

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE SENATE BILL 6400

Chapter 119, Laws of 2000

(partial veto)

56th Legislature
2000 Regular Session

DOMESTIC VIOLENCE

EFFECTIVE DATE: 6/8/00 - Except section 17, which becomes effective 7/1/00.

Passed by the Senate March 7, 2000
YEAS 46 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House March 3, 2000
YEAS 98 NAYS 0

CLYDE BALLARD

**Speaker of the
House of Representatives**

FRANK CHOPP

**Speaker of the
House of Representatives**

Approved March 24, 2000, with the
exception of section 29, which is
vetoed.

GARY LOCKE

Governor of the State of Washington

CERTIFICATE

I, Tony M. Cook, Secretary of the
Senate of the State of Washington, do
hereby certify that the attached is
**ENGROSSED SECOND SUBSTITUTE SENATE
BILL 6400** as passed by the Senate and
the House of Representatives on the
dates hereon set forth.

TONY M. COOK

Secretary

FILED

March 24, 2000 - 3:36 p.m.

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE SENATE BILL 6400

AS AMENDED BY THE HOUSE

Passed Legislature - 2000 Regular Session

State of Washington

56th Legislature

2000 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Wojahn, Costa, Kohl-Welles, Winsley, Rasmussen and McAuliffe; by request of Governor Locke)

Read first time 02/08/2000.

1 AN ACT Relating to domestic violence; amending RCW 9.94A.220,
2 10.31.100, 10.99.020, 26.09.050, 26.09.060, 26.10.040, 26.10.115,
3 26.26.130, 26.26.137, 26.44.063, 26.44.067, 26.50.035, 26.50.060,
4 26.50.070, 10.99.040, 10.99.045, 10.99.050, 26.09.300, 26.10.220,
5 26.26.138, 26.50.110, 26.50.160, 26.52.070, and 74.34.130; reenacting
6 and amending RCW 9.94A.320 and 9.94A.440; adding a new section to
7 chapter 26.50 RCW; adding a new section to chapter 74.34 RCW; creating
8 new sections; prescribing penalties; and providing an effective date.

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

10 NEW SECTION. **Sec. 1.** A new section is added to chapter 26.50 RCW
11 to read as follows:

12 The department of social and health services, in its discretion,
13 may seek the relief provided in this chapter on behalf of and with the
14 consent of any vulnerable adult as those persons are defined in RCW
15 74.34.020. Neither the department nor the state of Washington shall be
16 liable for failure to seek relief on behalf of any persons under this
17 section.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.34 RCW
2 to read as follows:

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

11 (2) Whenever an order for protection of a vulnerable adult is
12 issued under this chapter, and the respondent or person to be
13 restrained knows of the order, a violation of a provision restraining
14 the person from committing acts of abuse, prohibiting contact with the
15 petitioner, excluding the person from any specified location, or
16 prohibiting the person from coming within a specified distance of a
17 location, shall be punishable under RCW 26.50.110, regardless of
18 whether the person is a family or household member as defined in RCW
19 26.50.010.

20 **Sec. 3.** RCW 9.94A.220 and 1994 c 271 s 901 are each amended to
21 read as follows:

22 (1) When an offender has completed the requirements of the
23 sentence, the secretary of the department or the secretary's designee
24 shall notify the sentencing court, which shall discharge the offender
25 and provide the offender with a certificate of discharge.

26 (2) An offender who is not convicted of a violent offense or a sex
27 offense and is sentenced to a term involving community supervision may
28 be considered for a discharge of sentence by the sentencing court prior
29 to the completion of community supervision, provided that the offender
30 has completed at least one-half of the term of community supervision
31 and has met all other sentence requirements.

32 (3) Except as provided in subsection (4) of this section, the
33 discharge shall have the effect of restoring all civil rights lost by
34 operation of law upon conviction, and the certificate of discharge
35 shall so state. Nothing in this section prohibits the use of an
36 offender's prior record for purposes of determining sentences for later
37 offenses as provided in this chapter. Nothing in this section affects
38 or prevents use of the offender's prior conviction in a later criminal

1 prosecution either as an element of an offense or for impeachment
2 purposes. A certificate of discharge is not based on a finding of
3 rehabilitation.

4 (4) Unless otherwise ordered by the sentencing court, a certificate
5 of discharge shall not terminate the offender's obligation to comply
6 with an order issued under chapter 10.99 RCW that excludes or prohibits
7 the offender from having contact with a specified person or coming
8 within a set distance of any specified location that was contained in
9 the judgment and sentence. An offender who violates such an order
10 after a certificate of discharge has been issued shall be subject to
11 prosecution according to the chapter under which the order was
12 originally issued.

13 (5) Upon release from custody, the offender may apply to the
14 department for counseling and help in adjusting to the community. This
15 voluntary help may be provided for up to one year following the release
16 from custody.

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

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

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

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

36 (a) An order has been issued of which the person has knowledge
37 under RCW (~~(10.99.040(2), 10.99.050, 26.09.050, 26.09.060, 26.10.040,~~
38 ~~26.10.115,)~~) 26.44.063, or chapter 10.99, 26.09, 26.10, 26.26 (~~(RCW, or~~

1 chapter)), 26.50, or 74.34 RCW restraining the person and the person
2 has violated the terms of the order restraining the person from acts or
3 threats of violence, or restraining the person from going onto the
4 grounds of or entering a residence, workplace, school, or day care, or
5 prohibiting the person from knowingly coming within, or knowingly
6 remaining within, a specified distance of a location or, in the case of
7 an order issued under RCW 26.44.063, imposing any other restrictions or
8 conditions upon the person; or

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

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

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

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

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

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

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

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

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

13 (4) A law enforcement officer investigating at the scene of a motor
14 vehicle accident may arrest the driver of a motor vehicle involved in
15 the accident if the officer has probable cause to believe that the
16 driver has committed in connection with the accident a violation of any
17 traffic law or regulation.

18 (5) Any police officer having probable cause to believe that a
19 person has committed or is committing a violation of RCW ((88.12.025))
20 79A.60.040 shall have the authority to arrest the person.

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

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

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

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

38 (10) A police officer having probable cause to believe that a
39 person illegally possesses or illegally has possessed a firearm or

1 other dangerous weapon on private or public elementary or secondary
2 school premises shall have the authority to arrest the person.

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

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

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

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

14 Unless the context clearly requires otherwise, the definitions in
15 this section apply throughout this chapter.

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

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

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

- 31 (a) Assault in the first degree (RCW 9A.36.011);
- 32 (b) Assault in the second degree (RCW 9A.36.021);
- 33 (c) Assault in the third degree (RCW 9A.36.031);
- 34 (d) Assault in the fourth degree (RCW 9A.36.041);
- 35 (e) Drive-by shooting (RCW 9A.36.045);
- 36 (f) Reckless endangerment (RCW 9A.36.050);
- 37 (g) Coercion (RCW 9A.36.070);
- 38 (h) Burglary in the first degree (RCW 9A.52.020);

- 1 (i) Burglary in the second degree (RCW 9A.52.030);
2 (j) Criminal trespass in the first degree (RCW 9A.52.070);
3 (k) Criminal trespass in the second degree (RCW 9A.52.080);
4 (l) Malicious mischief in the first degree (RCW 9A.48.070);
5 (m) Malicious mischief in the second degree (RCW 9A.48.080);
6 (n) Malicious mischief in the third degree (RCW 9A.48.090);
7 (o) Kidnapping in the first degree (RCW 9A.40.020);
8 (p) Kidnapping in the second degree (RCW 9A.40.030);
9 (q) Unlawful imprisonment (RCW 9A.40.040);
10 (r) Violation of the provisions of a restraining order, no-contact
11 order, or protection order restraining or enjoining the person or
12 restraining the person from going onto the grounds of or entering a
13 residence, workplace, school, or day care, or prohibiting the person
14 from knowingly coming within, or knowingly remaining within, a
15 specified distance of a location (RCW 10.99.040, 10.99.050, 26.09.300,
16 26.10.220, ~~((or))~~ 26.26.138, 26.44.063, 26.44.150, 26.50.060,
17 26.50.070, 26.50.130, 26.52.070, or section 2 of this act);
18 ~~((s))~~ ~~(Violation of the provisions of a protection order or no-~~
19 ~~contact order restraining the person or restraining the person from~~
20 ~~going onto the grounds of or entering a residence, workplace, school,~~
21 ~~or day care~~ (RCW 26.50.060, 26.50.070, 26.50.130, 10.99.040, or
22 10.99.050);
23 ~~((t))~~ Rape in the first degree (RCW 9A.44.040);
24 ~~((u))~~ (t) Rape in the second degree (RCW 9A.44.050);
25 ~~((v))~~ (u) Residential burglary (RCW 9A.52.025);
26 ~~((w))~~ (v) Stalking (RCW 9A.46.110); and
27 ~~((x))~~ (w) Interference with the reporting of domestic violence
28 (RCW 9A.36.150).
29 (4) "Victim" means a family or household member who has been
30 subjected to domestic violence.

