalking  
32 protection order unless the respondent proves by a preponderance of the  
33 evidence that there has been a substantial change in circumstances such  
34 that the respondent will not resume acts of stalking conduct against  
35 the petitioner or those persons protected by the protection order if  
36 the order is terminated or modified. The petitioner bears no burden of

1 proving that he or she has a current reasonable fear of harm by the  
2 respondent.

3 (4) A court may require the respondent to pay the petitioner for  
4 costs incurred in responding to a motion to terminate or modify a  
5 stalking protection order, including reasonable attorneys' fees.

6 (5) In any situation where an order is terminated or modified  
7 before its expiration date, the clerk of the court shall forward on or  
8 before the next judicial day a true copy of the modified order or the  
9 termination order to the appropriate law enforcement agency specified  
10 in the modified or termination order. Upon receipt of the order, the  
11 law enforcement agency shall promptly enter it in the computer-based  
12 criminal intelligence information system, or if the order is  
13 terminated, remove the order from the computer-based criminal  
14 intelligence information system.

15 NEW SECTION. **Sec. 20.** A new section is added to chapter 10.14 RCW  
16 to read as follows:

17 In each county, the superior court may appoint one or more  
18 attorneys to act as protection order commissioners pursuant to this  
19 chapter to exercise all powers and perform all duties of a court  
20 commissioner appointed pursuant to RCW 2.24.010 provided that such  
21 positions may not be created without prior consent of the county  
22 legislative authority. A person appointed as a protection order  
23 commissioner under this chapter may also be appointed to any other  
24 commissioner position authorized by law.

25 NEW SECTION. **Sec. 21.** A new section is added to chapter 10.14 RCW  
26 to read as follows:

27 (1) By January 1, 2014, the administrative office of the courts  
28 shall develop a single master petition pattern form for all  
29 antiharassment and stalking protection orders issued under chapter 7.--  
30 RCW (the new chapter created in section 33 of this act) and this  
31 chapter. The master petition must prompt petitioners to disclose on  
32 the form whether the petitioner who is seeking an ex parte order has  
33 experienced stalking conduct as defined in section 2 of this act. An  
34 antiharassment order and stalking protection order issued under chapter  
35 7.-- RCW (the new chapter created in section 33 of this act) and this

1 chapter must substantially comply with the pattern form developed by  
2 the administrative office of the courts.

3 (2) The legislature respectfully requests that the Washington state  
4 supreme court gender and justice commission consider other potential  
5 solutions to reduce confusion about which type of protection order a  
6 petitioner should seek and to provide any recommendations to the  
7 legislature by January 1, 2014.

8 NEW SECTION. **Sec. 22.** An ex parte temporary order issued under  
9 this chapter shall not be admissible as evidence in any subsequent  
10 civil action for damages arising from the conduct alleged in the  
11 petition or the order.

12 NEW SECTION. **Sec. 23.** Nothing in this chapter shall be construed  
13 as requiring criminal charges to be filed as a condition of a stalking  
14 protection order being issued.

15 NEW SECTION. **Sec. 24.** This act may be known and cited as the  
16 stalking protection order act.

17 **Sec. 25.** RCW 9.41.800 and 2002 c 302 s 704 are each amended to  
18 read as follows:

19 (1) Any court when entering an order authorized under chapter 7.--  
20 RCW (the new chapter created in section 33 of this act), RCW 9A.46.080,  
21 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040,  
22 26.10.115, 26.26.130, 26.50.060, 26.50.070, or 26.26.590 shall, upon a  
23 showing by clear and convincing evidence, that a party has: Used,  
24 displayed, or threatened to use a firearm or other dangerous weapon in  
25 a felony, or previously committed any offense that makes him or her  
26 ineligible to possess a firearm under the provisions of RCW 9.41.040:

27 (a) Require the party to surrender any firearm or other dangerous  
28 weapon;

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

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

33 (d) Prohibit the party from obtaining or possessing a concealed  
34 pistol license.

1 (2) Any court when entering an order authorized under chapter 7.--  
2 RCW (the new chapter created in section 33 of this act), RCW 9A.46.080,  
3 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040,  
4 26.10.115, 26.26.130, 26.50.060, 26.50.070, or 26.26.590 may, upon a  
5 showing by a preponderance of the evidence but not by clear and  
6 convincing evidence, that a party has: Used, displayed, or threatened  
7 to use a firearm or other dangerous weapon in a felony, or previously  
8 committed any offense that makes him or her ineligible to possess a  
9 pistol under the provisions of RCW 9.41.040:

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

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

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

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

18 (3) The court may order temporary surrender of a firearm or other  
19 dangerous weapon without notice to the other party if it finds, on the  
20 basis of the moving affidavit or other evidence, that irreparable  
21 injury could result if an order is not issued until the time for  
22 response has elapsed.

