
SUBSTITUTE HOUSE BILL 2402

State of Washington

56th Legislature

2000 Regular Session

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Ballasiotes, O'Brien, Radcliff, Cody, Edwards, Benson, Haigh, Ruderman and Kagi; by request of Governor Locke)

Read first time 02/04/2000. Referred to Committee on .

1 AN ACT Relating to domestic violence; amending RCW 10.31.100,
2 10.99.020, 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26.130,
3 26.26.137, 26.50.060, 26.50.070, 10.99.040, 10.99.045, 10.99.050,
4 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.50.150, 26.50.160,
5 26.52.070, 70.123.050, and 74.34.130; reenacting and amending RCW
6 9.94A.320 and 9.94A.440; adding a new section to chapter 3.62 RCW;
7 adding a new section to chapter 26.50 RCW; adding a new section to
8 chapter 74.34 RCW; creating a new section; prescribing penalties;
9 providing an effective date; and declaring an emergency.

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

11 NEW SECTION. **Sec. 1.** A new section is added to chapter 3.62 RCW
12 to read as follows:

13 (1) When any person is found guilty, in any court organized under
14 Title 3 or 35 RCW, of a domestic violence offense as defined in RCW
15 10.99.020, or of a violation of a similar municipal ordinance, the
16 court shall impose upon the person a penalty assessment in addition to
17 any other penalty or fine imposed or authorized by law. The amount of
18 the penalty assessment shall be five hundred dollars for each case or
19 cause of action that includes one or more convictions of a gross

1 misdemeanor, and two hundred fifty dollars for each case or cause of
2 action that includes one or more convictions of only one or more
3 misdemeanors. The court may not suspend or waive the penalty
4 assessment.

5 (2) The court shall remit the assessments imposed and collected
6 under this section to the city treasurer, in the case of a municipal
7 court, or the county treasurer, in the case of a district court. The
8 city or county treasurer shall monthly remit one-half of the funds
9 received under this section to the state treasurer for deposit in the
10 domestic violence reduction account under this section.

11 (3) The domestic violence reduction account is created in the state
12 treasury. All receipts from domestic violence penalty assessments
13 remitted to the state treasurer under this section shall be deposited
14 in the account. Moneys in the account may be spent only after
15 appropriation. Expenditures from the account may be used only for
16 programs and services to prevent domestic violence, services to victims
17 of domestic violence and their children, and improvements in law
18 enforcement relating to domestic violence.

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

21 The department of social and health services, in its discretion,
22 may seek the relief provided in this chapter on behalf of and with the
23 consent of any vulnerable adult as those persons are defined in RCW
24 74.34.020. Neither the department nor the state of Washington shall be
25 liable for failure to seek relief on behalf of any persons under this
26 section.

27 NEW SECTION. **Sec. 3.** A new section is added to chapter 74.34 RCW
28 to read as follows:

29 (1) An order for protection of a vulnerable adult issued under this
30 chapter which restrains the respondent or another person from
31 committing acts of abuse, prohibits contact with the petitioner,
32 excludes the person from any specified location, or prohibits the
33 person from coming within a specified distance from a location or
34 another person, shall prominently bear on the front page of the order
35 the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS
36 A CRIMINAL OFFENSE UNDER CHAPTER 26.50 RCW AND WILL SUBJECT A VIOLATOR
37 TO ARREST.

1 (2) Whenever an order for protection of a vulnerable adult is
2 issued under this chapter, and the respondent or person to be
3 restrained knows of the order, a violation of a provision restraining
4 the person from committing acts of abuse, prohibiting contact with the
5 petitioner, excluding the person from any specified location, or
6 prohibiting the person from coming within a specified distance of a
7 location or another person, shall be punishable under RCW 26.50.110,
8 regardless of whether the person is a family or household member as
9 defined in RCW 26.50.010.

10 **Sec. 4.** RCW 10.31.100 and 1999 c 184 s 14 are each amended to read
11 as follows:

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

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

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

29 (a) An order has been issued of which the person has knowledge
30 under RCW (~~(10.99.040(2), 10.99.050, 26.09.050, 26.09.060, 26.10.040,~~
31 ~~26.10.115,~~) 26.44.063, or chapter 10.99, 26.09, 26.10, 26.26 (~~(RCW, or~~
32 ~~chapter)~~), 26.50, or 74.34 RCW restraining the person and the person
33 has violated the terms of the order restraining the person from acts or
34 threats of violence, or restraining the person from going onto the
35 grounds of or entering a residence, workplace, school, or day care, or
36 prohibiting the person from coming within a specified distance of a
37 location or another person, or, in the case of an order issued under

1 RCW 26.44.063, imposing any other restrictions or conditions upon the
2 person; or

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

13 (c) The person is sixteen years or older and within the preceding
14 four hours has assaulted a family or household member as defined in RCW
15 10.99.020 and the officer believes: (i) A felonious assault has
16 occurred; (ii) an assault has occurred which has resulted in bodily
17 injury to the victim, whether the injury is observable by the
18 responding officer or not; or (iii) that any physical action has
19 occurred which was intended to cause another person reasonably to fear
20 imminent serious bodily injury or death. Bodily injury means physical
21 pain, illness, or an impairment of physical condition. When the
22 officer has probable cause to believe that family or household members
23 have assaulted each other, the officer is not required to arrest both
24 persons. The officer shall arrest the person whom the officer believes
25 to be the primary physical aggressor. In making this determination,
26 the officer shall make every reasonable effort to consider: (i) The
27 intent to protect victims of domestic violence under RCW 10.99.010;
28 (ii) the comparative extent of injuries inflicted or serious threats
29 creating fear of physical injury; and (iii) the history of domestic
30 violence between the persons involved.

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

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

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

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

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

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

5 (f) RCW 46.61.5249, relating to operating a motor vehicle in a
6 negligent manner.

7 (4) A law enforcement officer investigating at the scene of a motor
8 vehicle accident may arrest the driver of a motor vehicle involved in
9 the accident if the officer has probable cause to believe that the
10 driver has committed in connection with the accident a violation of any
11 traffic law or regulation.

12 (5) Any police officer having probable cause to believe that a
13 person has committed or is committing a violation of RCW ((88.12.025))
14 79A.60.040 shall have the authority to arrest the person.

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

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

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

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

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

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

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

4 (12) No police officer may be held criminally or civilly liable for
5 making an arrest pursuant to RCW 10.31.100 (2) or (8) if the police
6 officer acts in good faith and without malice.

7 **Sec. 5.** RCW 10.99.020 and 1997 c 338 s 53 are each amended to read
8 as follows:

9 Unless the context clearly requires otherwise, the definitions in
10 this section apply throughout this chapter.

11 (1) "Family or household members" means spouses, former spouses,
12 persons who have a child in common regardless of whether they have been
13 married or have lived together at any time, adult persons related by
14 blood or marriage, adult persons who are presently residing together or
15 who have resided together in the past, persons sixteen years of age or
16 older who are presently residing together or who have resided together
17 in the past and who have or have had a dating relationship, persons
18 sixteen years of age or older with whom a person sixteen years of age
19 or older has or has had a dating relationship, and persons who have a
20 biological or legal parent-child relationship, including stepparents
21 and stepchildren and grandparents and grandchildren.

22 (2) "Dating relationship" has the same meaning as in RCW 26.50.010.

23 (3) "Domestic violence" includes but is not limited to any of the
24 following crimes when committed by one family or household member
25 against another:

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

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

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

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

30 (e) Drive-by shooting (RCW 9A.36.045);

31 (f) Reckless endangerment (RCW 9A.36.050);

32 (g) Coercion (RCW 9A.36.070);

33 (h) Burglary in the first degree (RCW 9A.52.020);

34 (i) Burglary in the second degree (RCW 9A.52.030);

35 (j) Criminal trespass in the first degree (RCW 9A.52.070);

36 (k) Criminal trespass in the second degree (RCW 9A.52.080);

37 (l) Malicious mischief in the first degree (RCW 9A.48.070);

38 (m) Malicious mischief in the second degree (RCW 9A.48.080);

1 (n) Malicious mischief in the third degree (RCW 9A.48.090);
2 (o) Kidnapping in the first degree (RCW 9A.40.020);
3 (p) Kidnapping in the second degree (RCW 9A.40.030);
4 (q) Unlawful imprisonment (RCW 9A.40.040);
5 (r) Violation of the provisions of a restraining order, no-contact
6 order, or protection order restraining or enjoining the person or
7 restraining the person from going onto the grounds of or entering a
8 residence, workplace, school, or day care, or prohibiting the person
9 from coming within a specified distance of a location or another person
10 (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, ((or)) 26.26.138,
11 26.50.060, 26.50.070, 26.50.130, 26.52.070, or section 3 of this act);
12 (s) (~~Violation of the provisions of a protection order or no-~~
13 ~~contact order restraining the person or restraining the person from~~
14 ~~going onto the grounds of or entering a residence, workplace, school,~~
15 ~~or day care~~ (RCW ~~26.50.060, 26.50.070, 26.50.130, 10.99.040, or~~
16 ~~10.99.050~~);
17 (~~t~~)) Rape in the first degree (RCW 9A.44.040);
18 ((~~u~~)) (t) Rape in the second degree (RCW 9A.44.050);
19 ((~~v~~)) (u) Residential burglary (RCW 9A.52.025);
20 ((~~w~~)) (v) Stalking (RCW 9A.46.110); and
21 ((~~x~~)) (w) Interference with the reporting of domestic violence
22 (RCW 9A.36.150).
23 (4) "Victim" means a family or household member who has been
24 subjected to domestic violence.

25 **Sec. 6.** RCW 26.09.050 and 1995 c 93 s 2 are each amended to read
26 as follows:

27 (1) In entering a decree of dissolution of marriage, legal
28 separation, or declaration of invalidity, the court shall determine the
29 marital status of the parties, make provision for a parenting plan for
30 any minor child of the marriage, make provision for the support of any
31 child of the marriage entitled to support, consider or approve
32 provision for the maintenance of either spouse, make provision for the
33 disposition of property and liabilities of the parties, make provision
34 for the allocation of the children as federal tax exemptions, make
35 provision for any necessary continuing restraining orders including the
36 provisions contained in RCW 9.41.800, make provision for the issuance
37 within this action of the restraint provisions of a domestic violence
38 protection order under chapter 26.50 RCW or an antiharassment

1 protection order under chapter 10.14 RCW, and make provision for the
2 change of name of any party.

3 (2) Restraining orders issued under this section restraining or
4 enjoining the person from molesting or disturbing another party, or
5 from going onto the grounds of or entering the home, workplace, or
6 school of the other party or the day care or school of any child, or
7 prohibiting the person from coming within a specified distance of a
8 location or another party, shall prominently bear on the front page of
9 the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF
10 ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER ((26.09)) 26.50 RCW AND
11 WILL SUBJECT A VIOLATOR TO ARREST.

12 (3) The court shall order that any restraining order bearing a
13 criminal offense legend, any domestic violence protection order, or any
14 antiharassment protection order granted under this section, in addition
15 to the law enforcement information sheet or proof of service of the
16 order, be forwarded by the clerk of the court on or before the next
17 judicial day to the appropriate law enforcement agency specified in the
18 order. Upon receipt of the order, the law enforcement agency shall
19 ((~~forthwith~~)) enter the order into any computer-based criminal
20 intelligence information system available in this state used by law
21 enforcement agencies to list outstanding warrants. The order is fully
22 enforceable in any county in the state.

23 (4) If a restraining order issued pursuant to this section is
24 modified or terminated, the clerk of the court shall notify the law
25 enforcement agency specified in the order on or before the next
26 judicial day. Upon receipt of notice that an order has been
27 terminated, the law enforcement agency shall remove the order from any
28 computer-based criminal intelligence system.