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

- 33 (1) In entering a decree of dissolution of marriage, legal
34 separation, or declaration of invalidity, the court shall determine the
35 marital status of the parties, make provision for a parenting plan for
36 any minor child of the marriage, make provision for the support of any
37 child of the marriage entitled to support, consider or approve
38 provision for the maintenance of either spouse, make provision for the

1 disposition of property and liabilities of the parties, make provision
2 for the allocation of the children as federal tax exemptions, make
3 provision for any necessary continuing restraining orders including the
4 provisions contained in RCW 9.41.800, make provision for the issuance
5 within this action of the restraint provisions of a domestic violence
6 protection order under chapter 26.50 RCW or an antiharassment
7 protection order under chapter 10.14 RCW, and make provision for the
8 change of name of any party.

9 (2) 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 knowingly coming within, or knowingly
14 remaining within, a specified distance of a location, shall prominently
15 bear on the front page of the order the legend: VIOLATION OF THIS
16 ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER
17 CHAPTER ((26.09)) 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

18 (3) 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, in addition
21 to the law enforcement information sheet or proof of service of the
22 order, be forwarded by the clerk of the court on or before the next
23 judicial day to the appropriate law enforcement agency specified in the
24 order. Upon receipt of the order, the law enforcement agency shall
25 ((~~forthwith~~)) enter the order into any computer-based criminal
26 intelligence information system available in this state used by law
27 enforcement agencies to list outstanding warrants. The order is fully
28 enforceable in any county in the state.

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

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

37 (1) In a proceeding for:

1 (a) Dissolution of marriage, legal separation, or a declaration of
2 invalidity; or

3 (b) Disposition of property or liabilities, maintenance, or support
4 following dissolution of the marriage by a court which lacked personal
5 jurisdiction over the absent spouse; either party may move for
6 temporary maintenance or for temporary support of children entitled to
7 support. The motion shall be accompanied by an affidavit setting forth
8 the factual basis for the motion and the amounts requested.

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

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

19 (b) Molesting or disturbing the peace of the other party or of any
20 child;

21 (c) 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 upon
23 a showing of the necessity therefor;

24 (d) Knowingly coming within, or knowingly remaining within, a
25 specified distance from a specified location; and

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

27 (3) Either party may request a domestic violence protection order
28 under chapter 26.50 RCW or an antiharassment protection order under
29 chapter 10.14 RCW on a temporary basis. The court may grant any of the
30 relief provided in RCW 26.50.060 except relief pertaining to
31 residential provisions for the children which provisions shall be
32 provided for under this chapter, and any of the relief provided in RCW
33 10.14.080. Ex parte orders issued under this subsection shall be
34 effective for a fixed period not to exceed fourteen days, or upon court
35 order, not to exceed twenty-four days if necessary to ensure that all
36 temporary motions in the case can be heard at the same time.

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

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

6 (6) The court may issue a temporary restraining order or
7 preliminary injunction and an order for temporary maintenance or
8 support in such amounts and on such terms as are just and proper in the
9 circumstances. The court may in its discretion waive the filing of the
10 bond or the posting of security.

11 (7) Restraining orders issued under this section restraining the
12 person from molesting or disturbing another party, or from going onto
13 the grounds of or entering the home, workplace, or school of the other
14 party or the day care or school of any child, or prohibiting the person
15 from knowingly coming within, or knowingly remaining within, a
16 specified distance of a location, shall prominently bear on the front
17 page of the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL
18 NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER ((26.09)) 26.50
19 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

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

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

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

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

5 (b) May be revoked or modified;

6 (c) Terminates when the final decree is entered, except as provided
7 under subsection (~~((+10+))~~) (11) of this section, or when the petition
8 for dissolution, legal separation, or declaration of invalidity is
9 dismissed;

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

12 (~~((+10+))~~) (11) Delinquent support payments accrued under an order
13 for temporary support remain collectible and are not extinguished when
14 a final decree is entered unless the decree contains specific language
15 to the contrary. A support debt under a temporary order owed to the
16 state for public assistance expenditures shall not be extinguished by
17 the final decree if:

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

20 (b) The temporary order directs the obligor to make support
21 payments to the office of support enforcement or the Washington state
22 support registry.

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

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

27 (~~((+1+))~~) (a) Child custody, visitation, and the support of any child
28 entitled to support;

29 (~~((+2+))~~) (b) The allocation of the children as a federal tax
30 exemption;

31 (~~((+3+))~~) (c) Any necessary continuing restraining orders, including
32 the provisions contained in RCW 9.41.800;

33 (~~((+4+))~~) (d) A domestic violence protection order under chapter
34 26.50 RCW or an antiharassment protection order under chapter 10.14
35 RCW. The court may grant any of the relief provided in RCW 26.50.060
36 except relief pertaining to residential provisions for the children
37 which provisions shall be provided for under this chapter, and any of
38 the relief provided in RCW 10.14.080;

1 (~~(5)~~) (e) Restraining orders issued under this section
2 restraining or enjoining the person from molesting or disturbing
3 another party, or from going onto the grounds of or entering the home,
4 workplace, or school of the other party or the day care or school of
5 any child, or prohibiting the person from knowingly coming within, or
6 knowingly remaining within, a specified distance of a location, shall
7 prominently bear on the front page of the order the legend: VIOLATION
8 OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE
9 UNDER CHAPTER (~~(26.10)~~) 26.50 RCW AND WILL SUBJECT A VIOLATOR TO
10 ARREST(~~(7)~~).

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

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

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

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

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

1 (a) Molesting or disturbing the peace of the other party or of any
2 child;

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

5 (c) Knowingly coming within, or knowingly remaining within, a
6 specified distance from a specified location; and

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

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

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

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

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

28 (7) Restraining orders issued under this section restraining or
29 enjoining the person from molesting or disturbing another party, or
30 from going onto the grounds of or entering the home, workplace, or
31 school of the other party or the day care or school of any child, or
32 prohibiting the person from knowingly coming within, or knowingly
33 remaining within, a specified distance of a location, shall prominently
34 bear on the front page of the order the legend: VIOLATION OF THIS
35 ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER
36 CHAPTER ((26.10)) 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

37 (8) The court shall order that any temporary restraining order
38 bearing a criminal offense legend, any domestic violence protection
39 order, or any antiharassment protection order granted under this

1 section be forwarded by the clerk of the court on or before the next
2 judicial day to the appropriate law enforcement agency specified in the
3 order. Upon receipt of the order, the law enforcement agency shall
4 (~~forthwith~~) enter the order into any computer-based criminal
5 intelligence information system available in this state used by law
6 enforcement agencies to list outstanding warrants. Entry into the
7 (~~law enforcement~~) computer-based criminal intelligence information
8 system constitutes notice to all law enforcement agencies of the
9 existence of the order. The order is fully enforceable in any county
10 in the state.

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

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

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

21 (b) May be revoked or modified;

22 (c) Terminates when the final order is entered or when the motion
23 is dismissed;

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

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

1 amount of the debt with the court, and by mailing a copy of the
2 affidavit to the parties or their attorney prior to the date of the
3 final proceeding.

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

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

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

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

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

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

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

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

1 (8) In any dispute between the natural parents of a child and a
2 person or persons who have (a) commenced adoption proceedings or who
3 have been granted an order of adoption, and (b) pursuant to a court
4 order, or placement by the department of social and health services or
5 by a licensed agency, have had actual custody of the child for a period
6 of one year or more before court action is commenced by the natural
7 parent or parents, the court shall consider the best welfare and
8 interests of the child, including the child's need for situation
9 stability, in determining the matter of custody, and the parent or
10 person who is more fit shall have the superior right to custody.

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

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

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

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

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

3 (1) If the court has made a finding as to the paternity of a child,
4 or if a party's acknowledgment of paternity has been filed with the
5 court, or a party alleges he is the father of the child, any party may
6 move for temporary support for the child prior to the date of entry of
7 the final order. The motion shall be accompanied by an affidavit
8 setting forth the factual basis for the motion and the amounts
9 requested.