23 (4) In addition to the provisions of subsections (1), (2), and (3)  
24 of this section, the court may enter an order requiring a party to  
25 comply with the provisions in subsection (1) of this section if it  
26 finds that the possession of a firearm or other dangerous weapon by any  
27 party presents a serious and imminent threat to public health or  
28 safety, or to the health or safety of any individual.

29 (5) The requirements of subsections (1), (2), and (4) of this  
30 section may be for a period of time less than the duration of the  
31 order.

32 (6) The court may require the party to surrender any firearm or  
33 other dangerous weapon in his or her immediate possession or control or  
34 subject to his or her immediate possession or control to the sheriff of  
35 the county having jurisdiction of the proceeding, the chief of police  
36 of the municipality having jurisdiction, or to the restrained or  
37 enjoined party's counsel or to any person designated by the court.

1       **Sec. 26.** RCW 9.94A.535 and 2011 c 87 s 1 are each amended to read  
2 as follows:

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

9       Whenever a sentence outside the standard sentence range is imposed,  
10 the court shall set forth the reasons for its decision in written  
11 findings of fact and conclusions of law. A sentence outside the  
12 standard sentence range shall be a determinate sentence.

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

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

21       (1) Mitigating Circumstances - Court to Consider

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

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

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

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

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

36       (e) The defendant's capacity to appreciate the wrongfulness of his  
37 or her conduct, or to conform his or her conduct to the requirements of

1 the law, was significantly impaired. Voluntary use of drugs or alcohol  
2 is excluded.

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

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

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

12 (i) The defendant was making a good faith effort to obtain or  
13 provide medical assistance for someone who is experiencing a drug-  
14 related overdose.

15 (j) The current offense involved domestic violence, as defined in  
16 RCW 10.99.020, and the defendant suffered a continuing pattern of  
17 coercion, control, or abuse by the victim of the offense and the  
18 offense is a response to that coercion, control, or abuse.

19 (2) Aggravating Circumstances - Considered and Imposed by the Court

20 The trial court may impose an aggravated exceptional sentence  
21 without a finding of fact by a jury under the following circumstances:

22 (a) The defendant and the state both stipulate that justice is best  
23 served by the imposition of an exceptional sentence outside the  
24 standard range, and the court finds the exceptional sentence to be  
25 consistent with and in furtherance of the interests of justice and the  
26 purposes of the sentencing reform act.

27 (b) The defendant's prior unscored misdemeanor or prior unscored  
28 foreign criminal history results in a presumptive sentence that is  
29 clearly too lenient in light of the purpose of this chapter, as  
30 expressed in RCW 9.94A.010.

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

34 (d) The failure to consider the defendant's prior criminal history  
35 which was omitted from the offender score calculation pursuant to RCW  
36 9.94A.525 results in a presumptive sentence that is clearly too  
37 lenient.

1 (3) Aggravating Circumstances - Considered by a Jury -Imposed by  
2 the Court

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

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

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

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

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

16 (i) The current offense involved multiple victims or multiple  
17 incidents per victim;

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

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

22 (iv) The defendant used his or her position of trust, confidence,  
23 or fiduciary responsibility to facilitate the commission of the current  
24 offense.

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

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

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

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

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

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

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

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

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

15 (h) The current offense involved domestic violence, as defined in  
16 RCW 10.99.020, or stalking, as defined in RCW 9A.46.110, and one or  
17 more of the following was present:

18 (i) The offense was part of an ongoing pattern of psychological,  
19 physical, or sexual abuse of a victim or multiple victims manifested by  
20 multiple incidents over a prolonged period of time;

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

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

25 (i) The offense resulted in the pregnancy of a child victim of  
26 rape.

27 (j) The defendant knew that the victim of the current offense was  
28 a youth who was not residing with a legal custodian and the defendant  
29 established or promoted the relationship for the primary purpose of  
30 victimization.

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

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

37 (m) The offense involved a high degree of sophistication or  
38 planning.



1 (n) The defendant used his or her position of trust, confidence, or  
2 fiduciary responsibility to facilitate the commission of the current  
3 offense.

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

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

7 (q) The defendant demonstrated or displayed an egregious lack of  
8 remorse.

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

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

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

16 (u) The current offense is a burglary and the victim of the  
17 burglary was present in the building or residence when the crime was  
18 committed.

19 (v) The offense was committed against a law enforcement officer who  
20 was performing his or her official duties at the time of the offense,  
21 the offender knew that the victim was a law enforcement officer, and  
22 the victim's status as a law enforcement officer is not an element of  
23 the offense.