29 **Sec. 7.** RCW 26.09.060 and 1995 c 246 s 26 are each amended to read
30 as follows:

31 (1) In a proceeding for:

32 (a) Dissolution of marriage, legal separation, or a declaration of
33 invalidity; or

34 (b) Disposition of property or liabilities, maintenance, or support
35 following dissolution of the marriage by a court which lacked personal
36 jurisdiction over the absent spouse; either party may move for
37 temporary maintenance or for temporary support of children entitled to

1 support. The motion shall be accompanied by an affidavit setting forth
2 the factual basis for the motion and the amounts requested.

3 (2) As a part of a motion for temporary maintenance or support or
4 by independent motion accompanied by affidavit, either party may
5 request the court to issue a temporary restraining order or preliminary
6 injunction, providing relief proper in the circumstances, and
7 restraining or enjoining any person from:

8 (a) Transferring, removing, encumbering, concealing, or in any way
9 disposing of any property except in the usual course of business or for
10 the necessities of life, and, if so restrained or enjoined, requiring
11 him or her to notify the moving party of any proposed extraordinary
12 expenditures made after the order is issued;

13 (b) Molesting or disturbing the peace of the other party or of any
14 child;

15 (c) Going onto the grounds of or entering the home, workplace, or
16 school of the other party or the day care or school of any child upon
17 a showing of the necessity therefor;

18 (d) Coming within a specified distance from a specified location,
19 or within a specified distance from a specified other person;

20 (e) Removing a child from the jurisdiction of the court.

21 (3) Either party may request a domestic violence protection order
22 under chapter 26.50 RCW or an antiharassment protection order under
23 chapter 10.14 RCW on a temporary basis. The court may grant any of the
24 relief provided in RCW 26.50.060 except relief pertaining to
25 residential provisions for the children which provisions shall be
26 provided for under this chapter, and any of the relief provided in RCW
27 10.14.080. Ex parte orders issued under this subsection shall be
28 effective for a fixed period not to exceed fourteen days, or upon court
29 order, not to exceed twenty-four days if necessary to ensure that all
30 temporary motions in the case can be heard at the same time.

31 (4) In issuing the order, the court shall consider the provisions
32 of RCW 9.41.800.

33 (5) The court may issue a temporary restraining order without
34 requiring notice to the other party only if it finds on the basis of
35 the moving affidavit or other evidence that irreparable injury could
36 result if an order is not issued until the time for responding has
37 elapsed.

38 (6) The court may issue a temporary restraining order or
39 preliminary injunction and an order for temporary maintenance or

1 support in such amounts and on such terms as are just and proper in the
2 circumstances. The court may in its discretion waive the filing of the
3 bond or the posting of security.

4 (7) Restraining orders issued under this section restraining the
5 person from molesting or disturbing another party, or from going onto
6 the grounds of or entering the home, workplace, or school of the other
7 party or the day care or school of any child, or prohibiting the person
8 from coming within a specified distance of a location or another party,
9 shall prominently bear on the front page of the order the legend:
10 VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL
11 OFFENSE UNDER CHAPTER ((26-09)) 26.50 RCW AND WILL SUBJECT A VIOLATOR
12 TO ARREST.

13 (8) The court shall order that any temporary restraining order
14 bearing a criminal offense legend, any domestic violence protection
15 order, or any antiharassment protection order granted under this
16 section be forwarded by the clerk of the court on or before the next
17 judicial day to the appropriate law enforcement agency specified in the
18 order. Upon receipt of the order, the law enforcement agency shall
19 ((~~forthwith~~)) enter the order into any computer-based criminal
20 intelligence information system available in this state used by law
21 enforcement agencies to list outstanding warrants. Entry into the
22 ((~~law enforcement~~)) computer-based criminal intelligence information
23 system constitutes notice to all law enforcement agencies of the
24 existence of the order. The order is fully enforceable in any county
25 in the state.

26 (9) If a restraining order issued pursuant to this section is
27 modified or terminated, the clerk of the court shall notify the law
28 enforcement agency specified in the order on or before the next
29 judicial day. Upon receipt of notice that an order has been
30 terminated, the law enforcement agency shall remove the order from any
31 computer-based criminal intelligence system.

32 (10) A temporary order, temporary restraining order, or preliminary
33 injunction:

34 (a) Does not prejudice the rights of a party or any child which are
35 to be adjudicated at subsequent hearings in the proceeding;

36 (b) May be revoked or modified;

37 (c) Terminates when the final decree is entered, except as provided
38 under subsection ((~~+10~~)) (11) of this section, or when the petition

1 for dissolution, legal separation, or declaration of invalidity is
2 dismissed;

3 (d) May be entered in a proceeding for the modification of an
4 existing decree.

5 (~~(10)~~) (11) Delinquent support payments accrued under an order
6 for temporary support remain collectible and are not extinguished when
7 a final decree is entered unless the decree contains specific language
8 to the contrary. A support debt under a temporary order owed to the
9 state for public assistance expenditures shall not be extinguished by
10 the final decree if:

11 (a) The obligor was given notice of the state's interest under
12 chapter 74.20A RCW; or

13 (b) The temporary order directs the obligor to make support
14 payments to the office of support enforcement or the Washington state
15 support registry.

16 **Sec. 8.** RCW 26.10.040 and 1995 c 93 s 3 are each amended to read
17 as follows:

18 (1) In entering an order under this chapter, the court shall
19 consider, approve, or make provision for:

20 (~~(1)~~) (a) Child custody, visitation, and the support of any child
21 entitled to support;

22 (~~(2)~~) (b) The allocation of the children as a federal tax
23 exemption;

24 (~~(3)~~) (c) Any necessary continuing restraining orders, including
25 the provisions contained in RCW 9.41.800;

26 (~~(4)~~) (d) A domestic violence protection order under chapter
27 26.50 RCW or an antiharassment protection order under chapter 10.14
28 RCW. The court may grant any of the relief provided in RCW 26.50.060
29 except relief pertaining to residential provisions for the children
30 which provisions shall be provided for under this chapter, and any of
31 the relief provided in RCW 10.14.080;

32 (~~(5)~~) (e) Restraining orders issued under this section
33 restraining or enjoining the person from molesting or disturbing
34 another party, or from going onto the grounds of or entering the home,
35 workplace, or school of the other party or the day care or school of
36 any child, or prohibiting the person from coming within a specified
37 distance of a location or another person, shall prominently bear on the
38 front page of the order the legend: VIOLATION OF THIS ORDER WITH

1 ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER
2 (~~26.10~~) 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST(~~(+)~~).

3 (~~(+)~~) (2) The court shall order that any restraining order
4 bearing a criminal offense legend, any domestic violence protection
5 order, or any antiharassment protection order granted under this
6 section, in addition to the law enforcement information sheet or proof
7 of service of the order, be forwarded by the clerk of the court on or
8 before the next judicial day to the appropriate law enforcement agency
9 specified in the order. Upon receipt of the order, the law enforcement
10 agency shall (~~forthwith~~) enter the order into any computer-based
11 criminal intelligence information system available in this state used
12 by law enforcement agencies to list outstanding warrants. The order is
13 fully enforceable in any county in the state.

14 (3) If a restraining order issued pursuant to this section is
15 modified or terminated, the clerk of the court shall notify the law
16 enforcement agency specified in the order on or before the next
17 judicial day. Upon receipt of notice that an order has been
18 terminated, the law enforcement agency shall remove the order from any
19 computer-based criminal intelligence system.

20 **Sec. 9.** RCW 26.10.115 and 1995 c 246 s 29 are each amended to read
21 as follows:

22 (1) In a proceeding under this chapter either party may file a
23 motion for temporary support of children entitled to support. The
24 motion shall be accompanied by an affidavit setting forth the factual
25 basis for the motion and the amount requested.

26 (2) In a proceeding under this chapter either party may file a
27 motion for a temporary restraining order or preliminary injunction,
28 providing relief proper in the circumstances, and restraining or
29 enjoining any person from:

30 (a) Molesting or disturbing the peace of the other party or of any
31 child;

32 (b) Entering the family home or the home of the other party upon a
33 showing of the necessity therefor;

34 (c) Coming within a specified distance from a specified location,
35 or within a specified distance from a specified other person;

36 (d) Removing a child from the jurisdiction of the court.

37 (3) Either party may request a domestic violence protection order
38 under chapter 26.50 RCW or an antiharassment protection order under

1 chapter 10.14 RCW on a temporary basis. The court may grant any of the
2 relief provided in RCW 26.50.060 except relief pertaining to
3 residential provisions for the children which provisions shall be
4 provided for under this chapter, and any of the relief provided in RCW
5 10.14.080. Ex parte orders issued under this subsection shall be
6 effective for a fixed period not to exceed fourteen days, or upon court
7 order, not to exceed twenty-four days if necessary to ensure that all
8 temporary motions in the case can be heard at the same time.

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

11 (5) The court may issue a temporary restraining order without
12 requiring notice to the other party only if it finds on the basis of
13 the moving affidavit or other evidence that irreparable injury could
14 result if an order is not issued until the time for responding has
15 elapsed.

16 (6) The court may issue a temporary restraining order or
17 preliminary injunction and an order for temporary support in such
18 amounts and on such terms as are just and proper in the circumstances.

19 (7) Restraining orders issued under this section restraining or
20 enjoining the person from molesting or disturbing another party, or
21 from going onto the grounds of or entering the home, workplace, or
22 school of the other party or the day care or school of any child, or
23 prohibiting the person from coming within a specified distance of a
24 location or another person, shall prominently bear on the front page of
25 the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF
26 ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER ((26.10)) 26.50 RCW AND
27 WILL SUBJECT A VIOLATOR TO ARREST.

28 (8) The court shall order that any temporary restraining order
29 bearing a criminal offense legend, any domestic violence protection
30 order, or any antiharassment protection order granted under this
31 section be forwarded by the clerk of the court on or before the next
32 judicial day to the appropriate law enforcement agency specified in the
33 order. Upon receipt of the order, the law enforcement agency shall
34 ((~~forthwith~~)) enter the order into any computer-based criminal
35 intelligence information system available in this state used by law
36 enforcement agencies to list outstanding warrants. Entry into the
37 ((~~law enforcement~~)) computer-based criminal intelligence information
38 system constitutes notice to all law enforcement agencies of the

1 existence of the order. The order is fully enforceable in any county
2 in the state.

3 (9) If a restraining order issued pursuant to this section is
4 modified or terminated, the clerk of the court shall notify the law
5 enforcement agency specified in the order on or before the next
6 judicial day. Upon receipt of notice that an order has been
7 terminated, the law enforcement agency shall remove the order from any
8 computer-based criminal intelligence system.

9 (10) A temporary order, temporary restraining order, or preliminary
10 injunction:

11 (a) Does not prejudice the rights of a party or any child which are
12 to be adjudicated at subsequent hearings in the proceeding;

13 (b) May be revoked or modified;

14 (c) Terminates when the final order is entered or when the motion
15 is dismissed;

16 (d) May be entered in a proceeding for the modification of an
17 existing order.

18 (~~(10)~~) (11) A support debt owed to the state for public
19 assistance expenditures which has been charged against a party pursuant
20 to RCW 74.20A.040 and/or 74.20A.055 shall not be merged in, or
21 otherwise extinguished by, the final decree or order, unless the office
22 of support enforcement has been given notice of the final proceeding
23 and an opportunity to present its claim for the support debt to the
24 court and has failed to file an affidavit as provided in this
25 subsection. Notice of the proceeding shall be served upon the office
26 of support enforcement personally, or by certified mail, and shall be
27 given no fewer than thirty days prior to the date of the final
28 proceeding. An original copy of the notice shall be filed with the
29 court either before service or within a reasonable time thereafter.
30 The office of support enforcement may present its claim, and thereby
31 preserve the support debt, by filing an affidavit setting forth the
32 amount of the debt with the court, and by mailing a copy of the
33 affidavit to the parties or their attorney prior to the date of the
34 final proceeding.