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

- 13 (a) Molesting or disturbing the peace of another party;
14 (b) Going onto the grounds of or entering the home, workplace, or
15 school of another party or the day care or school of any child; ~~((or))~~
16 (c) Knowingly coming within, or knowingly remaining within, a
17 specified distance from a specified location; and
18 (d) Removing a child from the jurisdiction of the court.

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

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

38 (5) The court shall order that any temporary restraining order
39 bearing a criminal offense legend, any domestic violence protection

1 order, or any antiharassment protection order granted under this
2 section be forwarded by the clerk of the court on or before the next
3 judicial day to the appropriate law enforcement agency specified in the
4 order. Upon receipt of the order, the law enforcement agency shall
5 (~~forthwith~~) enter the order into any computer-based criminal
6 intelligence information system available in this state used by law
7 enforcement agencies to list outstanding warrants. The order is fully
8 enforceable in any county in the state.

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

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

20 (~~(7)~~) (8) The court may issue a temporary restraining order or
21 preliminary injunction and an order for temporary support in such
22 amounts and on such terms as are just and proper in the circumstances.
23 In issuing the order, the court shall consider the provisions of RCW
24 9.41.800.

25 (~~(8)~~) (9) A temporary order, temporary restraining order, or
26 preliminary injunction:

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

29 (b) May be revoked or modified;

30 (c) Terminates when the final order is entered or when the petition
31 is dismissed; and

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

34 (~~(9)~~) (10) A support debt owed to the state for public assistance
35 expenditures which has been charged against a party pursuant to RCW
36 74.20A.040 and/or 74.20A.055 shall not be merged in, or otherwise
37 extinguished by, the final decree or order, unless the office of
38 support enforcement has been given notice of the final proceeding and
39 an opportunity to present its claim for the support debt to the court

1 and has failed to file an affidavit as provided in this subsection.
2 Notice of the proceeding shall be served upon the office of support
3 enforcement personally, or by certified mail, and shall be given no
4 fewer than thirty days prior to the date of the final proceeding. An
5 original copy of the notice shall be filed with the court either before
6 service or within a reasonable time thereafter. The office of support
7 enforcement may present its claim, and thereby preserve the support
8 debt, by filing an affidavit setting forth the amount of the debt with
9 the court, and by mailing a copy of the affidavit to the parties or
10 their attorney prior to the date of the final proceeding.

11 **Sec. 12.** RCW 26.44.063 and 1993 c 412 s 15 are each amended to
12 read as follows:

13 (1) It is the intent of the legislature to minimize trauma to a
14 child involved in an allegation of sexual or physical abuse. The
15 legislature declares that removing the child from the home often has
16 the effect of further traumatizing the child. It is, therefore, the
17 legislature's intent that the alleged offender, rather than the child,
18 shall be removed from the home and that this should be done at the
19 earliest possible point of intervention in accordance with RCW
20 10.31.100, 13.34.130, this section, and RCW 26.44.130.

21 (2) In any judicial proceeding in which it is alleged that a child
22 has been subjected to sexual or physical abuse, if the court finds
23 reasonable grounds to believe that an incident of sexual or physical
24 abuse has occurred, the court may, on its own motion, or the motion of
25 the guardian ad litem or other parties, issue a temporary restraining
26 order or preliminary injunction restraining or enjoining the person
27 accused of committing the abuse from:

28 (a) Molesting or disturbing the peace of the alleged victim;

29 (b) Entering the family home of the alleged victim except as
30 specifically authorized by the court; (~~(or)~~)

31 (c) Having any contact with the alleged victim, except as
32 specifically authorized by the court;

33 (d) Knowingly coming within, or knowingly remaining within, a
34 specified distance of a specified location.

35 (3) In issuing a temporary restraining order or preliminary
36 injunction, the court may impose any additional restrictions that the
37 court in its discretion determines are necessary to protect the child

1 from further abuse or emotional trauma pending final resolution of the
2 abuse allegations.

3 (4) The court shall issue a temporary restraining order prohibiting
4 a person from entering the family home if the court finds that the
5 order would eliminate the need for an out-of-home placement to protect
6 the child's right to nurturance, health, and safety and is sufficient
7 to protect the child from further sexual or physical abuse or coercion.

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

13 (6) A temporary restraining order or preliminary injunction:

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

16 (b) May be revoked or modified.

17 (7) The person having physical custody of the child shall have an
18 affirmative duty to assist in the enforcement of the restraining order
19 including but not limited to a duty to notify the court as soon as
20 practicable of any violation of the order, a duty to request the
21 assistance of law enforcement officers to enforce the order, and a duty
22 to notify the department of social and health services of any violation
23 of the order as soon as practicable if the department is a party to the
24 action. Failure by the custodial party to discharge these affirmative
25 duties shall be subject to contempt proceedings.

26 (8) Willful violation of a court order entered under this section
27 is a misdemeanor. A written order shall contain the court's directive
28 and shall bear the legend: "Violation of this order with actual notice
29 of its terms is a criminal offense under chapter 26.44 RCW, is also
30 subject to contempt proceedings, and will subject a violator to
31 arrest."

32 (9) If a restraining order issued under this section is modified or
33 terminated, the clerk of the court shall notify the law enforcement
34 agency specified in the order on or before the next judicial day. Upon
35 receipt of notice that an order has been terminated, the law
36 enforcement agency shall remove the order from any computer-based
37 criminal intelligence system.

1 **Sec. 13.** RCW 26.44.067 and 1993 c 412 s 16 are each amended to
2 read as follows:

3 (1) Any person having had actual notice of the existence of a
4 restraining order issued by a court of competent jurisdiction pursuant
5 to RCW 26.44.063 who refuses to comply with the provisions of such
6 order shall be guilty of a misdemeanor.

7 (2) The notice requirements of subsection (1) of this section may
8 be satisfied by the peace officer giving oral or written evidence to
9 the person subject to the order by reading from or handing to that
10 person a copy certified by a notary public or the clerk of the court to
11 be an accurate copy of the original court order which is on file. The
12 copy may be supplied by the court or any party.

13 (3) The remedies provided in this section shall not apply unless
14 restraining orders subject to this section (~~(shall)~~) bear this legend:
15 VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL
16 OFFENSE UNDER CHAPTER 26.44 RCW AND IS ALSO SUBJECT TO CONTEMPT
17 PROCEEDINGS.

18 (4) 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 No right of action shall accrue against any peace officer acting upon
21 a properly certified copy of a court order lawful on its face if such
22 officer employs otherwise lawful means to effect the arrest.

23 **Sec. 14.** RCW 26.50.035 and 1995 c 246 s 4 are each amended to read
24 as follows:

25 (1) (~~By July 1, 1994,~~) The administrator for the courts shall
26 develop and prepare instructions and informational brochures required
27 under RCW 26.50.030(4), standard petition and order for protection
28 forms, and a court staff handbook on domestic violence and the
29 protection order process. The standard petition and order for
30 protection forms must be used after September 1, 1994, for all
31 petitions filed and orders issued under this chapter. The
32 instructions, brochures, forms, and handbook shall be prepared in
33 consultation with interested persons, including a representative of the
34 state domestic violence coalition, judges, and law enforcement
35 personnel.

36 (a) The instructions shall be designed to assist petitioners in
37 completing the petition, and shall include a sample of standard
38 petition and order for protection forms.

1 (b) The informational brochure shall describe the use of and the
2 process for obtaining ~~((a)),~~ modifying, and terminating a domestic
3 violence protection order as provided under this chapter, ~~((a))~~ an
4 anti-harassment no-contact order as provided ~~((by RCW 10.99.040))~~ under
5 chapter 9A.46 RCW, a domestic violence no-contact order as provided
6 under chapter 10.99 RCW, a restraining order as provided ~~((by RCW~~
7 ~~26.09.060))~~ under chapter 26.09, 26.10, 26.26, and 26.44 RCW, ~~((and))~~
8 an antiharassment protection order as provided by chapter 10.14 RCW,
9 and a foreign protection order as defined in chapter 26.52 RCW.

10 (c) The order for protection form shall include, in a conspicuous
11 location, notice of criminal penalties resulting from violation of the
12 order, and the following statement: "You can be arrested even if the
13 person or persons who obtained the order invite or allow you to violate
14 the order's prohibitions. The respondent has the sole responsibility
15 to avoid or refrain from violating the order's provisions. Only the
16 court can change the order upon written application."

17 (d) The court staff handbook shall allow for the addition of a
18 community resource list by the court clerk.