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

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

29 (y) The victim's injuries substantially exceed the level of bodily  
30 harm necessary to satisfy the elements of the offense. This aggravator  
31 is not an exception to RCW 9.94A.530(2).

32 (z)(i)(A) The current offense is theft in the first degree, theft  
33 in the second degree, possession of stolen property in the first  
34 degree, or possession of stolen property in the second degree; (B) the  
35 stolen property involved is metal property; and (C) the property damage  
36 to the victim caused in the course of the theft of metal property is  
37 more than three times the value of the stolen metal property, or the  
38 theft of the metal property creates a public hazard.

1 (ii) For purposes of this subsection, "metal property" means  
2 commercial metal property, private metal property, or nonferrous metal  
3 property, as defined in RCW 19.290.010.

4 (aa) The defendant committed the offense with the intent to  
5 directly or indirectly cause any benefit, aggrandizement, gain, profit,  
6 or other advantage to or for a criminal street gang as defined in RCW  
7 9.94A.030, its reputation, influence, or membership.

8 (bb) The current offense involved paying to view, over the internet  
9 in violation of RCW 9.68A.075, depictions of a minor engaged in an act  
10 of sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through  
11 (g).

12 (cc) The offense was intentionally committed because the defendant  
13 perceived the victim to be homeless, as defined in RCW 9.94A.030.

14 **Sec. 27.** RCW 9A.46.040 and 2012 c 223 s 1 are each amended to read  
15 as follows:

16 (1) Because of the likelihood of repeated harassment directed at  
17 those who have been victims of harassment in the past, when any  
18 defendant charged with a crime involving harassment is released from  
19 custody before trial on bail or personal recognizance, the court  
20 authorizing the release may issue an order pursuant to this chapter and  
21 require that the defendant:

22 (a) Stay away from the home, school, business, or place of  
23 employment of the victim or victims of the alleged offense or other  
24 location, as shall be specifically named by the court in the order;

25 (b) Refrain from contacting, intimidating, threatening, or  
26 otherwise interfering with the victim or victims of the alleged offense  
27 and such other persons, including but not limited to members of the  
28 family or household of the victim, as shall be specifically named by  
29 the court in the order.

30 (2) Willful violation of a court order issued under this section or  
31 an equivalent local ordinance is a gross misdemeanor. The written  
32 order releasing the defendant shall contain the court's directives and  
33 shall bear the legend: Violation of this order is a criminal offense  
34 under chapter 9A.46 RCW. A certified copy of the order shall be  
35 provided to the victim by the clerk of the court.

36 (3) If the defendant is charged with the crime of stalking or any  
37 other stalking related offense under RCW 9A.46.060, and the court

1 issues an order protecting the victim, the court shall issue a stalking  
2 protection order pursuant to chapter 7.-- RCW (the new chapter created  
3 in section 33 of this act).

4 NEW SECTION. Sec. 28. A new section is added to chapter 9A.46 RCW  
5 to read as follows:

6 (1) A defendant arrested for stalking as defined by RCW 9A.46.110  
7 shall be required to appear in person before a magistrate within one  
8 judicial day after the arrest.

9 (2) At the time of appearance provided in subsection (1) of this  
10 section the court shall determine the necessity of imposing a stalking  
11 protection order under chapter 7.-- RCW (the new chapter created in  
12 section 33 of this act).

13 (3) Appearances required pursuant to this section are mandatory and  
14 cannot be waived.

15 (4) The stalking protection order shall be issued and entered with  
16 the appropriate law enforcement agency pursuant to the procedures  
17 outlined in chapter 7.-- RCW (the new chapter created in section 33 of  
18 this act).

19 **Sec. 29.** RCW 9A.46.110 and 2007 c 201 s 1 are each amended to read  
20 as follows:

21 (1) A person commits the crime of stalking if, without lawful  
22 authority and under circumstances not amounting to a felony attempt of  
23 another crime:

24 (a) He or she intentionally and repeatedly harasses or repeatedly  
25 follows another person; and

26 (b) The person being harassed or followed is placed in fear that  
27 the stalker intends to injure the person, another person, or property  
28 of the person or of another person. The feeling of fear must be one  
29 that a reasonable person in the same situation would experience under  
30 all the circumstances; and

31 (c) The stalker either:

32 (i) Intends to frighten, intimidate, or harass the person; or

33 (ii) Knows or reasonably should know that the person is afraid,  
34 intimidated, or harassed even if the stalker did not intend to place  
35 the person in fear or intimidate or harass the person.