35 **Sec. 10.** RCW 26.26.130 and 1997 c 58 s 947 are each amended to
36 read as follows:

1 (1) The judgment and order of the court determining the existence
2 or nonexistence of the parent and child relationship shall be
3 determinative for all purposes.

4 (2) If the judgment and order of the court is at variance with the
5 child's birth certificate, the court shall order that an amended birth
6 certificate be issued.

7 (3) The judgment and order shall contain other appropriate
8 provisions directed to the appropriate parties to the proceeding,
9 concerning the duty of current and future support, the extent of any
10 liability for past support furnished to the child if that issue is
11 before the court, the furnishing of bond or other security for the
12 payment of the judgment, or any other matter in the best interest of
13 the child. The judgment and order may direct the father to pay the
14 reasonable expenses of the mother's pregnancy and confinement. The
15 judgment and order may include a continuing restraining order or
16 injunction. In issuing the order, the court shall consider the
17 provisions of RCW 9.41.800.

18 (4) The judgment and order shall contain the social security
19 numbers of all parties to the order.

20 (5) Support judgment and orders shall be for periodic payments
21 which may vary in amount. The court may limit the father's liability
22 for the past support to the child to the proportion of the expenses
23 already incurred as the court deems just. The court shall not limit or
24 affect in any manner the right of nonparties including the state of
25 Washington to seek reimbursement for support and other services
26 previously furnished to the child.

27 (6) After considering all relevant factors, the court shall order
28 either or both parents to pay an amount determined pursuant to the
29 schedule and standards contained in chapter 26.19 RCW.

30 (7) On the same basis as provided in chapter 26.09 RCW, the court
31 shall make residential provisions with regard to minor children of the
32 parties, except that a parenting plan shall not be required unless
33 requested by a party.

34 (8) In any dispute between the natural parents of a child and a
35 person or persons who have (a) commenced adoption proceedings or who
36 have been granted an order of adoption, and (b) pursuant to a court
37 order, or placement by the department of social and health services or
38 by a licensed agency, have had actual custody of the child for a period
39 of one year or more before court action is commenced by the natural

1 parent or parents, the court shall consider the best welfare and
2 interests of the child, including the child's need for situation
3 stability, in determining the matter of custody, and the parent or
4 person who is more fit shall have the superior right to custody.

5 (9) In entering an order under this chapter, the court may issue
6 any necessary continuing restraining orders, including the restraint
7 provisions of domestic violence protection orders under chapter 26.50
8 RCW or antiharassment protection orders under chapter 10.14 RCW.

9 (10) Restraining orders issued under this section restraining or
10 enjoining the person from molesting or disturbing another party, or
11 from going onto the grounds of or entering the home, workplace, or
12 school of the other party or the day care or school of any child, or
13 prohibiting the person from coming within a specified distance of a
14 location or another person, shall prominently bear on the front page of
15 the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF
16 ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER ((26.26)) 26.50 RCW AND
17 WILL SUBJECT A VIOLATOR TO ARREST.

18 (11) The court shall order that any restraining order bearing a
19 criminal offense legend, any domestic violence protection order, or any
20 antiharassment protection order granted under this section be forwarded
21 by the clerk of the court on or before the next judicial day to the
22 appropriate law enforcement agency specified in the order. Upon
23 receipt of the order, the law enforcement agency shall forthwith enter
24 the order into any computer-based criminal intelligence information
25 system available in this state used by law enforcement agencies to list
26 outstanding warrants. The order is fully enforceable in any county in
27 the state.

28 (12) If a restraining order issued pursuant to this section is
29 modified or terminated, the clerk of the court shall notify the law
30 enforcement agency specified in the order on or before the next
31 judicial day. Upon receipt of notice that an order has been
32 terminated, the law enforcement agency shall remove the order from any
33 computer-based criminal intelligence system.

34 **Sec. 11.** RCW 26.26.137 and 1995 c 246 s 32 are each amended to
35 read as follows:

36 (1) If the court has made a finding as to the paternity of a child,
37 or if a party's acknowledgment of paternity has been filed with the
38 court, or a party alleges he is the father of the child, any party may

1 move for temporary support for the child prior to the date of entry of
2 the final order. The motion shall be accompanied by an affidavit
3 setting forth the factual basis for the motion and the amounts
4 requested.

5 (2) Any party may request the court to issue a temporary
6 restraining order or preliminary injunction, providing relief proper in
7 the circumstances, and restraining or enjoining any party from:

8 (a) Molesting or disturbing the peace of another party;

9 (b) Going onto the grounds of or entering the home, workplace, or
10 school of another party or the day care or school of any child; or

11 (c) Coming within a specified distance from a specified location,
12 or within a specified distance from a specified other person; or

13 (d) Removing a child from the jurisdiction of the court.

14 (3) Either party may request a domestic violence protection order
15 under chapter 26.50 RCW or an antiharassment protection order under
16 chapter 10.14 RCW on a temporary basis. The court may grant any of the
17 relief provided in RCW 26.50.060 except relief pertaining to
18 residential provisions for the children which provisions shall be
19 provided for under this chapter, and any of the relief provided in RCW
20 10.14.080. Ex parte orders issued under this subsection shall be
21 effective for a fixed period not to exceed fourteen days, or upon court
22 order, not to exceed twenty-four days if necessary to ensure that all
23 temporary motions in the case can be heard at the same time.

24 (4) Restraining orders issued under this section restraining or
25 enjoining the person from molesting or disturbing another party, or
26 from going onto the grounds of or entering the home, workplace, or
27 school of the other party or the day care or school of any child, or
28 prohibiting the person from coming within a specified distance of a
29 location or another person, shall prominently bear on the front page of
30 the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF
31 ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER ((26.26)) 26.50 RCW AND
32 WILL SUBJECT A VIOLATOR TO ARREST.

33 (5) The court shall order that any temporary restraining order
34 bearing a criminal offense legend, any domestic violence protection
35 order, or any antiharassment protection order granted under this
36 section be forwarded by the clerk of the court on or before the next
37 judicial day to the appropriate law enforcement agency specified in the
38 order. Upon receipt of the order, the law enforcement agency shall
39 ((~~forthwith~~)) enter the order into any computer-based criminal

1 intelligence information system available in this state used by law
2 enforcement agencies to list outstanding warrants. The order is fully
3 enforceable in any county in the state.

4 (6) If a restraining order issued pursuant to this section is
5 modified or terminated, the clerk of the court shall notify the law
6 enforcement agency specified in the order on or before the next
7 judicial day. Upon receipt of notice that an order has been
8 terminated, the law enforcement agency shall remove the order from any
9 computer-based criminal intelligence system.

10 (7) The court may issue a temporary restraining order without
11 requiring notice to the other party only if it finds on the basis of
12 the moving affidavit or other evidence that irreparable injury could
13 result if an order is not issued until the time for responding has
14 elapsed.

15 ((+7)) (8) The court may issue a temporary restraining order or
16 preliminary injunction and an order for temporary support in such
17 amounts and on such terms as are just and proper in the circumstances.
18 In issuing the order, the court shall consider the provisions of RCW
19 9.41.800.

20 ((+8)) (9) A temporary order, temporary restraining order, or
21 preliminary injunction:

22 (a) Does not prejudice the rights of a party or any child which are
23 to be adjudicated at subsequent hearings in the proceeding;

24 (b) May be revoked or modified;

25 (c) Terminates when the final order is entered or when the petition
26 is dismissed; and

27 (d) May be entered in a proceeding for the modification of an
28 existing order.

29 ((+9)) (10) A support debt owed to the state for public assistance
30 expenditures which has been charged against a party pursuant to RCW
31 74.20A.040 and/or 74.20A.055 shall not be merged in, or otherwise
32 extinguished by, the final decree or order, unless the office of
33 support enforcement has been given notice of the final proceeding and
34 an opportunity to present its claim for the support debt to the court
35 and has failed to file an affidavit as provided in this subsection.
36 Notice of the proceeding shall be served upon the office of support
37 enforcement personally, or by certified mail, and shall be given no
38 fewer than thirty days prior to the date of the final proceeding. An
39 original copy of the notice shall be filed with the court either before

1 service or within a reasonable time thereafter. The office of support
2 enforcement may present its claim, and thereby preserve the support
3 debt, by filing an affidavit setting forth the amount of the debt with
4 the court, and by mailing a copy of the affidavit to the parties or
5 their attorney prior to the date of the final proceeding.

6 **Sec. 12.** RCW 26.50.060 and 1999 c 147 s 2 are each amended to read
7 as follows:

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

10 (a) Restrain the respondent from committing acts of domestic
11 violence;

12 (b) Exclude the respondent from the dwelling (~~which~~) that the
13 parties share, from the residence, workplace, or school of the
14 petitioner, or from the day care or school of a child;

15 (c) Prohibit the respondent from coming within a specified distance
16 from a specified location;

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

21 (~~(d)~~) (e) Order the respondent to participate in a domestic
22 violence perpetrator treatment program approved under RCW 26.50.150;

23 (~~(e)~~) (f) Order other relief as it deems necessary for the
24 protection of the petitioner and other family or household members
25 sought to be protected, including orders or directives to a peace
26 officer, as allowed under this chapter;

27 (~~(f)~~) (g) Require the respondent to pay the administrative court
28 costs and service fees, as established by the county or municipality
29 incurring the expense and to reimburse the petitioner for costs
30 incurred in bringing the action, including ((a)) reasonable
31 (~~attorney's fee~~) attorneys' fees;

32 (~~(g)~~) (h) Restrain the respondent from having any contact with
33 the victim of domestic violence or the victim's children or members of
34 the victim's household or from coming within a specified distance from
35 the victim or the victim's children or members of the victim's
36 household;

37 (~~(h)~~) (i) Require the respondent to submit to electronic
38 monitoring. The order shall specify who shall provide the electronic

1 monitoring services and the terms under which the monitoring must be
2 performed. The order also may include a requirement that the
3 respondent pay the costs of the monitoring. The court shall consider
4 the ability of the respondent to pay for electronic monitoring;

5 ~~((i))~~ (j) Consider the provisions of RCW 9.41.800;

6 ~~((j))~~ (k) Order possession and use of essential personal effects.
7 The court shall list the essential personal effects with sufficient
8 specificity to make it clear which property is included; and

9 ~~((k))~~ (l) Order use of a vehicle.

10 (2) If a ~~((restraining))~~ protection order restrains the respondent
11 from contacting the respondent's minor children the restraint shall be
12 for a fixed period not to exceed one year. This limitation is not
13 applicable to orders for protection issued under chapter 26.09, 26.10,
14 or 26.26 RCW. With regard to other relief, if the petitioner has
15 petitioned for relief on his or her own behalf or on behalf of the
16 petitioner's family or household members or minor children, and the
17 court finds that the respondent is likely to resume acts of domestic
18 violence against the petitioner or the petitioner's family or household
19 members or minor children when the order expires, the court may either
20 grant relief for a fixed period or enter a permanent order of
21 protection.

22 If the petitioner has petitioned for relief on behalf of the
23 respondent's minor children, the court shall advise the petitioner that
24 if the petitioner wants to continue protection for a period beyond one
25 year the petitioner may either petition for renewal pursuant to the
26 provisions of this chapter or may seek relief pursuant to the
27 provisions of chapter 26.09 or 26.26 RCW.