19 (2) All court clerks shall obtain a community resource list from a
20 domestic violence program, defined in RCW 70.123.020, serving the
21 county in which the court is located. The community resource list
22 shall include the names and telephone numbers of domestic violence
23 programs serving the community in which the court is located, including
24 law enforcement agencies, domestic violence agencies, sexual assault
25 agencies, legal assistance programs, interpreters, multicultural
26 programs, and batterers' treatment programs. The court shall make the
27 community resource list available as part of or in addition to the
28 informational brochures described in subsection (1) of this section.

29 (3) The administrator for the courts shall distribute a master copy
30 of the petition and order forms, instructions, and informational
31 brochures to all court clerks and shall distribute a master copy of the
32 petition and order forms to all superior, district, and municipal
33 courts.

34 (4) For purposes of this section, "court clerks" means court
35 administrators in courts of limited jurisdiction and elected court
36 clerks.

37 (5) The administrator for the courts shall determine the
38 significant non-English-speaking or limited English-speaking
39 populations in the state. The administrator shall then arrange for

1 translation of the instructions and informational brochures required by
2 this section, which shall contain a sample of the standard petition and
3 order for protection forms, into the languages spoken by those
4 significant non-English-speaking populations and shall distribute a
5 master copy of the translated instructions and informational brochures
6 to all court clerks by January 1, 1997.

7 (6) The administrator for the courts shall update the instructions,
8 brochures, standard petition and order for protection forms, and court
9 staff handbook when changes in the law make an update necessary.

10 **Sec. 15.** RCW 26.50.060 and 1999 c 147 s 2 are each amended to read
11 as follows:

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

14 (a) Restrain the respondent from committing acts of domestic
15 violence;

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

19 (c) Prohibit the respondent from knowingly coming within, or
20 knowingly remaining within, a specified distance from a specified
21 location;

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

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

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

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

1 (~~(g)~~) (h) Restrain the respondent from having any contact with
2 the victim of domestic violence or the victim's children or members of
3 the victim's household;

4 (~~(h)~~) (i) Require the respondent to submit to electronic
5 monitoring. The order shall specify who shall provide the electronic
6 monitoring services and the terms under which the monitoring must be
7 performed. The order also may include a requirement that the
8 respondent pay the costs of the monitoring. The court shall consider
9 the ability of the respondent to pay for electronic monitoring;

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

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

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

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

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

33 (3) If the court grants an order for a fixed time period, the
34 petitioner may apply for renewal of the order by filing a petition for
35 renewal at any time within the three months before the order expires.
36 The petition for renewal shall state the reasons why the petitioner
37 seeks to renew the protection order. Upon receipt of the petition for
38 renewal the court shall order a hearing which shall be not later than
39 fourteen days from the date of the order. Except as provided in RCW

1 26.50.085, personal service shall be made on the respondent not less
2 than five days before the hearing. If timely service cannot be made
3 the court shall set a new hearing date and shall either require
4 additional attempts at obtaining personal service or permit service by
5 publication as provided in RCW 26.50.085 or by mail as provided in RCW
6 26.50.123. If the court permits service by publication or mail, the
7 court shall set the new hearing date not later than twenty-four days
8 from the date of the order. If the order expires because timely
9 service cannot be made the court shall grant an ex parte order of
10 protection as provided in RCW 26.50.070. The court shall grant the
11 petition for renewal unless the respondent proves by a preponderance of
12 the evidence that the respondent will not resume acts of domestic
13 violence against the petitioner or the petitioner's children or family
14 or household members when the order expires. The court may renew the
15 protection order for another fixed time period or may enter a permanent
16 order as provided in this section. The court may award court costs,
17 service fees, and reasonable attorneys' fees as provided in subsection
18 (1)(f) of this section.

19 (4) In providing relief under this chapter, the court may realign
20 the designation of the parties as "petitioner" and "respondent" where
21 the court finds that the original petitioner is the abuser and the
22 original respondent is the victim of domestic violence and may issue an
23 ex parte temporary order for protection in accordance with RCW
24 26.50.070 on behalf of the victim until the victim is able to prepare
25 a petition for an order for protection in accordance with RCW
26 26.50.030.

27 (5) Except as provided in subsection (4) of this section, no order
28 for protection shall grant relief to any party except upon notice to
29 the respondent and hearing pursuant to a petition or counter-petition
30 filed and served by the party seeking relief in accordance with RCW
31 26.50.050.

32 (6) The court order shall specify the date the order expires if
33 any. The court order shall also state whether the court issued the
34 protection order following personal service, service by publication, or
35 service by mail and whether the court has approved service by
36 publication or mail of an order issued under this section.

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

1 **Sec. 16.** RCW 26.50.070 and 1996 c 248 s 14 are each amended to
2 read as follows:

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

9 (a) Restraining any party from committing acts of domestic
10 violence;

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

15 (c) Prohibiting any party from knowingly coming within, or
16 knowingly remaining within, a specified distance from a specified
17 location;

18 (d) Restraining any party from interfering with the other's custody
19 of the minor children or from removing the children from the
20 jurisdiction of the court;

21 ~~((d))~~ (e) Restraining any party from having any contact with the
22 victim of domestic violence or the victim's children or members of the
23 victim's household; and

24 ~~((e))~~ (f) Considering the provisions of RCW 9.41.800.

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

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

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

1 26.50.123, the respondent shall be personally served with a copy of the
2 ex parte order along with a copy of the petition and notice of the date
3 set for the hearing.

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

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

12 **Sec. 17.** RCW 9.94A.320 and 1999 c 352 s 3, 1999 c 322 s 5, and
13 1999 c 45 s 4 are each reenacted and amended to read as follows:

14 TABLE 2

15 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

16	XVI	Aggravated Murder 1 (RCW 10.95.020)
17	XV	Homicide by abuse (RCW 9A.32.055)
18		Malicious explosion 1 (RCW 70.74.280(1))
19		Murder 1 (RCW 9A.32.030)
20	XIV	Murder 2 (RCW 9A.32.050)
21	XIII	Malicious explosion 2 (RCW 70.74.280(2))
22		Malicious placement of an explosive 1 (RCW
23		70.74.270(1))
24	XII	Assault 1 (RCW 9A.36.011)
25		Assault of a Child 1 (RCW 9A.36.120)
26		Malicious placement of an imitation device
27		1 (RCW 70.74.272(1)(a))
28		Rape 1 (RCW 9A.44.040)
29		Rape of a Child 1 (RCW 9A.44.073)
30	XI	Manslaughter 1 (RCW 9A.32.060)

1 Rape 2 (RCW 9A.44.050)
2 Rape of a Child 2 (RCW 9A.44.076)

3 X Child Molestation 1 (RCW 9A.44.083)
4 Indecent Liberties (with forcible
5 compulsion) (RCW 9A.44.100(1)(a))
6 Kidnapping 1 (RCW 9A.40.020)
7 Leading Organized Crime (RCW
8 9A.82.060(1)(a))
9 Malicious explosion 3 (RCW 70.74.280(3))
10 Manufacture of methamphetamine (RCW
11 69.50.401(a)(1)(ii))
12 Over 18 and deliver heroin,
13 methamphetamine, a narcotic from
14 Schedule I or II, or flunitrazepam
15 from Schedule IV to someone under 18
16 (RCW 69.50.406)

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

1 Vehicular Homicide, by being under the
2 influence of intoxicating liquor or
3 any drug (RCW 46.61.520)

4 VIII Arson 1 (RCW 9A.48.020)
5 Deliver or possess with intent to deliver
6 m e t h a m p h e t a m i n e (R C W
7 69.50.401(a)(1)(ii))
8 Homicide by Watercraft, by the operation of
9 any vessel in a reckless manner (RCW
10 ((~~88.12.029~~)) 79A.60.050)
11 Manslaughter 2 (RCW 9A.32.070)
12 Manufacture, deliver, or possess with
13 intent to deliver amphetamine (RCW
14 69.50.401(a)(1)(ii))
15 Manufacture, deliver, or possess with
16 intent to deliver heroin or cocaine
17 (RCW 69.50.401(a)(1)(i))
18 Possession of ephedrine or pseudoephedrine
19 with intent to manufacture
20 methamphetamine (RCW 69.50.440)
21 Promoting Prostitution 1 (RCW 9A.88.070)
22 Selling for profit (controlled or
23 counterfeit) any controlled substance
24 (RCW 69.50.410)
25 Vehicular Homicide, by the operation of any
26 vehicle in a reckless manner (RCW
27 46.61.520)

28 VII Burglary 1 (RCW 9A.52.020)
29 Child Molestation 2 (RCW 9A.44.086)
30 Dealing in depictions of minor engaged in
31 sexually explicit conduct (RCW
32 9.68A.050)
33 Drive-by Shooting (RCW 9A.36.045)
34 Homicide by Watercraft, by disregard for
35 the safety of others (RCW
36 ((~~88.12.029~~)) 79A.60.050)