1 (2)(a) It is not a defense to the crime of stalking under  
2 subsection (1)(c)(i) of this section that the stalker was not given  
3 actual notice that the person did not want the stalker to contact or  
4 follow the person; and

5 (b) It is not a defense to the crime of stalking under subsection  
6 (1)(c)(ii) of this section that the stalker did not intend to frighten,  
7 intimidate, or harass the person.

8 (3) It shall be a defense to the crime of stalking that the  
9 defendant is a licensed private investigator acting within the capacity  
10 of his or her license as provided by chapter 18.165 RCW.

11 (4) Attempts to contact or follow the person after being given  
12 actual notice that the person does not want to be contacted or followed  
13 constitutes prima facie evidence that the stalker intends to intimidate  
14 or harass the person. "Contact" includes, in addition to any other  
15 form of contact or communication, the sending of an electronic  
16 communication to the person.

17 (5)(a) Except as provided in (b) of this subsection, a person who  
18 stalks another person is guilty of a gross misdemeanor.

19 (b) A person who stalks another is guilty of a class ((C)) B felony  
20 if any of the following applies: (i) The stalker has previously been  
21 convicted in this state or any other state of any crime of harassment,  
22 as defined in RCW 9A.46.060, of the same victim or members of the  
23 victim's family or household or any person specifically named in a  
24 protective order; (ii) the stalking violates any protective order  
25 protecting the person being stalked; (iii) the stalker has previously  
26 been convicted of a gross misdemeanor or felony stalking offense under  
27 this section for stalking another person; (iv) the stalker was armed  
28 with a deadly weapon, as defined in RCW ((~~9.94A.602~~)) 9.94A.825, while  
29 stalking the person; (v)(A) the stalker's victim is or was a law  
30 enforcement officer; judge; juror; attorney; victim advocate;  
31 legislator; community corrections' officer; an employee, contract staff  
32 person, or volunteer of a correctional agency; court employee, court  
33 clerk, or courthouse facilitator; or an employee of the child  
34 protective, child welfare, or adult protective services division within  
35 the department of social and health services; and (B) the stalker  
36 stalked the victim to retaliate against the victim for an act the  
37 victim performed during the course of official duties or to influence  
38 the victim's performance of official duties; or (vi) the stalker's

1 victim is a current, former, or prospective witness in an adjudicative  
2 proceeding, and the stalker stalked the victim to retaliate against the  
3 victim as a result of the victim's testimony or potential testimony.

4 (6) As used in this section:

5 (a) "Correctional agency" means a person working for the department  
6 of natural resources in a correctional setting or any state, county, or  
7 municipally operated agency with the authority to direct the release of  
8 a person serving a sentence or term of confinement and includes but is  
9 not limited to the department of corrections, the indeterminate  
10 sentence review board, and the department of social and health  
11 services.

12 (b) "Follows" means deliberately maintaining visual or physical  
13 proximity to a specific person over a period of time. A finding that  
14 the alleged stalker repeatedly and deliberately appears at the person's  
15 home, school, place of employment, business, or any other location to  
16 maintain visual or physical proximity to the person is sufficient to  
17 find that the alleged stalker follows the person. It is not necessary  
18 to establish that the alleged stalker follows the person while in  
19 transit from one location to another.

20 (c) "Harasses" means unlawful harassment as defined in RCW  
21 10.14.020.

22 (d) "Protective order" means any temporary or permanent court order  
23 prohibiting or limiting violence against, harassment of, contact or  
24 communication with, or physical proximity to another person.

25 (e) "Repeatedly" means on two or more separate occasions.

26 **Sec. 30.** RCW 10.14.070 and 2005 c 144 s 1 are each amended to read  
27 as follows:

28 Upon receipt of the petition alleging a prima facie case of  
29 harassment, other than a petition alleging a sex offense as defined in  
30 chapter 9A.44 RCW or a petition for a stalking protection order under  
31 chapter 7.-- RCW (the new chapter created in section 33 of this act),  
32 the court shall order a hearing which shall be held not later than  
33 fourteen days from the date of the order. If the petition alleges a  
34 sex offense as defined in chapter 9A.44 RCW, the court shall order a  
35 hearing which shall be held not later than fourteen days from the date  
36 of the order. Except as provided in RCW 10.14.085, personal service  
37 shall be made upon the respondent not less than five court days before

1 the hearing. If timely personal service cannot be made, the court  
2 shall set a new hearing date and shall either require additional  
3 attempts at obtaining personal service or permit service by publication  
4 as provided by RCW 10.14.085. If the court permits service by  
5 publication, the court shall set the hearing date not later than  
6 twenty-four days from the date of the order. The court may issue an ex  
7 parte order for protection pending the hearing as provided in RCW  
8 10.14.080 and 10.14.085.