28 (3) If the court grants an order for a fixed time period, the
29 petitioner may apply for renewal of the order by filing a petition for
30 renewal at any time within the three months before the order expires.
31 The petition for renewal shall state the reasons why the petitioner
32 seeks to renew the protection order. Upon receipt of the petition for
33 renewal the court shall order a hearing which shall be not later than
34 fourteen days from the date of the order. Except as provided in RCW
35 26.50.085, personal service shall be made on the respondent not less
36 than five days before the hearing. If timely service cannot be made
37 the court shall set a new hearing date and shall either require
38 additional attempts at obtaining personal service or permit service by
39 publication as provided in RCW 26.50.085 or by mail as provided in RCW

1 26.50.123. If the court permits service by publication or mail, the
2 court shall set the new hearing date not later than twenty-four days
3 from the date of the order. If the order expires because timely
4 service cannot be made the court shall grant an ex parte order of
5 protection as provided in RCW 26.50.070. The court shall grant the
6 petition for renewal unless the respondent proves by a preponderance of
7 the evidence that the respondent will not resume acts of domestic
8 violence against the petitioner or the petitioner's children or family
9 or household members when the order expires. The court may renew the
10 protection order for another fixed time period or may enter a permanent
11 order as provided in this section. The court may award court costs,
12 service fees, and reasonable attorneys' fees as provided in subsection
13 (1)(f) of this section.

14 (4) In providing relief under this chapter, the court may realign
15 the designation of the parties as "petitioner" and "respondent" where
16 the court finds that the original petitioner is the abuser and the
17 original respondent is the victim of domestic violence and may issue an
18 ex parte temporary order for protection in accordance with RCW
19 26.50.070 on behalf of the victim until the victim is able to prepare
20 a petition for an order for protection in accordance with RCW
21 26.50.030.

22 (5) Except as provided in subsection (4) of this section, no order
23 for protection shall grant relief to any party except upon notice to
24 the respondent and hearing pursuant to a petition or counter-petition
25 filed and served by the party seeking relief in accordance with RCW
26 26.50.050.

27 (6) The court order shall specify the date the order expires if
28 any. The court order shall also state whether the court issued the
29 protection order following personal service, service by publication, or
30 service by mail and whether the court has approved service by
31 publication or mail of an order issued under this section.

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

35 **Sec. 13.** RCW 26.50.070 and 1996 c 248 s 14 are each amended to
36 read as follows:

37 (1) Where an application under this section alleges that
38 irreparable injury could result from domestic violence if an order is

1 not issued immediately without prior notice to the respondent, the
2 court may grant an ex parte temporary order for protection, pending a
3 full hearing, and grant relief as the court deems proper, including an
4 order:

5 (a) Restraining any party from committing acts of domestic
6 violence;

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

11 (c) Prohibiting any party from coming within a specified distance
12 from a specified location;

13 (d) Restraining any party from interfering with the other's custody
14 of the minor children or from removing the children from the
15 jurisdiction of the court;

16 ~~((d))~~ (e) Restraining any party from having any contact with the
17 victim of domestic violence or the victim's children or members of the
18 victim's household, or from coming within a specified distance of the
19 victim or the victim's children or members of the victim's household;
20 and

21 (e) Considering the provisions of RCW 9.41.800.

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

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

29 (4) An ex parte temporary order for protection shall be effective
30 for a fixed period not to exceed fourteen days or twenty-four days if
31 the court has permitted service by publication under RCW 26.50.085 or
32 by mail under RCW 26.50.123. The ex parte order may be reissued. A
33 full hearing, as provided in this chapter, shall be set for not later
34 than fourteen days from the issuance of the temporary order or not
35 later than twenty-four days if service by publication or by mail is
36 permitted. Except as provided in RCW 26.50.050, 26.50.085, and
37 26.50.123, the respondent shall be personally served with a copy of the
38 ex parte order along with a copy of the petition and notice of the date
39 set for the hearing.

1 (5) Any order issued under this section shall contain the date and
2 time of issuance and the expiration date and shall be entered into a
3 state-wide judicial information system by the clerk of the court within
4 one judicial day after issuance.

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

9 **Sec. 14.** RCW 9.94A.320 and 1999 c 352 s 3, 1999 c 322 s 5, and
10 1999 c 45 s 4 are each reenacted and amended to read as follows:

11 TABLE 2

12 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

13	XVI	Aggravated Murder 1 (RCW 10.95.020)
14	XV	Homicide by abuse (RCW 9A.32.055)
15		Malicious explosion 1 (RCW 70.74.280(1))
16		Murder 1 (RCW 9A.32.030)
17	XIV	Murder 2 (RCW 9A.32.050)
18	XIII	Malicious explosion 2 (RCW 70.74.280(2))
19		Malicious placement of an explosive 1 (RCW
20		70.74.270(1))
21	XII	Assault 1 (RCW 9A.36.011)
22		Assault of a Child 1 (RCW 9A.36.120)
23		Malicious placement of an imitation device
24		1 (RCW 70.74.272(1)(a))
25		Rape 1 (RCW 9A.44.040)
26		Rape of a Child 1 (RCW 9A.44.073)
27	XI	Manslaughter 1 (RCW 9A.32.060)
28		Rape 2 (RCW 9A.44.050)
29		Rape of a Child 2 (RCW 9A.44.076)
30	X	Child Molestation 1 (RCW 9A.44.083)
31		Indecent Liberties (with forcible
32		compulsion) (RCW 9A.44.100(1)(a))
33		Kidnapping 1 (RCW 9A.40.020)

1 Leading Organized Crime (RCW
2 9A.82.060(1)(a))
3 Malicious explosion 3 (RCW 70.74.280(3))
4 Manufacture of methamphetamine (RCW
5 69.50.401(a)(1)(ii))
6 Over 18 and deliver heroin,
7 methamphetamine, a narcotic from
8 Schedule I or II, or flunitrazepam
9 from Schedule IV to someone under 18
10 (RCW 69.50.406)

11 IX Assault of a Child 2 (RCW 9A.36.130)
12 Controlled Substance Homicide (RCW
13 69.50.415)
14 Explosive devices prohibited (RCW
15 70.74.180)
16 Homicide by Watercraft, by being under the
17 influence of intoxicating liquor or
18 any drug (RCW ((88.12.029))
19 79A.60.050)
20 Inciting Criminal Profiteering (RCW
21 9A.82.060(1)(b))
22 Malicious placement of an explosive 2 (RCW
23 70.74.270(2))
24 Over 18 and deliver narcotic from Schedule
25 III, IV, or V or a nonnarcotic, except
26 flunitrazepam or methamphetamine, from
27 Schedule I-V to someone under 18 and 3
28 years junior (RCW 69.50.406)
29 Robbery 1 (RCW 9A.56.200)
30 Sexual Exploitation (RCW 9.68A.040)
31 Vehicular Homicide, by being under the
32 influence of intoxicating liquor or
33 any drug (RCW 46.61.520)

34 VIII Arson 1 (RCW 9A.48.020)
35 Deliver or possess with intent to deliver
36 m e t h a m p h e t a m i n e (R C W
37 69.50.401(a)(1)(ii))

1 Homicide by Watercraft, by the operation of
2 any vessel in a reckless manner (RCW
3 ((~~88.12.029~~)) 79A.60.050)
4 Manslaughter 2 (RCW 9A.32.070)
5 Manufacture, deliver, or possess with
6 intent to deliver amphetamine (RCW
7 69.50.401(a)(1)(ii))
8 Manufacture, deliver, or possess with
9 intent to deliver heroin or cocaine
10 (RCW 69.50.401(a)(1)(i))
11 Possession of ephedrine or pseudoephedrine
12 with intent to manufacture
13 methamphetamine (RCW 69.50.440)
14 Promoting Prostitution 1 (RCW 9A.88.070)
15 Selling for profit (controlled or
16 counterfeit) any controlled substance
17 (RCW 69.50.410)
18 Vehicular Homicide, by the operation of any
19 vehicle in a reckless manner (RCW
20 46.61.520)

21 VII Burglary 1 (RCW 9A.52.020)
22 Child Molestation 2 (RCW 9A.44.086)
23 Dealing in depictions of minor engaged in
24 sexually explicit conduct (RCW
25 9.68A.050)
26 Drive-by Shooting (RCW 9A.36.045)
27 Homicide by Watercraft, by disregard for
28 the safety of others (RCW
29 ((~~88.12.029~~)) 79A.60.050)
30 Indecent Liberties (without forcible
31 compulsion) (RCW 9A.44.100(1) (b) and
32 (c))
33 Introducing Contraband 1 (RCW 9A.76.140)
34 Involving a minor in drug dealing (RCW
35 69.50.401(f))
36 Malicious placement of an explosive 3 (RCW
37 70.74.270(3))

1 Sending, bringing into state depictions of
2 minor engaged in sexually explicit
3 conduct (RCW 9.68A.060)
4 Unlawful Possession of a Firearm in the
5 first degree (RCW 9.41.040(1)(a))
6 Use of a Machine Gun in Commission of a
7 Felony (RCW 9.41.225)
8 Vehicular Homicide, by disregard for the
9 safety of others (RCW 46.61.520)

10 VI Bail Jumping with Murder 1 (RCW
11 9A.76.170(2)(a))
12 Bribery (RCW 9A.68.010)
13 Incest 1 (RCW 9A.64.020(1))
14 Intimidating a Judge (RCW 9A.72.160)
15 Intimidating a Juror/Witness (RCW
16 9A.72.110, 9A.72.130)
17 Malicious placement of an imitation device
18 2 (RCW 70.74.272(1)(b))
19 Manufacture, deliver, or possess with
20 intent to deliver narcotics from
21 Schedule I or II (except heroin or
22 cocaine) or flunitrazepam from
23 Schedule IV (RCW 69.50.401(a)(1)(i))
24 Rape of a Child 3 (RCW 9A.44.079)
25 Theft of a Firearm (RCW 9A.56.300)

26 V Abandonment of dependent person 1 (RCW
27 9A.42.060)
28 Advancing money or property for
29 extortionate extension of credit (RCW
30 9A.82.030)
31 Bail Jumping with class A Felony (RCW
32 9A.76.170(2)(b))
33 Child Molestation 3 (RCW 9A.44.089)
34 Criminal Mistreatment 1 (RCW 9A.42.020)
35 Custodial Sexual Misconduct 1 (RCW
36 9A.44.160)

1 Delivery of imitation controlled substance
2 by person eighteen or over to person
3 under eighteen (RCW 69.52.030(2))
4 Domestic Violence Court Order Violation
5 (RCW 10.99.040, 10.99.050, 26.09.300,
6 26.10.220, 26.26.138, 26.50.110,
7 26.52.070, or section 3 of this act)
8 Extortion 1 (RCW 9A.56.120)
9 Extortionate Extension of Credit (RCW
10 9A.82.020)
11 Extortionate Means to Collect Extensions of
12 Credit (RCW 9A.82.040)
13 Incest 2 (RCW 9A.64.020(2))
14 Kidnapping 2 (RCW 9A.40.030)
15 ~~((On and after July 1, 2000: No Contact~~
16 ~~Order Violation: Domestic Violence~~
17 ~~Pretrial Condition (RCW 10.99.040(4)~~
18 ~~(b) and (c))~~
19 ~~On and after July 1, 2000: No Contact~~
20 ~~Order Violation: Domestic Violence~~
21 ~~Sentence Condition (RCW 10.99.050(2))~~
22 ~~On and after July 1, 2000: Protection~~
23 ~~Order Violation: Domestic Violence~~
24 ~~Civil Action (RCW 26.50.110 (4) and~~
25 ~~(5))~~
26 ~~On and after July 1, 2000: Stalking (RCW~~
27 ~~9A.46.110))~~
28 Perjury 1 (RCW 9A.72.020)
29 Persistent prison misbehavior (RCW
30 9.94.070)
31 Possession of a Stolen Firearm (RCW
32 9A.56.310)
33 Rape 3 (RCW 9A.44.060)
34 Rendering Criminal Assistance 1 (RCW
35 9A.76.070)
36 Sexual Misconduct with a Minor 1 (RCW
37 9A.44.093)
38 Sexually Violating Human Remains (RCW
39 9A.44.105)