1 Indecent Liberties (without forcible
2 compulsion) (RCW 9A.44.100(1) (b) and
3 (c))
4 Introducing Contraband 1 (RCW 9A.76.140)
5 Involving a minor in drug dealing (RCW
6 69.50.401(f))
7 Malicious placement of an explosive 3 (RCW
8 70.74.270(3))
9 Sending, bringing into state depictions of
10 minor engaged in sexually explicit
11 conduct (RCW 9.68A.060)
12 Unlawful Possession of a Firearm in the
13 first degree (RCW 9.41.040(1)(a))
14 Use of a Machine Gun in Commission of a
15 Felony (RCW 9.41.225)
16 Vehicular Homicide, by disregard for the
17 safety of others (RCW 46.61.520)

18 VI Bail Jumping with Murder 1 (RCW
19 9A.76.170(2)(a))
20 Bribery (RCW 9A.68.010)
21 Incest 1 (RCW 9A.64.020(1))
22 Intimidating a Judge (RCW 9A.72.160)
23 Intimidating a Juror/Witness (RCW
24 9A.72.110, 9A.72.130)
25 Malicious placement of an imitation device
26 2 (RCW 70.74.272(1)(b))
27 Manufacture, deliver, or possess with
28 intent to deliver narcotics from
29 Schedule I or II (except heroin or
30 cocaine) or flunitrazepam from
31 Schedule IV (RCW 69.50.401(a)(1)(i))
32 Rape of a Child 3 (RCW 9A.44.079)
33 Theft of a Firearm (RCW 9A.56.300)

34 V Abandonment of dependent person 1 (RCW
35 9A.42.060)

1 Advancing money or property for
2 extortionate extension of credit (RCW
3 9A.82.030)
4 Bail Jumping with class A Felony (RCW
5 9A.76.170(2)(b))
6 Child Molestation 3 (RCW 9A.44.089)
7 Criminal Mistreatment 1 (RCW 9A.42.020)
8 Custodial Sexual Misconduct 1 (RCW
9 9A.44.160)
10 Delivery of imitation controlled substance
11 by person eighteen or over to person
12 under eighteen (RCW 69.52.030(2))
13 Domestic Violence Court Order Violation
14 (RCW 10.99.040, 10.99.050, 26.09.300,
15 26.10.220, 26.26.138, 26.50.110,
16 26.52.070, or section 2 of this act)
17 Extortion 1 (RCW 9A.56.120)
18 Extortionate Extension of Credit (RCW
19 9A.82.020)
20 Extortionate Means to Collect Extensions of
21 Credit (RCW 9A.82.040)
22 Incest 2 (RCW 9A.64.020(2))
23 Kidnapping 2 (RCW 9A.40.030)
24 ~~((On and after July 1, 2000: No Contact~~
25 ~~Order Violation: Domestic Violence~~
26 ~~Pretrial Condition (RCW 10.99.040(4)~~
27 ~~(b) and (c))~~
28 ~~On and after July 1, 2000: No Contact~~
29 ~~Order Violation: Domestic Violence~~
30 ~~Sentence Condition (RCW 10.99.050(2))~~
31 ~~On and after July 1, 2000: Protection~~
32 ~~Order Violation: Domestic Violence~~
33 ~~Civil Action (RCW 26.50.110 (4) and~~
34 ~~(5))~~
35 ~~On and after July 1, 2000: Stalking (RCW~~
36 ~~9A.46.110))~~
37 Perjury 1 (RCW 9A.72.020)
38 Persistent prison misbehavior (RCW
39 9.94.070)

1 Possession of a Stolen Firearm (RCW
2 9A.56.310)
3 Rape 3 (RCW 9A.44.060)
4 Rendering Criminal Assistance 1 (RCW
5 9A.76.070)
6 Sexual Misconduct with a Minor 1 (RCW
7 9A.44.093)
8 Sexually Violating Human Remains (RCW
9 9A.44.105)
10 Stalking (RCW 9A.46.110)

11 IV Arson 2 (RCW 9A.48.030)
12 Assault 2 (RCW 9A.36.021)
13 Assault by Watercraft (RCW ((~~88.12.032~~))
14 79A.60.060)
15 Bribing a Witness/Bribe Received by Witness
16 (RCW 9A.72.090, 9A.72.100)
17 Commercial Bribery (RCW 9A.68.060)
18 Counterfeiting (RCW 9.16.035(4))
19 Escape 1 (RCW 9A.76.110)
20 Hit and Run--Injury Accident (RCW
21 46.52.020(4))
22 Hit and Run with Vessel--Injury Accident
23 (RCW ((~~88.12.155(3)~~)) 79A.60.200(3))
24 Indecent Exposure to Person Under Age
25 Fourteen (subsequent sex offense) (RCW
26 9A.88.010)
27 Influencing Outcome of Sporting Event (RCW
28 9A.82.070)
29 Knowingly Trafficking in Stolen Property
30 (RCW 9A.82.050(2))
31 Malicious Harassment (RCW 9A.36.080)
32 Manufacture, deliver, or possess with
33 intent to deliver narcotics from
34 Schedule III, IV, or V or nonnarcotics
35 from Schedule I-V (except marijuana,
36 amphetamine, methamphetamines, or
37 flunitrazepam) (RCW 69.50.401(a)(1)
38 (iii) through (v))

1 Residential Burglary (RCW 9A.52.025)
2 Robbery 2 (RCW 9A.56.210)
3 Theft of Livestock 1 (RCW 9A.56.080)
4 Threats to Bomb (RCW 9.61.160)
5 Use of Proceeds of Criminal Profiteering
6 (RCW 9A.82.080 (1) and (2))
7 Vehicular Assault (RCW 46.61.522)
8 Willful Failure to Return from Furlough
9 (RCW 72.66.060)

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

1 Manufacture, distribute, or possess with
2 intent to distribute an imitation
3 controlled substance (RCW
4 69.52.030(1))
5 Patronizing a Juvenile Prostitute (RCW
6 9.68A.100)
7 Perjury 2 (RCW 9A.72.030)
8 Possession of Incendiary Device (RCW
9 9.40.120)
10 Possession of Machine Gun or Short-Barreled
11 Shotgun or Rifle (RCW 9.41.190)
12 Promoting Prostitution 2 (RCW 9A.88.080)
13 Recklessly Trafficking in Stolen Property
14 (RCW 9A.82.050(1))
15 Securities Act violation (RCW 21.20.400)
16 Tampering with a Witness (RCW 9A.72.120)
17 Telephone Harassment (subsequent conviction
18 or threat of death) (RCW 9.61.230)
19 Theft of Livestock 2 (RCW 9A.56.080)
20 Unlawful Imprisonment (RCW 9A.40.040)
21 Unlawful possession of firearm in the
22 second degree (RCW 9.41.040(1)(b))
23 Unlawful Use of Building for Drug Purposes
24 (RCW 69.53.010)
25 Willful Failure to Return from Work Release
26 (RCW 72.65.070)

27 II Computer Trespass 1 (RCW 9A.52.110)
28 Counterfeiting (RCW 9.16.035(3))
29 Create, deliver, or possess a counterfeit
30 controlled substance (RCW
31 69.50.401(b))
32 Escape from Community Custody (RCW
33 72.09.310)
34 Health Care False Claims (RCW 48.80.030)
35 Malicious Mischief 1 (RCW 9A.48.070)
36 Possession of controlled substance that is
37 either heroin or narcotics from

1 Schedule I or II or flunitrazepam from
2 Schedule IV (RCW 69.50.401(d))
3 Possession of phencyclidine (PCP) (RCW
4 69.50.401(d))
5 Possession of Stolen Property 1 (RCW
6 9A.56.150)
7 Theft 1 (RCW 9A.56.030)
8 Theft of Rental, Leased, or Lease-purchased
9 Property (valued at one thousand five
10 hundred dollars or more) (RCW
11 9A.56.096(4))
12 Trafficking in Insurance Claims (RCW
13 48.30A.015)
14 Unlawful Practice of Law (RCW 2.48.180)
15 Unlicensed Practice of a Profession or
16 Business (RCW 18.130.190(7))