9 **Sec. 31.** RCW 26.50.110 and 2009 c 439 s 3 and 2009 c 288 s 3 are  
10 each reenacted and amended to read as follows:

11 (1)(a) Whenever an order is granted under this chapter, chapter  
12 7.-- (the new chapter created in section 33 of this act), 7.90, 9A.46,  
13 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or there is a valid  
14 foreign protection order as defined in RCW 26.52.020, and the  
15 respondent or person to be restrained knows of the order, a violation  
16 of any of the following provisions of the order is a gross misdemeanor,  
17 except as provided in subsections (4) and (5) of this section:

18 (i) The restraint provisions prohibiting acts or threats of  
19 violence against, or stalking of, a protected party, or restraint  
20 provisions prohibiting contact with a protected party;

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

23 (iii) A provision prohibiting a person from knowingly coming  
24 within, or knowingly remaining within, a specified distance of a  
25 location;

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

30 (v) A provision of a foreign protection order specifically  
31 indicating that a violation will be a crime.

32 (b) Upon conviction, and in addition to any other penalties  
33 provided by law, the court may require that the respondent submit to  
34 electronic monitoring. The court shall specify who shall provide the  
35 electronic monitoring services, and the terms under which the  
36 monitoring shall be performed. The order also may include a

1 requirement that the respondent pay the costs of the monitoring. The  
2 court shall consider the ability of the convicted person to pay for  
3 electronic monitoring.

4 (2) A peace officer shall arrest without a warrant and take into  
5 custody a person whom the peace officer has probable cause to believe  
6 has violated an order issued under this chapter, chapter 7.-- (the new  
7 chapter created in section 33 of this act), 7.90, 9A.46 9.94A, 10.99,  
8 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order  
9 as defined in RCW 26.52.020, that restrains the person or excludes the  
10 person from a residence, workplace, school, or day care, or prohibits  
11 the person from knowingly coming within, or knowingly remaining within,  
12 a specified distance of a location, if the person restrained knows of  
13 the order. Presence of the order in the law enforcement computer-based  
14 criminal intelligence information system is not the only means of  
15 establishing knowledge of the order.

16 (3) A violation of an order issued under this chapter, chapter 7.--  
17 (the new chapter created in section 33 of this act), 7.90, 9A.46,  
18 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign  
19 protection order as defined in RCW 26.52.020, shall also constitute  
20 contempt of court, and is subject to the penalties prescribed by law.

21 (4) Any assault that is a violation of an order issued under this  
22 chapter, chapter 7.-- (the new chapter created in section 33 of this  
23 act), 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or  
24 of a valid foreign protection order as defined in RCW 26.52.020, and  
25 that does not amount to assault in the first or second degree under RCW  
26 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in  
27 violation of such an order that is reckless and creates a substantial  
28 risk of death or serious physical injury to another person is a class  
29 C felony.

30 (5) A violation of a court order issued under this chapter, chapter  
31 7.-- (the new chapter created in section 33 of this act), 7.90, 9A.46,  
32 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign  
33 protection order as defined in RCW 26.52.020, is a class C felony if  
34 the offender has at least two previous convictions for violating the  
35 provisions of an order issued under this chapter, chapter 7.90, 9A.46,  
36 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign  
37 protection order as defined in RCW 26.52.020. The previous convictions

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

3 (6) Upon the filing of an affidavit by the petitioner or any peace  
4 officer alleging that the respondent has violated an order granted  
5 under this chapter, chapter 7.-- (the new chapter created in section 33  
6 of this act), 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34  
7 RCW, or a valid foreign protection order as defined in RCW 26.52.020,  
8 the court may issue an order to the respondent, requiring the  
9 respondent to appear and show cause within fourteen days why the  
10 respondent should not be found in contempt of court and punished  
11 accordingly. The hearing may be held in the court of any county or  
12 municipality in which the petitioner or respondent temporarily or  
13 permanently resides at the time of the alleged violation.

14 **Sec. 32.** RCW 10.31.100 and 2010 c 274 s 201 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.-- (the new chapter created in  
35 section 33 of this act), 7.90, 9A.46, 10.99, 26.09, 26.10, 26.26,  
36 26.50, or 74.34 RCW restraining the person and the person has violated  
37 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 of each person involved, including whether the conduct was  
35 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 subsection (2) or (8) of this section if  
13 the police officer acts in good faith and without malice.

14 NEW SECTION. **Sec. 33.** Sections 1 through 19 and 22 through 24 of  
15 this act constitute a new chapter in Title 7 RCW.

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