1 Stalking (RCW 9A.46.110)

2 IV Arson 2 (RCW 9A.48.030)

3 Assault 2 (RCW 9A.36.021)

4 Assault by Watercraft (RCW ((~~88.12.032~~))

5 79A.60.060)

6 Bribing a Witness/Bribe Received by Witness

7 (RCW 9A.72.090, 9A.72.100)

8 Commercial Bribery (RCW 9A.68.060)

9 Counterfeiting (RCW 9.16.035(4))

10 Escape 1 (RCW 9A.76.110)

11 Hit and Run--Injury Accident (RCW

12 46.52.020(4))

13 Hit and Run with Vessel--Injury Accident

14 (RCW ((~~88.12.155(3)~~)) 79A.60.200(3))

15 Indecent Exposure to Person Under Age

16 Fourteen (subsequent sex offense) (RCW

17 9A.88.010)

18 Influencing Outcome of Sporting Event (RCW

19 9A.82.070)

20 Knowingly Trafficking in Stolen Property

21 (RCW 9A.82.050(2))

22 Malicious Harassment (RCW 9A.36.080)

23 Manufacture, deliver, or possess with

24 intent to deliver narcotics from

25 Schedule III, IV, or V or nonnarcotics

26 from Schedule I-V (except marijuana,

27 amphetamine, methamphetamines, or

28 flunitrazepam) (RCW 69.50.401(a)(1)

29 (iii) through (v))

30 Residential Burglary (RCW 9A.52.025)

31 Robbery 2 (RCW 9A.56.210)

32 Theft of Livestock 1 (RCW 9A.56.080)

33 Threats to Bomb (RCW 9.61.160)

34 Use of Proceeds of Criminal Profiteering

35 (RCW 9A.82.080 (1) and (2))

36 Vehicular Assault (RCW 46.61.522)

37 Willful Failure to Return from Furlough

38 (RCW 72.66.060)

1 III Abandonment of dependent person 2 (RCW
2 9A.42.070)
3 Assault 3 (RCW 9A.36.031)
4 Assault of a Child 3 (RCW 9A.36.140)
5 Bail Jumping with class B or C Felony (RCW
6 9A.76.170(2)(c))
7 Burglary 2 (RCW 9A.52.030)
8 Communication with a Minor for Immoral
9 Purposes (RCW 9.68A.090)
10 Criminal Gang Intimidation (RCW 9A.46.120)
11 Criminal Mistreatment 2 (RCW 9A.42.030)
12 Custodial Assault (RCW 9A.36.100)
13 Delivery of a material in lieu of a
14 controlled substance (RCW
15 69.50.401(c))
16 Escape 2 (RCW 9A.76.120)
17 Extortion 2 (RCW 9A.56.130)
18 Harassment (RCW 9A.46.020)
19 Intimidating a Public Servant (RCW
20 9A.76.180)
21 Introducing Contraband 2 (RCW 9A.76.150)
22 Maintaining a Dwelling or Place for
23 Controlled Substances (RCW
24 69.50.402(a)(6))
25 Malicious Injury to Railroad Property (RCW
26 81.60.070)
27 Manufacture, deliver, or possess with
28 intent to deliver marijuana (RCW
29 69.50.401(a)(1)(iii))
30 Manufacture, distribute, or possess with
31 intent to distribute an imitation
32 controlled substance (RCW
33 69.52.030(1))
34 Patronizing a Juvenile Prostitute (RCW
35 9.68A.100)
36 Perjury 2 (RCW 9A.72.030)
37 Possession of Incendiary Device (RCW
38 9.40.120)

1 Possession of Machine Gun or Short-Barreled
2 Shotgun or Rifle (RCW 9.41.190)
3 Promoting Prostitution 2 (RCW 9A.88.080)
4 Recklessly Trafficking in Stolen Property
5 (RCW 9A.82.050(1))
6 Securities Act violation (RCW 21.20.400)
7 Tampering with a Witness (RCW 9A.72.120)
8 Telephone Harassment (subsequent conviction
9 or threat of death) (RCW 9.61.230)
10 Theft of Livestock 2 (RCW 9A.56.080)
11 Unlawful Imprisonment (RCW 9A.40.040)
12 Unlawful possession of firearm in the
13 second degree (RCW 9.41.040(1)(b))
14 Unlawful Use of Building for Drug Purposes
15 (RCW 69.53.010)
16 Willful Failure to Return from Work Release
17 (RCW 72.65.070)

18 II Computer Trespass 1 (RCW 9A.52.110)
19 Counterfeiting (RCW 9.16.035(3))
20 Create, deliver, or possess a counterfeit
21 controlled substance (RCW
22 69.50.401(b))
23 Escape from Community Custody (RCW
24 72.09.310)
25 Health Care False Claims (RCW 48.80.030)
26 Malicious Mischief 1 (RCW 9A.48.070)
27 Possession of controlled substance that is
28 either heroin or narcotics from
29 Schedule I or II or flunitrazepam from
30 Schedule IV (RCW 69.50.401(d))
31 Possession of phencyclidine (PCP) (RCW
32 69.50.401(d))
33 Possession of Stolen Property 1 (RCW
34 9A.56.150)
35 Theft 1 (RCW 9A.56.030)
36 Theft of Rental, Leased, or Lease-purchased
37 Property (valued at one thousand five
38 hundred dollars or more) (RCW
39 9A.56.096(4))

1 Trafficking in Insurance Claims (RCW
2 48.30A.015)
3 Unlawful Practice of Law (RCW 2.48.180)
4 Unlicensed Practice of a Profession or
5 Business (RCW 18.130.190(7))
6 I Attempting to Elude a Pursuing Police
7 Vehicle (RCW 46.61.024)
8 False Verification for Welfare (RCW
9 74.08.055)
10 Forged Prescription (RCW 69.41.020)
11 Forged Prescription for a Controlled
12 Substance (RCW 69.50.403)
13 Forgery (RCW 9A.60.020)
14 Malicious Mischief 2 (RCW 9A.48.080)
15 Possess Controlled Substance that is a
16 Narcotic from Schedule III, IV, or V
17 or Non-narcotic from Schedule I-V
18 (except phencyclidine or
19 flunitrazepam) (RCW 69.50.401(d))
20 Possession of Stolen Property 2 (RCW
21 9A.56.160)
22 Reckless Burning 1 (RCW 9A.48.040)
23 Taking Motor Vehicle Without Permission
24 (RCW 9A.56.070)
25 Theft 2 (RCW 9A.56.040)
26 Theft of Rental, Leased, or Lease-purchased
27 Property (valued at two hundred fifty
28 dollars or more but less than one
29 thousand five hundred dollars) (RCW
30 9A.56.096(4))
31 Unlawful Issuance of Checks or Drafts (RCW
32 9A.56.060)
33 Unlawful Use of Food Stamps (RCW 9.91.140
34 (2) and (3))
35 Vehicle Prowl 1 (RCW 9A.52.095)

36 **Sec. 15.** RCW 10.99.040 and 1997 c 338 s 54 are each amended to
37 read as follows:

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

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

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

7 (c) Shall waive any requirement that the victim's location be
8 disclosed to any person, other than the attorney of a criminal
9 defendant, upon a showing that there is a possibility of further
10 violence: PROVIDED, That the court may order a criminal defense
11 attorney not to disclose to his or her client the victim's location;
12 and

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

15 (2)(a) Because of the likelihood of repeated violence directed at
16 those who have been victims of domestic violence in the past, when any
17 person charged with or arrested for a crime involving domestic violence
18 is released from custody before arraignment or trial on bail or
19 personal recognizance, the court authorizing the release may prohibit
20 that person from having any contact with the victim. The jurisdiction
21 authorizing the release shall determine whether that person should be
22 prohibited from having any contact with the victim. If there is no
23 outstanding restraining or protective order prohibiting that person
24 from having contact with the victim, the court authorizing release may
25 issue, by telephone, a no-contact order prohibiting the person charged
26 or arrested from having contact with the victim or from coming within
27 a specified distance of a location or another person.

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

30 (c) The no-contact order shall also be issued in writing as soon as
31 possible.

32 (3) At the time of arraignment the court shall determine whether a
33 no-contact order shall be issued or extended. The no-contact order
34 shall terminate if the defendant is acquitted or the charges are
35 dismissed. If a no-contact order is issued or extended, the court may
36 also include in the conditions of release a requirement that the
37 defendant submit to electronic monitoring. If electronic monitoring is
38 ordered, the court shall specify who shall provide the monitoring
39 services, and the terms under which the monitoring shall be performed.

1 Upon conviction, the court may require as a condition of the sentence
2 that the defendant reimburse the providing agency for the costs of the
3 electronic monitoring.

4 (4)(a) ~~Willful violation of a court order issued under subsection~~
5 ~~(2) or (3) of this section is ((a gross misdemeanor except as provided~~
6 ~~in (b) and (c) of this subsection (4)). Upon conviction and in addition~~
7 ~~to other penalties provided by law, the court may require that the~~
8 ~~defendant submit to electronic monitoring. The court shall specify who~~
9 ~~shall provide the electronic monitoring services and the terms under~~
10 ~~which the monitoring must be performed. The court also may include a~~
11 ~~requirement that the defendant pay the costs of the monitoring. The~~
12 ~~court shall consider the ability of the convicted person to pay for~~
13 ~~electronic monitoring.~~

14 (b) ~~Any assault that is a violation of an order issued under this~~
15 ~~section and that does not amount to assault in the first or second~~
16 ~~degree under RCW 9A.36.011 or 9A.36.021 is a class C felony punishable~~
17 ~~under chapter 9A.20 RCW, and any conduct in violation of a protective~~
18 ~~order issued under this section that is reckless and creates a~~
19 ~~substantial risk of death or serious physical injury to another person~~
20 ~~is a class C felony punishable under chapter 9A.20 RCW.~~

21 (c) ~~A willful violation of a court order issued under this section~~
22 ~~is a class C felony if the offender has at least two previous~~
23 ~~convictions for violating the provisions of a no contact order issued~~
24 ~~under this chapter, a domestic violence protection order issued under~~
25 ~~chapter 26.09, 26.10, 26.26, or 26.50 RCW, or any federal or out-of-~~
26 ~~state order that is comparable to a no contact order or protection~~
27 ~~order issued under Washington law. The previous convictions may~~
28 ~~involve the same victim or other victims specifically protected by the~~
29 ~~no contact orders or protection orders the offender violated))~~
30 punishable under RCW 26.50.110.

31 ~~((d))~~ (b) The written order releasing the person charged or
32 arrested shall contain the court's directives and shall bear the
33 legend: "Violation of this order is a criminal offense under chapter
34 ~~((10.99))~~ 26.50 RCW and will subject a violator to arrest; any assault,
35 drive-by shooting, or reckless endangerment that is a violation of this
36 order is a felony. You can be arrested even if any person protected by
37 the order invites or allows you to violate the order's prohibitions.
38 You have the sole responsibility to avoid or refrain from violating the
39 order's provisions. Only the court can change the order."