17 I Attempting to Elude a Pursuing Police
18 Vehicle (RCW 46.61.024)
19 False Verification for Welfare (RCW
20 74.08.055)
21 Forged Prescription (RCW 69.41.020)
22 Forged Prescription for a Controlled
23 Substance (RCW 69.50.403)
24 Forgery (RCW 9A.60.020)
25 Malicious Mischief 2 (RCW 9A.48.080)
26 Possess Controlled Substance that is a
27 Narcotic from Schedule III, IV, or V
28 or Non-narcotic from Schedule I-V
29 (except phencyclidine or
30 flunitrazepam) (RCW 69.50.401(d))
31 Possession of Stolen Property 2 (RCW
32 9A.56.160)
33 Reckless Burning 1 (RCW 9A.48.040)
34 Taking Motor Vehicle Without Permission
35 (RCW 9A.56.070)
36 Theft 2 (RCW 9A.56.040)
37 Theft of Rental, Leased, or Lease-purchased
38 Property (valued at two hundred fifty

1 dollars or more but less than one
2 thousand five hundred dollars) (RCW
3 9A.56.096(4))
4 Unlawful Issuance of Checks or Drafts (RCW
5 9A.56.060)
6 Unlawful Use of Food Stamps (RCW 9.91.140
7 (2) and (3))
8 Vehicle Prowl 1 (RCW 9A.52.095)

9 **Sec. 18.** RCW 10.99.040 and 1997 c 338 s 54 are each amended to
10 read as follows:

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

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

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

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

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

25 (2)(a) Because of the likelihood of repeated violence directed at
26 those who have been victims of domestic violence in the past, when any
27 person charged with or arrested for a crime involving domestic violence
28 is released from custody before arraignment or trial on bail or
29 personal recognizance, the court authorizing the release may prohibit
30 that person from having any contact with the victim. The jurisdiction
31 authorizing the release shall determine whether that person should be
32 prohibited from having any contact with the victim. If there is no
33 outstanding restraining or protective order prohibiting that person
34 from having contact with the victim, the court authorizing release may
35 issue, by telephone, a no-contact order prohibiting the person charged
36 or arrested from having contact with the victim or from knowingly
37 coming within, or knowingly remaining within, a specified distance of
38 a location.

1 **(b)** In issuing the order, the court shall consider the provisions
2 of RCW 9.41.800.

3 **(c)** The no-contact order shall also be issued in writing as soon as
4 possible.

5 **(3)** At the time of arraignment the court shall determine whether a
6 no-contact order shall be issued or extended. The no-contact order
7 shall terminate if the defendant is acquitted or the charges are
8 dismissed. If a no-contact order is issued or extended, the court may
9 also include in the conditions of release a requirement that the
10 defendant submit to electronic monitoring. If electronic monitoring is
11 ordered, the court shall specify who shall provide the monitoring
12 services, and the terms under which the monitoring shall be performed.
13 Upon conviction, the court may require as a condition of the sentence
14 that the defendant reimburse the providing agency for the costs of the
15 electronic monitoring.

16 **(4)(a)** Willful violation of a court order issued under subsection
17 ~~(2) or (3) of this section is ((a gross misdemeanor except as provided~~
18 ~~in (b) and (c) of this subsection (4). Upon conviction and in addition~~
19 ~~to other penalties provided by law, the court may require that the~~
20 ~~defendant submit to electronic monitoring. The court shall specify who~~
21 ~~shall provide the electronic monitoring services and the terms under~~
22 ~~which the monitoring must be performed. The court also may include a~~
23 ~~requirement that the defendant pay the costs of the monitoring. The~~
24 ~~court shall consider the ability of the convicted person to pay for~~
25 ~~electronic monitoring.~~

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

33 ~~(c) A willful violation of a court order issued under this section~~
34 ~~is a class C felony if the offender has at least two previous~~
35 ~~convictions for violating the provisions of a no contact order issued~~
36 ~~under this chapter, a domestic violence protection order issued under~~
37 ~~chapter 26.09, 26.10, 26.26, or 26.50 RCW, or any federal or out-of-~~
38 ~~state order that is comparable to a no contact order or protection~~
39 ~~order issued under Washington law. The previous convictions may~~

1 involve the same victim or other victims specifically protected by the
2 no-contact orders or protection orders the offender violated))
3 punishable under RCW 26.50.110.

4 ((~~d~~)) (b) The written order releasing the person charged or
5 arrested shall contain the court's directives and shall bear the
6 legend: "Violation of this order is a criminal offense under chapter
7 ((~~10.99~~)) 26.50 RCW and will subject a violator to arrest; any assault,
8 drive-by shooting, or reckless endangerment that is a violation of this
9 order is a felony. You can be arrested even if any person protected by
10 the order invites or allows you to violate the order's prohibitions.
11 You have the sole responsibility to avoid or refrain from violating the
12 order's provisions. Only the court can change the order."

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

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

19 ((~~5~~)) (6) Whenever ((~~an~~)) a no-contact order ((~~prohibiting~~
20 ~~contact~~)) is issued, modified, or terminated under subsection (2) or
21 (3) of this section, the clerk of the court shall forward a copy of the
22 order on or before the next judicial day to the appropriate law
23 enforcement agency specified in the order. Upon receipt of the copy of
24 the order the law enforcement agency shall ((~~forthwith~~)) enter the
25 order for one year or until the expiration date specified on the order
26 into any computer-based criminal intelligence information system
27 available in this state used by law enforcement agencies to list
28 outstanding warrants. Entry into the ((~~law enforcement~~)) computer-
29 based criminal intelligence information system constitutes notice to
30 all law enforcement agencies of the existence of the order. The order
31 is fully enforceable in any jurisdiction in the state. Upon receipt of
32 notice that an order has been terminated under subsection (3) of this
33 section, the law enforcement agency shall remove the order from the
34 computer-based criminal intelligence information system.

35 **Sec. 19.** RCW 10.99.045 and 1998 c 55 s 2 are each amended to read
36 as follows:

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

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

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

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

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

21 **Sec. 20.** RCW 10.99.050 and 1997 c 338 s 55 are each amended to
22 read as follows:

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

27 (2)(a) ~~Willful violation of a court order issued under this section~~
28 ~~is ((a gross misdemeanor. Any assault that is a violation of an order~~
29 ~~issued under this section and that does not amount to assault in the~~
30 ~~first or second degree under RCW 9A.36.011 or 9A.36.021 is a class C~~
31 ~~felony, and any conduct in violation of a protective order issued under~~
32 ~~this section that is reckless and creates a substantial risk of death~~
33 ~~or serious physical injury to another person is a class C felony. A~~
34 ~~willful violation of a court order issued under this section is also a~~
35 ~~class C felony if the offender has at least two previous convictions~~
36 ~~for violating the provisions of a no-contact order issued under this~~
37 ~~chapter, or a domestic violence protection order issued under chapter~~
38 ~~26.09, 26.10, 26.26, or 26.50 RCW, or any federal or out-of-state order~~

1 that is comparable to a no-contact order or protection order that is
2 issued under Washington law. The previous convictions may involve the
3 same victim or other victims specifically protected by the no-contact
4 orders or protection orders the offender violated)) punishable under
5 RCW 26.50.110.

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

11 (3) Whenever an order prohibiting contact is issued pursuant to
12 this section, the clerk of the court shall forward a copy of the order
13 on or before the next judicial day to the appropriate law enforcement
14 agency specified in the order. Upon receipt of the copy of the order
15 the law enforcement agency shall ((~~forthwith~~)) enter the order for one
16 year or until the expiration date specified on the order into any
17 computer-based criminal intelligence information system available in
18 this state used by law enforcement agencies to list outstanding
19 warrants. Entry into the ((~~law enforcement~~)) computer-based criminal
20 intelligence information system constitutes notice to all law
21 enforcement agencies of the existence of the order. The order is fully
22 enforceable in any jurisdiction in the state.

23 (4) If an order prohibiting contact issued pursuant to this section
24 is 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. 21.** RCW 26.09.300 and 1996 c 248 s 9 are each amended to read
30 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 knowingly coming within, or knowingly
37 remaining within, a specified distance of a location, is ((a
38 misdemeanor)) punishable under 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 knowingly coming within, or knowingly remaining within, a
29 specified distance of a location.

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. 22.** RCW 26.10.220 and 1999 c 184 s 11 are each amended to
36 read as follows:

37 (1) Whenever a restraining order is issued under this chapter, and
38 the person to be restrained knows of the order, a violation of the

1 provisions restricting the person from acts or threats of violence or
2 of a provision restraining the person from going onto the grounds of or
3 entering the residence, workplace, school, or day care of another, or
4 prohibiting the person from knowingly coming within, or knowingly
5 remaining within, a specified distance of a location, is ((a gross
6 misdemeanor)) punishable under RCW 26.50.110.