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

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

7 (~~(5)~~) (6) Whenever (~~(an)~~) a no-contact order (~~(prohibiting~~
8 ~~contact)~~) is issued, modified, or terminated under subsection (2) or
9 (3) of this section, the clerk of the court shall forward a copy of the
10 order on or before the next judicial day to the appropriate law
11 enforcement agency specified in the order. Upon receipt of the copy of
12 the order the law enforcement agency shall (~~(forthwith)~~) enter the
13 order for one year or until the expiration date specified on the order
14 into any computer-based criminal intelligence information system
15 available in this state used by law enforcement agencies to list
16 outstanding warrants. Entry into the (~~(law enforcement)~~) computer-
17 based criminal intelligence information system constitutes notice to
18 all law enforcement agencies of the existence of the order. The order
19 is fully enforceable in any jurisdiction in the state. Upon receipt of
20 notice that an order has been terminated under subsection (3) of this
21 section, the law enforcement agency shall remove the order from the
22 computer-based criminal intelligence information system.

23 **Sec. 16.** RCW 10.99.045 and 1998 c 55 s 2 are each amended to read
24 as follows:

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

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

34 (3) At the time of the appearances provided in subsection (1) or
35 (2) of this section, the court shall determine the necessity of
36 imposing a no-contact order or other conditions of pretrial release
37 according to the procedures established by court rule for a preliminary

1 appearance or an arraignment. The court may include in the order any
2 conditions authorized under RCW 9.41.800 and 10.99.040.

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

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

8 **Sec. 17.** RCW 10.99.050 and 1997 c 338 s 55 are each amended to
9 read as follows:

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

14 (2)(a) ~~Willful violation of a court order issued under this section~~
15 ~~is ((a gross misdemeanor. Any assault that is a violation of an order~~
16 ~~issued under this section and that does not amount to assault in the~~
17 ~~first or second degree under RCW 9A.36.011 or 9A.36.021 is a class C~~
18 ~~felony, and any conduct in violation of a protective order issued under~~
19 ~~this section that is reckless and creates a substantial risk of death~~
20 ~~or serious physical injury to another person is a class C felony. A~~
21 ~~willful violation of a court order issued under this section is also a~~
22 ~~class C felony if the offender has at least two previous convictions~~
23 ~~for violating the provisions of a no-contact order issued under this~~
24 ~~chapter, or a domestic violence protection order issued under chapter~~
25 ~~26.09, 26.10, 26.26, or 26.50 RCW, or any federal or out-of-state order~~
26 ~~that is comparable to a no-contact order or protection order that is~~
27 ~~issued under Washington law. The previous convictions may involve the~~
28 ~~same victim or other victims specifically protected by the no-contact~~
29 ~~orders or protection orders the offender violated)) punishable under~~
30 ~~RCW 26.50.110.~~

31 (b) The written order shall contain the court's directives and
32 shall bear the legend: Violation of this order is a criminal offense
33 under chapter ((10.99)) 26.50 RCW and will subject a violator to
34 arrest; any assault, drive-by shooting, or reckless endangerment that
35 is a violation of this order is a felony.

36 (3) Whenever an order prohibiting contact is issued pursuant to
37 this section, the clerk of the court shall forward a copy of the order
38 on or before the next judicial day to the appropriate law enforcement

1 agency specified in the order. Upon receipt of the copy of the order
2 the law enforcement agency shall (~~forthwith~~) enter the order for one
3 year or until the expiration date specified on 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. Entry into the (~~law enforcement~~) computer-based criminal
7 intelligence information system constitutes notice to all law
8 enforcement agencies of the existence of the order. The order is fully
9 enforceable in any jurisdiction in the state.

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

16 **Sec. 18.** RCW 26.09.300 and 1996 c 248 s 9 are each amended to read
17 as follows:

18 (1) Whenever a restraining order is issued under this chapter, and
19 the person to be restrained knows of the order, a violation of the
20 provisions restricting the person from acts or threats of violence or
21 of a provision restraining the person from going onto the grounds of or
22 entering the residence, workplace, school, or day care of another, or
23 prohibiting the person from coming within a specified distance of a
24 location or another person, is (~~a misdemeanor~~) punishable under RCW
25 26.50.110.

26 (2) A person is deemed to have notice of a restraining order if:

27 (a) The person to be restrained or the person's attorney signed the
28 order;

29 (b) The order recites that the person to be restrained or the
30 person's attorney appeared in person before the court;

31 (c) The order was served upon the person to be restrained; or

32 (d) The peace officer gives the person oral or written evidence of
33 the order by reading from it or handing to the person a certified copy
34 of the original order, certified to be an accurate copy of the original
35 by a notary public or by the clerk of the court.

36 (3) A peace officer shall verify the existence of a restraining
37 order by:

1 (a) Obtaining information confirming the existence and terms of the
2 order from a law enforcement agency; or

3 (b) Obtaining a certified copy of the order, certified to be an
4 accurate copy of the original by a notary public or by the clerk of the
5 court.

6 (4) A peace officer shall arrest and take into custody, pending
7 release on bail, personal recognizance, or court order, a person
8 without a warrant when the officer has probable cause to believe that:

9 (a) A restraining order has been issued under this chapter;

10 (b) The respondent or person to be restrained knows of the order;
11 and

12 (c) The person to be arrested has violated the terms of the order
13 restraining the person from acts or threats of violence or restraining
14 the person from going onto the grounds of or entering the residence,
15 workplace, school, or day care of another, or prohibiting the person
16 from coming within a specified distance of a location or another
17 person.

18 (5) It is a defense to prosecution under subsection (1) of this
19 section that the court order was issued contrary to law or court rule.

20 (6) No peace officer may be held criminally or civilly liable for
21 making an arrest under subsection (4) of this section if the officer
22 acts in good faith and without malice.

23 **Sec. 19.** RCW 26.10.220 and 1999 c 184 s 11 are each amended to
24 read as follows:

25 (1) Whenever a restraining order is issued under this chapter, and
26 the person to be restrained knows of the order, a violation of the
27 provisions restricting the person from acts or threats of violence or
28 of a provision restraining the person from going onto the grounds of or
29 entering the residence, workplace, school, or day care of another, or
30 prohibiting the person from coming within a specified distance of a
31 location or another person, is ((a gross misdemeanor)) punishable under
32 RCW 26.50.110.

33 (2) A person is deemed to have notice of a restraining order if:

34 (a) The person to be restrained or the person's attorney signed the
35 order;

36 (b) The order recites that the person to be restrained or the
37 person's attorney appeared in person before the court;

38 (c) The order was served upon the person to be restrained; or

1 (d) The peace officer gives the person oral or written evidence of
2 the order by reading from it or handing to the person a certified copy
3 of the original order, certified to be an accurate copy of the original
4 by a notary public or by the clerk of the court.

5 (3) A peace officer shall verify the existence of a restraining
6 order by:

7 (a) Obtaining information confirming the existence and terms of the
8 order from a law enforcement agency; or

9 (b) Obtaining a certified copy of the order, certified to be an
10 accurate copy of the original by a notary public or by the clerk of the
11 court.

12 (4) A peace officer shall arrest and take into custody, pending
13 release on bail, personal recognizance, or court order, a person
14 without a warrant when the officer has probable cause to believe that:

15 (a) A restraining order has been issued under this chapter;

16 (b) The respondent or person to be restrained knows of the order;
17 and

18 (c) The person to be arrested has violated the terms of the order
19 restraining the person from acts or threats of violence or restraining
20 the person from going onto the grounds of or entering the residence,
21 workplace, school, or day care of another, or prohibiting the person
22 from coming within a specified distance of a location or another
23 person.

24 (5) It is a defense to prosecution under subsection (1) of this
25 section that the court order was issued contrary to law or court rule.

26 (6) No peace officer may be held criminally or civilly liable for
27 making an arrest under subsection (4) of this section if the officer
28 acts in good faith and without malice.

29 **Sec. 20.** RCW 26.26.138 and 1999 c 184 s 12 are each amended to
30 read as follows:

31 (1) Whenever a restraining order is issued under this chapter, and
32 the person to be restrained knows of the order, a violation of the
33 provisions restricting the person from acts or threats of violence or
34 of a provision restraining the person from going onto the grounds of or
35 entering the residence, workplace, school, or day care of another, or
36 prohibiting the person from coming within a specified distance of a
37 location or another person, is ((a gross misdemeanor)) punishable under
38 RCW 26.50.110.

1 (2) A person is deemed to have notice of a restraining order if:

2 (a) The person to be restrained or the person's attorney signed the
3 order;

4 (b) The order recites that the person to be restrained or the
5 person's attorney appeared in person before the court;

6 (c) The order was served upon the person to be restrained; or

7 (d) The peace officer gives the person oral or written evidence of
8 the order by reading from it or handing to the person a certified copy
9 of the original order, certified to be an accurate copy of the original
10 by a notary public or by the clerk of the court.

11 (3) A peace officer shall verify the existence of a restraining
12 order by:

13 (a) Obtaining information confirming the existence and terms of the
14 order from a law enforcement agency; or

15 (b) Obtaining a certified copy of the order, certified to be an
16 accurate copy of the original by a notary public or by the clerk of the
17 court.

18 (4) A peace officer shall arrest and take into custody, pending
19 release on bail, personal recognizance, or court order, a person
20 without a warrant when the officer has probable cause to believe that:

21 (a) A restraining order has been issued under this chapter;

22 (b) The respondent or person to be restrained knows of the order;
23 and

24 (c) The person to be arrested has violated the terms of the order
25 restraining the person from acts or threats of violence or restraining
26 the person from going onto the grounds of or entering the residence,
27 workplace, school, or day care of another, or prohibiting the person
28 from coming within a specified distance of a location or another
29 person.

30 (5) It is a defense to prosecution under subsection (1) of this
31 section that the court order was issued contrary to law or court rule.

32 (6) No peace officer may be held criminally or civilly liable for
33 making an arrest under subsection (4) of this section if the officer
34 acts in good faith and without malice.

35 **Sec. 21.** RCW 26.50.110 and 1996 c 248 s 16 are each amended to
36 read as follows:

37 (1) Whenever an order (~~for protection~~) is granted under this
38 chapter, chapter 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or there is

1 a valid foreign protection order as defined in RCW 26.52.020, and the
2 respondent or person to be restrained knows of the order, a violation
3 of the restraint provisions, or of a provision excluding the person
4 from a residence, workplace, school, or day care, or of a provision
5 prohibiting a person from coming within a specified distance of a
6 location or another person, or of a provision of a foreign protection
7 order specifically indicating that a violation will be a crime, is a
8 gross misdemeanor except as provided in subsections (4) and (5) of this
9 section. Upon conviction, and in addition to any other penalties
10 provided by law, the court may require that the respondent submit to
11 electronic monitoring. The court shall specify who shall provide the
12 electronic monitoring services, and the terms under which the
13 monitoring shall be performed. The order also may include a
14 requirement that the respondent pay the costs of the monitoring. The
15 court shall consider the ability of the convicted person to pay for
16 electronic monitoring.

17 (2) A peace officer shall arrest without a warrant and take into
18 custody a person whom the peace officer has probable cause to believe
19 has violated an order issued under this chapter, chapter 10.99, 26.09,
20 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order as
21 defined in RCW 26.52.020, that restrains the person or excludes the
22 person from a residence, workplace, school, or day care, or prohibits
23 the person from coming within a specified distance of a location or
24 another person, if the person restrained knows of the order. Presence
25 of the order in the law enforcement computer-based criminal
26 intelligence information system is not the only means of establishing
27 knowledge of the order.

28 (3) A violation of an order (~~for protection~~) issued under this
29 chapter, chapter 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a
30 valid foreign protection order as defined in RCW 26.52.020, shall also
31 constitute contempt of court, and is subject to the penalties
32 prescribed by law.

33 (4) Any assault that is a violation of an order issued under this
34 chapter, chapter 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a
35 valid foreign protection order as defined in RCW 26.52.020, and that
36 does not amount to assault in the first or second degree under RCW
37 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in
38 violation of ((a protective)) such an order ((issued under this

1 ~~chapter~~) that is reckless and creates a substantial risk of death or
2 serious physical injury to another person is a class C felony.

3 (5) A violation of a court order issued under this chapter, chapter
4 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign
5 protection order as defined in RCW 26.52.020, is a class C felony if
6 the offender has at least two previous convictions for violating the
7 provisions of ~~((a no contact))~~ an order issued under chapter 10.99
8 ~~((RCW, a domestic violence protection order issued under chapter 26.09,~~
9 ~~26.10, or 26.26 RCW or this chapter, or any federal or out of state~~
10 ~~order that is comparable to a no contact or protection order issued~~
11 ~~under Washington law)),~~ 26.09, 26.10, 26.26, or 74.34 RCW, or a valid
12 foreign protection order as defined in RCW 26.52.020. The previous
13 convictions may involve the same victim or other victims specifically
14 protected by the ~~((no contact orders or protection))~~ orders the
15 offender violated.

16 (6) Upon the filing of an affidavit by the petitioner or any peace
17 officer alleging that the respondent has violated an order ~~((for~~
18 ~~protection))~~ granted under this chapter, chapter 10.99, 26.09, 26.10,
19 26.26, or 74.34 RCW, or a valid foreign protection order as defined in
20 RCW 26.52.020, the court may issue an order to the respondent,
21 requiring the respondent to appear and show cause within fourteen days
22 why the respondent should not be found in contempt of court and
23 punished accordingly. The hearing may be held in the court of any
24 county or municipality in which the petitioner or respondent
25 temporarily or permanently resides at the time of the alleged
26 violation.

27 **Sec. 22.** RCW 26.50.150 and 1999 c 147 s 1 are each amended to read
28 as follows:

29 (1) The department of social and health services shall adopt rules
30 for standards of approval of domestic violence perpetrator programs
31 that accept perpetrators of domestic violence into treatment to satisfy
32 court orders or that represent the programs as ones that treat domestic
33 violence perpetrators. The treatment must meet the following minimum
34 qualifications:

35 ~~((1))~~ (a) All treatment must be based upon a full, complete
36 clinical intake including: Current and past violence history; a
37 lethality risk assessment; a complete diagnostic evaluation; a
38 substance abuse assessment; criminal history; assessment of cultural

1 issues, learning disabilities, literacy, and special language needs;
2 and a treatment plan that adequately and appropriately addresses the
3 treatment needs of the individual.

4 ~~((+2))~~ (b) To facilitate communication necessary for periodic
5 safety checks and case monitoring, the program must require the
6 perpetrator to sign the following releases:

7 ~~((+a))~~ (i) A release for the program to inform the victim and
8 victim's community and legal advocates that the perpetrator is in
9 treatment with the program, and to provide information, for safety
10 purposes, to the victim and victim's community and legal advocates;

11 ~~((+b))~~ (ii) A release to prior and current treatment agencies to
12 provide information on the perpetrator to the program; and

13 ~~((+c))~~ (iii) A release for the program to provide information on
14 the perpetrator to relevant legal entities including: Lawyers, courts,
15 parole, probation, child protective services, and child welfare
16 services.

17 ~~((+3))~~ (c) Treatment must be for a minimum treatment period
18 defined by the secretary of the department by rule. The weekly
19 treatment sessions must be in a group unless there is a documented,
20 clinical reason for another modality. Any other therapies, such as
21 individual, marital, or family therapy, substance abuse evaluations or
22 therapy, medication reviews, or psychiatric interviews, may be
23 concomitant with the weekly group treatment sessions described in this
24 section but not a substitute for it.

25 ~~((+4))~~ (d) The treatment must focus primarily on ending the
26 violence, holding the perpetrator accountable for his or her violence,
27 and changing his or her behavior. The treatment must be based on
28 nonvictim-blaming strategies and philosophies and shall include
29 education about the individual, family, and cultural dynamics of
30 domestic violence. If the perpetrator or the victim has a minor child,
31 treatment must specifically include education regarding the effects of
32 domestic violence on children, such as the emotional impacts of
33 domestic violence on children and the long-term consequences that
34 exposure to incidents of domestic violence may have on children.

35 ~~((+5))~~ (e) Satisfactory completion of treatment must be contingent
36 upon the perpetrator meeting specific criteria, defined by rule by the
37 secretary of the department, and not just upon the end of a certain
38 period of time or a certain number of sessions.

1 (~~(6)~~) (f) The program must have policies and procedures for
2 dealing with reoffenses and noncompliance.

3 (~~(7)~~) (g) All evaluation and treatment services must be provided
4 by, or under the supervision of, qualified personnel.

5 (2) The department shall conduct periodic evaluations of programs
6 that have been approved under this section, to determine whether they
7 are in compliance with the standards adopted under this section.

8 (~~(8)~~) (3) The secretary of the department may adopt rules and
9 establish fees as necessary to implement this section.

10 **Sec. 23.** RCW 26.50.160 and 1995 c 246 s 18 are each amended to
11 read as follows:

12 To prevent the issuance of competing protection orders in different
13 courts and to give courts needed information for issuance of orders,
14 the judicial information system shall be available in each district,
15 municipal, and superior court by July 1, 1997, and shall include a data
16 base containing the following information:

17 (1) The names of the parties and the cause number for every order
18 of protection issued under this title, every criminal no-contact order
19 issued under chapter 10.99 RCW, every antiharassment order issued under
20 chapter 10.14 RCW, every dissolution action under chapter 26.09 RCW,
21 every third-party custody action under chapter 26.10 RCW, (~~and~~) every
22 parentage action under chapter (~~26.10~~) 26.26 RCW, every foreign
23 protection order filed under chapter 26.52 RCW, and every order for
24 protection of a vulnerable adult under chapter 74.34 RCW. When a
25 guardian or the department of social and health services has petitioned
26 for relief on behalf of a vulnerable adult, the name of the vulnerable
27 adult shall be included in the data base as a party rather than the
28 guardian or department;

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

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

33 **Sec. 24.** RCW 26.52.070 and 1999 c 184 s 9 are each amended to read
34 as follows:

35 (1) Whenever a foreign protection order is granted to a person
36 entitled to protection and the person under restraint knows of the
37 foreign protection order, a violation of a provision prohibiting the

1 person under restraint from contacting or communicating with another
2 person, or of a provision excluding the person under restraint from a
3 residence, workplace, school, or day care, or of a provision
4 prohibiting a person from coming within a specified distance of a
5 location or another person, or a violation of any provision for which
6 the foreign protection order specifically indicates that a violation
7 will be a crime, is ~~((a gross misdemeanor except as provided in~~
8 ~~subsections (3) and (4) of this section. Upon conviction, and in~~
9 ~~addition to any other penalties provided by law, the court may require~~
10 ~~the person under restraint to submit to electronic monitoring. The~~
11 ~~court shall specify who will provide the electronic monitoring~~
12 ~~services, and the terms under which the monitoring will be performed.~~
13 ~~The order also may include a requirement that the person under~~
14 ~~restraint pay the costs of the monitoring. The court shall consider~~
15 ~~the ability of the convicted person to pay for electronic monitoring))~~
16 punishable under RCW 26.50.110.

17 (2) A peace officer shall arrest without a warrant and take into
18 custody a person when the peace officer has probable cause to believe
19 that a foreign protection order has been issued of which the person
20 under restraint has knowledge and the person under restraint has
21 violated a provision of the foreign protection order that prohibits the
22 person under restraint from contacting or communicating with another
23 person, or a provision that excludes the person under restraint from a
24 residence, workplace, school, or day care, or of a provision
25 prohibiting a person from coming within a specified distance of a
26 location or another person, or a violation of any provision for which
27 the foreign protection order specifically indicates that a violation
28 will be a crime. Presence of the order in the law enforcement
29 computer-based criminal intelligence information system is not the only
30 means of establishing knowledge of the order.

31 ~~((3) An assault that is a violation of a valid foreign protection~~
32 ~~order that does not amount to assault in the first or second degree~~
33 ~~under RCW 9A.36.011 or 9A.36.021 is a class C felony, and conduct in~~
34 ~~violation of a valid foreign protection order issued under this chapter~~
35 ~~that is reckless and creates a substantial risk of death or serious~~
36 ~~physical injury to another person is a class C felony.~~

37 (4) A violation of a valid foreign protection order is a class C
38 felony if the offender has at least two previous convictions for
39 violating the provisions of a no-contact order issued under chapter

1 ~~10.99 RCW, a domestic violence protection order issued under chapter~~
2 ~~26.09, 26.10, 26.26, or 26.50 RCW, or a federal or out-of-state order~~
3 ~~that is comparable to a no-contact or protection order issued under~~
4 ~~Washington law. The previous convictions may involve the same person~~
5 ~~entitled to protection or other person entitled to protection~~
6 ~~specifically protected by the no-contact orders or protection orders~~
7 ~~the offender violated.))~~

8 **Sec. 25.** RCW 70.123.050 and 1979 ex.s. c 245 s 5 are each amended
9 to read as follows:

10 The department shall contract, where appropriate, with public or
11 private nonprofit groups or organizations with experience and expertise
12 in the field of domestic violence to:

13 (1) Develop and implement an educational program designed to
14 promote public and professional awareness of the problems of domestic
15 violence and of the availability of services for victims of domestic
16 violence. Particular emphasis should be given to the education needs
17 of law enforcement agencies, the legal system, the medical profession,
18 and other relevant professions that are engaged in the prevention,
19 identification, and treatment of domestic violence;

20 (2) Maintain a directory of temporary shelters and other direct
21 service facilities for the victims of domestic violence which is
22 current, complete, detailed, and available, as necessary, to provide
23 useful referral services to persons seeking help on an emergency basis;

24 (3) Create a state-wide toll-free telephone number that would
25 provide information and referral to victims of domestic violence;

26 (4) Provide opportunities to persons working in the area of
27 domestic violence to exchange information; ~~((and))~~

28 (5) Provide training opportunities for both volunteer workers and
29 staff personnel; and

30 (6) Develop and provide advocacy, community education, and
31 specialized services to underserved victims of domestic violence.

32 **Sec. 26.** RCW 74.34.130 and 1999 c 176 s 13 are each amended to
33 read as follows:

34 The court may order relief as it deems necessary for the protection
35 of the petitioner, including, but not limited to the following:

36 (1) Restraining respondent from committing acts of abandonment,
37 abuse, neglect, or financial exploitation;

1 (2) Excluding the respondent from petitioner's residence for a
2 specified period or until further order of the court;

3 (3) Prohibiting contact by respondent for a specified period or
4 until further order of the court;

5 (4) Prohibiting the respondent from coming within a specified
6 distance from a specified location, or within a specified distance from
7 a specified other person;

8 (5) Requiring an accounting by respondent of the disposition of
9 petitioner's income or other resources;

10 (~~(5)~~) (6) Restraining the transfer of property for a specified
11 period not exceeding ninety days;

12 (~~(6)~~) (7) Requiring the respondent to pay the filing fee and
13 court costs, including service fees, and to reimburse the petitioner
14 for costs incurred in bringing the action, including a reasonable
15 attorney's fee.

16 Any relief granted by an order for protection, other than a
17 judgment for costs, shall be for a fixed period not to exceed one year.

18 **Sec. 27.** RCW 9.94A.440 and 1999 c 322 s 6 and 1999 c 196 s 11 are
19 each reenacted and amended to read as follows:

20 (1) Decision not to prosecute.