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

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

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

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

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

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

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

21 (b) Obtaining a certified copy of the order, certified to be an
22 accurate copy of the original by a notary public or by the clerk of the
23 court.

24 (4) A peace officer shall 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 (a) A restraining order has been issued under this chapter;

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

30 (c) The person to be arrested has violated the terms of the order
31 restraining the person from acts or threats of violence or restraining
32 the person from going onto the grounds of or entering the residence,
33 workplace, school, or day care of another, or prohibiting the person
34 from knowingly coming within, or knowingly remaining within, a
35 specified distance of a location.

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

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

4 **Sec. 23.** RCW 26.26.138 and 1999 c 184 s 12 are each amended to
5 read as follows:

6 (1) Whenever a restraining order is issued under this chapter, and
7 the person to be restrained knows of the order, a violation of the
8 provisions restricting the person from acts or threats of violence or
9 of a provision restraining the person from going onto the grounds of or
10 entering the residence, workplace, school, or day care of another, or
11 prohibiting the person from knowingly coming within, or knowingly
12 remaining within, a specified distance of a location, is ((a gross
13 misdemeanor)) punishable under RCW 26.50.110.

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

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

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

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

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

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

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

28 (b) Obtaining a certified copy of the order, certified to be an
29 accurate copy of the original by a notary public or by the clerk of the
30 court.

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

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

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

37 (c) The person to be arrested has violated the terms of the order
38 restraining the person from acts or threats of violence or restraining

1 the person from going onto the grounds of or entering the residence,
2 workplace, school, or day care of another, or prohibiting the person
3 from knowingly coming within, or knowingly remaining within, a
4 specified distance of a location.

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

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

10 **Sec. 24.** RCW 26.50.110 and 1996 c 248 s 16 are each amended to
11 read as follows:

12 (1) Whenever an order (~~(for protection)~~) is granted under this
13 chapter, chapter 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or there is
14 a valid foreign protection order as defined in RCW 26.52.020, and the
15 respondent or person to be restrained knows of the order, a violation
16 of the restraint provisions, or of a provision excluding the person
17 from a residence, workplace, school, or day care, or of a provision
18 prohibiting a person from knowingly coming within, or knowingly
19 remaining within, a specified distance of a location, or of a provision
20 of a foreign protection order specifically indicating that a violation
21 will be a crime, for which an arrest is required under RCW 10.31.100(2)
22 (a) or (b), is a gross misdemeanor except as provided in subsections
23 (4) and (5) of this section. Upon conviction, and in addition to any
24 other penalties provided by law, the court may require that the
25 respondent submit to electronic monitoring. The court shall specify
26 who shall provide the electronic monitoring services, and the terms
27 under which the monitoring shall be performed. The order also may
28 include a requirement that the respondent pay the costs of the
29 monitoring. The court shall consider the ability of the convicted
30 person to pay for electronic monitoring.

31 (2) A peace officer shall arrest without a warrant and take into
32 custody a person whom the peace officer has probable cause to believe
33 has violated an order issued under this chapter, chapter 10.99, 26.09,
34 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order as
35 defined in RCW 26.52.020, that restrains the person or excludes the
36 person from a residence, workplace, school, or day care, or prohibits
37 the person from knowingly coming within, or knowingly remaining within,
38 a specified distance of a location, if the person restrained knows of

1 the order. Presence of the order in the law enforcement computer-based
2 criminal intelligence information system is not the only means of
3 establishing knowledge of the order.

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

9 (4) Any assault that is a violation of an order issued under this
10 chapter, chapter 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a
11 valid foreign protection order as defined in RCW 26.52.020, and that
12 does not amount to assault in the first or second degree under RCW
13 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in
14 violation of (~~((a protective))~~) such an order (~~((issued under this~~
15 ~~chapter))~~) that is reckless and creates a substantial risk of death or
16 serious physical injury to another person is a class C felony.

17 (5) A violation of a court order issued under this chapter, chapter
18 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign
19 protection order as defined in RCW 26.52.020, is a class C felony if
20 the offender has at least two previous convictions for violating the
21 provisions of (~~((a no-contact))~~) an order issued under this chapter,
22 chapter 10.99 (~~((RCW, a domestic violence protection order issued under~~
23 ~~chapter 26.09, 26.10, or 26.26 RCW or this chapter, or any federal or~~
24 ~~out-of-state order that is comparable to a no-contact or protection~~
25 ~~order issued under Washington law))~~), 26.09, 26.10, 26.26, or 74.34 RCW,
26 or a valid foreign protection order as defined in RCW 26.52.020. The
27 previous convictions may involve the same victim or other victims
28 specifically protected by the (~~((no-contact orders or protection))~~)
29 orders the offender violated.

30 (6) Upon the filing of an affidavit by the petitioner or any peace
31 officer alleging that the respondent has violated an order (~~((for~~
32 ~~protection))~~) granted under this chapter, chapter 10.99, 26.09, 26.10,
33 26.26, or 74.34 RCW, or a valid foreign protection order as defined in
34 RCW 26.52.020, the court may issue an order to the respondent,
35 requiring the respondent to appear and show cause within fourteen days
36 why the respondent should not be found in contempt of court and
37 punished accordingly. The hearing may be held in the court of any
38 county or municipality in which the petitioner or respondent

1 temporarily or permanently resides at the time of the alleged
2 violation.

3 **Sec. 25.** RCW 26.50.160 and 1995 c 246 s 18 are each amended to
4 read as follows:

5 To prevent the issuance of competing protection orders in different
6 courts and to give courts needed information for issuance of orders,
7 the judicial information system shall be available in each district,
8 municipal, and superior court by July 1, 1997, and shall include a data
9 base containing the following information:

10 (1) The names of the parties and the cause number for every order
11 of protection issued under this title, every criminal no-contact order
12 issued under chapters 9A.46 and 10.99 RCW, every antiharassment order
13 issued under chapter 10.14 RCW, every dissolution action under chapter
14 26.09 RCW, every third-party custody action under chapter 26.10 RCW,
15 ~~((and))~~ every parentage action under chapter ~~((26.10))~~ 26.26 RCW, every
16 restraining order issued on behalf of an abused child or adult
17 dependent person under chapter 26.44 RCW, every foreign protection
18 order filed under chapter 26.52 RCW, and every order for protection of
19 a vulnerable adult under chapter 74.34 RCW. When a guardian or the
20 department of social and health services has petitioned for relief on
21 behalf of an abused child, adult dependent person, or vulnerable adult,
22 the name of the person on whose behalf relief was sought shall be
23 included in the data base as a party rather than the guardian or
24 department;

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

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

29 **Sec. 26.** RCW 26.52.070 and 1999 c 184 s 9 are each amended to read
30 as follows:

31 (1) Whenever a foreign protection order is granted to a person
32 entitled to protection and the person under restraint knows of the
33 foreign protection order, a violation of a provision prohibiting the
34 person under restraint from contacting or communicating with another
35 person, or of a provision excluding the person under restraint from a
36 residence, workplace, school, or day care, or of a provision
37 prohibiting a person from knowingly coming within, or knowingly

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

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

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

33 (4) A violation of a valid foreign protection order is a class C
34 felony if the offender has at least two previous convictions for
35 violating the provisions of a no contact order issued under chapter
36 10.99 RCW, a domestic violence protection order issued under chapter
37 26.09, 26.10, 26.26, or 26.50 RCW, or a federal or out of state order
38 that is comparable to a no contact or protection order issued under
39 Washington law. The previous convictions may involve the same person

1 ~~entitled to protection or other person entitled to protection~~
2 ~~specifically protected by the no-contact orders or protection orders~~
3 ~~the offender violated.))~~

4 **Sec. 27.** RCW 74.34.130 and 1999 c 176 s 13 are each amended to
5 read as follows:

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

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

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

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

14 (4) Prohibiting the respondent from knowingly coming within, or
15 knowingly remaining within, a specified distance from a specified
16 location;

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

19 ((+5)) (6) Restraining the transfer of property for a specified
20 period not exceeding ninety days; and

21 ((+6)) (7) Requiring the respondent to pay the filing fee and
22 court costs, including service fees, and to reimburse the petitioner
23 for costs incurred in bringing the action, including a reasonable
24 attorney's fee.

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

27 **Sec. 28.** RCW 9.94A.440 and 1999 c 322 s 6 and 1999 c 196 s 11 are
28 each reenacted and amended to read as follows:

29 (1) Decision not to prosecute.