21 STANDARD: A prosecuting attorney may decline to prosecute, even
22 though technically sufficient evidence to prosecute exists, in
23 situations where prosecution would serve no public purpose, would
24 defeat the underlying purpose of the law in question or would result in
25 decreased respect for the law.

26 GUIDELINE/COMMENTARY:

27 Examples

28 The following are examples of reasons not to prosecute which could
29 satisfy the standard.

30 (a) Contrary to Legislative Intent - It may be proper to decline to
31 charge where the application of criminal sanctions would be clearly
32 contrary to the intent of the legislature in enacting the particular
33 statute.

34 (b) Antiquated Statute - It may be proper to decline to charge
35 where the statute in question is antiquated in that:

36 (i) It has not been enforced for many years; and

37 (ii) Most members of society act as if it were no longer in
38 existence; and

1 (iii) It serves no deterrent or protective purpose in today's
2 society; and

3 (iv) The statute has not been recently reconsidered by the
4 legislature.

5 This reason is not to be construed as the basis for declining cases
6 because the law in question is unpopular or because it is difficult to
7 enforce.

8 (c) De Minimus Violation - It may be proper to decline to charge
9 where the violation of law is only technical or insubstantial and where
10 no public interest or deterrent purpose would be served by prosecution.

11 (d) Confinement on Other Charges - It may be proper to decline to
12 charge because the accused has been sentenced on another charge to a
13 lengthy period of confinement; and

14 (i) Conviction of the new offense would not merit any additional
15 direct or collateral punishment;

16 (ii) The new offense is either a misdemeanor or a felony which is
17 not particularly aggravated; and

18 (iii) Conviction of the new offense would not serve any significant
19 deterrent purpose.

20 (e) Pending Conviction on Another Charge - It may be proper to
21 decline to charge because the accused is facing a pending prosecution
22 in the same or another county; and

23 (i) Conviction of the new offense would not merit any additional
24 direct or collateral punishment;

25 (ii) Conviction in the pending prosecution is imminent;

26 (iii) The new offense is either a misdemeanor or a felony which is
27 not particularly aggravated; and

28 (iv) Conviction of the new offense would not serve any significant
29 deterrent purpose.

30 (f) High Disproportionate Cost of Prosecution - It may be proper to
31 decline to charge where the cost of locating or transporting, or the
32 burden on, prosecution witnesses is highly disproportionate to the
33 importance of prosecuting the offense in question. This reason should
34 be limited to minor cases and should not be relied upon in serious
35 cases.

36 (g) Improper Motives of Complainant - It may be proper to decline
37 charges because the motives of the complainant are improper and
38 prosecution would serve no public purpose, would defeat the underlying

1 purpose of the law in question or would result in decreased respect for
2 the law.

3 (h) Immunity - It may be proper to decline to charge where immunity
4 is to be given to an accused in order to prosecute another where the
5 accused's information or testimony will reasonably lead to the
6 conviction of others who are responsible for more serious criminal
7 conduct or who represent a greater danger to the public interest.

8 (i) Victim Request - It may be proper to decline to charge because
9 the victim requests that no criminal charges be filed and the case
10 involves the following crimes or situations:

11 (i) Assault cases where the victim has suffered little or no
12 injury;

13 (ii) Crimes against property, not involving violence, where no
14 major loss was suffered;

15 (iii) Where doing so would not jeopardize the safety of society.

16 Care should be taken to insure that the victim's request is freely
17 made and is not the product of threats or pressure by the accused.

18 The presence of these factors may also justify the decision to
19 dismiss a prosecution which has been commenced.

20 Notification

21 The prosecutor is encouraged to notify the victim, when practical,
22 and the law enforcement personnel, of the decision not to prosecute.

23 (2) Decision to prosecute.

24 (a) STANDARD:

25 Crimes against persons will be filed if sufficient admissible
26 evidence exists, which, when considered with the most plausible,
27 reasonably foreseeable defense that could be raised under the evidence,
28 would justify conviction by a reasonable and objective fact-finder.
29 With regard to offenses prohibited by RCW 9A.44.040, 9A.44.050,
30 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, 9A.44.089, and
31 9A.64.020 the prosecutor should avoid pre-filing agreements or
32 diversions intended to place the accused in a program of treatment or
33 counseling, so that treatment, if determined to be beneficial, can be
34 provided pursuant to RCW 9.94A.120(8).

35 Crimes against property/other crimes will be filed if the
36 admissible evidence is of such convincing force as to make it probable
37 that a reasonable and objective fact-finder would convict after hearing
38 all the admissible evidence and the most plausible defense that could
39 be raised.

1 See table below for the crimes within these categories.

2 CATEGORIZATION OF CRIMES FOR PROSECUTING STANDARDS

3 CRIMES AGAINST PERSONS

- 4 Aggravated Murder
- 5 1st Degree Murder
- 6 2nd Degree Murder
- 7 1st Degree Kidnaping
- 8 1st Degree Assault
- 9 1st Degree Assault of a Child
- 10 1st Degree Rape
- 11 1st Degree Robbery
- 12 1st Degree Rape of a Child
- 13 1st Degree Arson
- 14 2nd Degree Kidnaping
- 15 2nd Degree Assault
- 16 2nd Degree Assault of a Child
- 17 2nd Degree Rape
- 18 2nd Degree Robbery
- 19 1st Degree Burglary
- 20 1st Degree Manslaughter
- 21 2nd Degree Manslaughter
- 22 1st Degree Extortion
- 23 Indecent Liberties
- 24 Incest
- 25 2nd Degree Rape of a Child
- 26 Vehicular Homicide
- 27 Vehicular Assault
- 28 3rd Degree Rape
- 29 3rd Degree Rape of a Child
- 30 1st Degree Child Molestation
- 31 2nd Degree Child Molestation
- 32 3rd Degree Child Molestation
- 33 2nd Degree Extortion
- 34 1st Degree Promoting Prostitution
- 35 Intimidating a Juror
- 36 Communication with a Minor
- 37 Intimidating a Witness
- 38 Intimidating a Public Servant

1 Bomb Threat (if against person)
2 3rd Degree Assault
3 3rd Degree Assault of a Child
4 Unlawful Imprisonment
5 Promoting a Suicide Attempt
6 Riot (if against person)
7 Stalking
8 Custodial Assault
9 ~~((No Contact Order Domestic Violence Pretrial (RCW 10.99.040(4) (b)~~
10 ~~and (c))~~
11 ~~No Contact Order Domestic Violence Sentence (RCW 10.99.050(2))~~
12 ~~Protection Order Domestic Violence Civil (RCW 26.50.110 (4) and~~
13 ~~(5))~~) Domestic Violence Court Order Violation (RCW 10.99.040,
14 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or
15 section 3 of this act)
16 Counterfeiting (if a violation of RCW 9.16.035(4))

17 CRIMES AGAINST PROPERTY/OTHER CRIMES
18 2nd Degree Arson
19 1st Degree Escape
20 2nd Degree Burglary
21 1st Degree Theft
22 1st Degree Perjury
23 1st Degree Introducing Contraband
24 1st Degree Possession of Stolen Property
25 Bribery
26 Bribing a Witness
27 Bribe received by a Witness
28 Bomb Threat (if against property)
29 1st Degree Malicious Mischief
30 2nd Degree Theft
31 2nd Degree Escape
32 2nd Degree Introducing Contraband
33 2nd Degree Possession of Stolen Property
34 2nd Degree Malicious Mischief
35 1st Degree Reckless Burning
36 Taking a Motor Vehicle without Authorization
37 Forgery
38 2nd Degree Perjury
39 2nd Degree Promoting Prostitution

1 Tampering with a Witness
2 Trading in Public Office
3 Trading in Special Influence
4 Receiving/Granting Unlawful Compensation
5 Bigamy
6 Eluding a Pursuing Police Vehicle
7 Willful Failure to Return from Furlough
8 Escape from Community Custody
9 Riot (if against property)
10 Thefts of Livestock

11 ALL OTHER UNCLASSIFIED FELONIES

12 Selection of Charges/Degree of Charge

13 (i) The prosecutor should file charges which adequately describe
14 the nature of defendant's conduct. Other offenses may be charged only
15 if they are necessary to ensure that the charges:

16 (A) Will significantly enhance the strength of the state's case at
17 trial; or

18 (B) Will result in restitution to all victims.

19 (ii) The prosecutor should not overcharge to obtain a guilty plea.

20 Overcharging includes:

21 (A) Charging a higher degree;

22 (B) Charging additional counts.

23 This standard is intended to direct prosecutors to charge those
24 crimes which demonstrate the nature and seriousness of a defendant's
25 criminal conduct, but to decline to charge crimes which are not
26 necessary to such an indication. Crimes which do not merge as a matter
27 of law, but which arise from the same course of conduct, do not all
28 have to be charged.

29 (b) GUIDELINES/COMMENTARY:

30 (i) Police Investigation

31 A prosecuting attorney is dependent upon law enforcement agencies
32 to conduct the necessary factual investigation which must precede the
33 decision to prosecute. The prosecuting attorney shall ensure that a
34 thorough factual investigation has been conducted before a decision to
35 prosecute is made. In ordinary circumstances the investigation should
36 include the following:

37 (A) The interviewing of all material witnesses, together with the
38 obtaining of written statements whenever possible;

1 (B) The completion of necessary laboratory tests; and
2 (C) The obtaining, in accordance with constitutional requirements,
3 of the suspect's version of the events.

4 If the initial investigation is incomplete, a prosecuting attorney
5 should insist upon further investigation before a decision to prosecute
6 is made, and specify what the investigation needs to include.

7 (ii) Exceptions

8 In certain situations, a prosecuting attorney may authorize filing
9 of a criminal complaint before the investigation is complete if:

10 (A) Probable cause exists to believe the suspect is guilty; and

11 (B) The suspect presents a danger to the community or is likely to
12 flee if not apprehended; or

13 (C) The arrest of the suspect is necessary to complete the
14 investigation of the crime.

15 In the event that the exception to the standard is applied, the
16 prosecuting attorney shall obtain a commitment from the law enforcement
17 agency involved to complete the investigation in a timely manner. If
18 the subsequent investigation does not produce sufficient evidence to
19 meet the normal charging standard, the complaint should be dismissed.

20 (iii) Investigation Techniques

21 The prosecutor should be fully advised of the investigatory
22 techniques that were used in the case investigation including:

23 (A) Polygraph testing;

24 (B) Hypnosis;

25 (C) Electronic surveillance;

26 (D) Use of informants.

27 (iv) Pre-Filing Discussions with Defendant

28 Discussions with the defendant or his/her representative regarding
29 the selection or disposition of charges may occur prior to the filing
30 of charges, and potential agreements can be reached.

31 (v) Pre-Filing Discussions with Victim(s)

32 Discussions with the victim(s) or victims' representatives
33 regarding the selection or disposition of charges may occur before the
34 filing of charges. The discussions may be considered by the prosecutor
35 in charging and disposition decisions, and should be considered before
36 reaching any agreement with the defendant regarding these decisions.

37 NEW SECTION. **Sec. 28.** Section 14 of this act takes effect July 1,
38 2000.

1 NEW SECTION. **Sec. 29.** Section 1 of this act is necessary for the
2 immediate preservation of the public peace, health, or safety, or
3 support of the state government and its existing public institutions,
4 and takes effect immediately.

5 NEW SECTION. **Sec. 30.** (1) The penalties prescribed in section 1
6 of this act apply to violations of court orders which occur on or after
7 the effective date of section 1 of this act, regardless of the date the
8 court issued the order.

9 (2) The penalties prescribed in this act, other than in section 1
10 of this act, apply to violations of court orders which occur on or
11 after July 1, 2000, regardless of the date the court issued the order.

--- END ---