30 STANDARD: A prosecuting attorney may decline to prosecute, even
31 though technically sufficient evidence to prosecute exists, in
32 situations where prosecution would serve no public purpose, would
33 defeat the underlying purpose of the law in question or would result in
34 decreased respect for the law.

35 GUIDELINE/COMMENTARY:

36 Examples

1 The following are examples of reasons not to prosecute which could
2 satisfy the standard.

3 (a) Contrary to Legislative Intent - It may be proper to decline to
4 charge where the application of criminal sanctions would be clearly
5 contrary to the intent of the legislature in enacting the particular
6 statute.

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

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

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

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

14 (iv) The statute has not been recently reconsidered by the
15 legislature.

16 This reason is not to be construed as the basis for declining cases
17 because the law in question is unpopular or because it is difficult to
18 enforce.

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

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

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

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

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

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

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

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

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

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

3 (f) High Disproportionate Cost of Prosecution - It may be proper to
4 decline to charge where the cost of locating or transporting, or the
5 burden on, prosecution witnesses is highly disproportionate to the
6 importance of prosecuting the offense in question. This reason should
7 be limited to minor cases and should not be relied upon in serious
8 cases.

9 (g) Improper Motives of Complainant - It may be proper to decline
10 charges because the motives of the complainant are improper and
11 prosecution would serve no public purpose, would defeat the underlying
12 purpose of the law in question or would result in decreased respect for
13 the law.

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

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

22 (i) Assault cases where the victim has suffered little or no
23 injury;

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

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

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

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

31 Notification

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

34 (2) Decision to prosecute.

35 (a) STANDARD:

36 Crimes against persons will be filed if sufficient admissible
37 evidence exists, which, when considered with the most plausible,
38 reasonably foreseeable defense that could be raised under the evidence,
39 would justify conviction by a reasonable and objective fact-finder.

1 With regard to offenses prohibited by RCW 9A.44.040, 9A.44.050,
2 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, 9A.44.089, and
3 9A.64.020 the prosecutor should avoid pre-filing agreements or
4 diversions intended to place the accused in a program of treatment or
5 counseling, so that treatment, if determined to be beneficial, can be
6 provided pursuant to RCW 9.94A.120(8).

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

12 See table below for the crimes within these categories.

13 CATEGORIZATION OF CRIMES FOR PROSECUTING STANDARDS

14 CRIMES AGAINST PERSONS

- 15 Aggravated Murder
- 16 1st Degree Murder
- 17 2nd Degree Murder
- 18 1st Degree Kidnaping
- 19 1st Degree Assault
- 20 1st Degree Assault of a Child
- 21 1st Degree Rape
- 22 1st Degree Robbery
- 23 1st Degree Rape of a Child
- 24 1st Degree Arson
- 25 2nd Degree Kidnaping
- 26 2nd Degree Assault
- 27 2nd Degree Assault of a Child
- 28 2nd Degree Rape
- 29 2nd Degree Robbery
- 30 1st Degree Burglary
- 31 1st Degree Manslaughter
- 32 2nd Degree Manslaughter
- 33 1st Degree Extortion
- 34 Indecent Liberties
- 35 Incest
- 36 2nd Degree Rape of a Child
- 37 Vehicular Homicide

1 Vehicular Assault
2 3rd Degree Rape
3 3rd Degree Rape of a Child
4 1st Degree Child Molestation
5 2nd Degree Child Molestation
6 3rd Degree Child Molestation
7 2nd Degree Extortion
8 1st Degree Promoting Prostitution
9 Intimidating a Juror
10 Communication with a Minor
11 Intimidating a Witness
12 Intimidating a Public Servant
13 Bomb Threat (if against person)
14 3rd Degree Assault
15 3rd Degree Assault of a Child
16 Unlawful Imprisonment
17 Promoting a Suicide Attempt
18 Riot (if against person)
19 Stalking
20 Custodial Assault
21 ~~((No Contact Order Domestic Violence Pretrial (RCW 10.99.040(4) (b)~~
22 ~~and (c))~~
23 ~~No Contact Order Domestic Violence Sentence (RCW 10.99.050(2))~~
24 ~~Protection Order Domestic Violence Civil (RCW 26.50.110 (4) and~~
25 ~~(5))~~) Domestic Violence Court Order Violation (RCW 10.99.040,
26 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or
27 section 2 of this act)
28 Counterfeiting (if a violation of RCW 9.16.035(4))

29 CRIMES AGAINST PROPERTY/OTHER CRIMES

30 2nd Degree Arson
31 1st Degree Escape
32 2nd Degree Burglary
33 1st Degree Theft
34 1st Degree Perjury
35 1st Degree Introducing Contraband
36 1st Degree Possession of Stolen Property
37 Bribery
38 Bribing a Witness

1 Bribe received by a Witness
2 Bomb Threat (if against property)
3 1st Degree Malicious Mischief
4 2nd Degree Theft
5 2nd Degree Escape
6 2nd Degree Introducing Contraband
7 2nd Degree Possession of Stolen Property
8 2nd Degree Malicious Mischief
9 1st Degree Reckless Burning
10 Taking a Motor Vehicle without Authorization
11 Forgery
12 2nd Degree Perjury
13 2nd Degree Promoting Prostitution
14 Tampering with a Witness
15 Trading in Public Office
16 Trading in Special Influence
17 Receiving/Granting Unlawful Compensation
18 Bigamy
19 Eluding a Pursuing Police Vehicle
20 Willful Failure to Return from Furlough
21 Escape from Community Custody
22 Riot (if against property)
23 Thefts of Livestock

24 ALL OTHER UNCLASSIFIED FELONIES

25 Selection of Charges/Degree of Charge

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

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

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

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

33 Overcharging includes:

34 (A) Charging a higher degree;

35 (B) Charging additional counts.

36 This standard is intended to direct prosecutors to charge those
37 crimes which demonstrate the nature and seriousness of a defendant's
38 criminal conduct, but to decline to charge crimes which are not

1 necessary to such an indication. Crimes which do not merge as a matter
2 of law, but which arise from the same course of conduct, do not all
3 have to be charged.

4 (b) GUIDELINES/COMMENTARY:

5 (i) Police Investigation

6 A prosecuting attorney is dependent upon law enforcement agencies
7 to conduct the necessary factual investigation which must precede the
8 decision to prosecute. The prosecuting attorney shall ensure that a
9 thorough factual investigation has been conducted before a decision to
10 prosecute is made. In ordinary circumstances the investigation should
11 include the following:

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

14 (B) The completion of necessary laboratory tests; and

15 (C) The obtaining, in accordance with constitutional requirements,
16 of the suspect's version of the events.

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

20 (ii) Exceptions

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

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

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

26 (C) The arrest of the suspect is necessary to complete the
27 investigation of the crime.

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

33 (iii) Investigation Techniques

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

36 (A) Polygraph testing;

37 (B) Hypnosis;

38 (C) Electronic surveillance;

1 (D) Use of informants.

2 (iv) Pre-Filing Discussions with Defendant

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

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

7 Discussions with the victim(s) or victims' representatives
8 regarding the selection or disposition of charges may occur before the
9 filing of charges. The discussions may be considered by the prosecutor
10 in charging and disposition decisions, and should be considered before
11 reaching any agreement with the defendant regarding these decisions.

12 ****NEW SECTION. Sec. 29. If specific funding for the purposes of***
13 ***this act, referencing this act by bill or chapter number, is not***
14 ***provided by June 30, 2000, in the omnibus appropriations act, this act***
15 ***is null and void.***

16 ****Sec. 29 was vetoed. See message at end of chapter.***

17 **NEW SECTION. Sec. 30.** Section 17 of this act takes effect July 1,
18 2000.

19 **NEW SECTION. Sec. 31.** The penalties prescribed in this act apply
20 to violations of court orders which occur on or after July 1, 2000,
21 regardless of the date the court issued the order.

Passed the Senate March 7, 2000.

Passed the House March 3, 2000.

Approved by the Governor March 24, 2000, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State March 24, 2000.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to section 29,
3 Engrossed Second Substitute Senate Bill No. 6400 entitled:

4 "AN ACT Relating to domestic violence;"

5 This bill improves and clarifies our laws dealing with domestic
6 violence in numerous ways, without imposing costs on state or local
7 government. However, section 29 would make the entire bill "null and
8 void" unless referenced and funded in the budget. Because the bill
9 imposes no costs and requires no funding or reference in the budget, I
10 have vetoed section 29.

11 For these reasons, I have vetoed section 29 of Engrossed Second
12 Substitute Senate Bill No. 6400.

1 With the exception of section 29, Engrossed Second Substitute
2 Senate Bill No. 6400 is approved."