

2 **SB 6462** - H COMM AMD  
3 By Committee on Law & Justice

4

5 Strike everything after the enacting clause and insert the  
6 following:

7 "**Sec. 1.** RCW 9.94A.390 and 1995 c 316 s 2 are each amended to read  
8 as follows:

9 If the sentencing court finds that an exceptional sentence outside  
10 the standard range should be imposed in accordance with RCW  
11 9.94A.120(2), the sentence is subject to review only as provided for in  
12 RCW 9.94A.210(4).

13 The following are illustrative factors which the court may consider  
14 in the exercise of its discretion to impose an exceptional sentence.  
15 The following are illustrative only and are not intended to be  
16 exclusive reasons for exceptional sentences.

17 (1) Mitigating Circumstances

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

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

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

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

28 (e) The defendant's capacity to appreciate the wrongfulness of his  
29 or her conduct or to conform his or her conduct to the requirements of  
30 the law, was significantly impaired (voluntary use of drugs or alcohol  
31 is excluded).

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

1 (g) The operation of the multiple offense policy of RCW 9.94A.400  
2 results in a presumptive sentence that is clearly excessive in light of  
3 the purpose of this chapter, as expressed in RCW 9.94A.010.

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

7 (2) Aggravating Circumstances

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

10 (b) The defendant knew or should have known that the victim of the  
11 current offense was particularly vulnerable or incapable of resistance  
12 due to extreme youth, advanced age, disability, or ill health.

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

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

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

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

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

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

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

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

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

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

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

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

8 (e) The current offense included a finding of sexual motivation  
9 pursuant to RCW 9.94A.127.

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

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

15 (i) The offense was part of an ongoing pattern of psychological,  
16 physical, or sexual abuse of the victim manifested by multiple  
17 incidents over a prolonged period of time;

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

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

22 (h) The operation of the multiple offense policy of RCW 9.94A.400  
23 results in a presumptive sentence that is clearly too lenient in light  
24 of the purpose of this chapter, as expressed in RCW 9.94A.010.

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

29 NEW SECTION. Sec. 2. A new section is added to chapter 9A.36 RCW  
30 to read as follows:

31 (1) A person commits the crime of interfering with the reporting of  
32 domestic violence if the person:

33 (a) Commits a crime of domestic violence, as defined in RCW  
34 10.99.020; and

35 (b) Prevents or attempts to prevent the victim of or witness to the  
36 domestic violence crime committed under this subsection (1) from  
37 calling a 911 emergency communication system, obtaining medical  
38 assistance, or making a report to any law enforcement official.

1 (2) Commission of a crime of domestic violence under subsection (1)  
2 of this section is a necessary element of the crime of interfering with  
3 the reporting of domestic violence. The state must prove, either in  
4 the criminal proceeding in which the person is charged with the crime  
5 of interfering with the reporting of a crime of domestic violence or in  
6 a previous criminal proceeding, that the defendant committed a crime of  
7 domestic violence as provided in subsection (1) of this section.

8 (3) Interference with the reporting of domestic violence is a gross  
9 misdemeanor.

10 **Sec. 3.** RCW 10.99.020 and 1995 c 246 s 21 are each amended to read  
11 as follows:

12 Unless the context clearly requires otherwise, the definitions in  
13 this section apply throughout this chapter.

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

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

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

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

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

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

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

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

34 (f) Reckless endangerment in the second degree (RCW 9A.36.050);

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

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

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

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

- 1 (k) Criminal trespass in the second degree (RCW 9A.52.080);  
2 (l) Malicious mischief in the first degree (RCW 9A.48.070);  
3 (m) Malicious mischief in the second degree (RCW 9A.48.080);  
4 (n) Malicious mischief in the third degree (RCW 9A.48.090);  
5 (o) Kidnapping in the first degree (RCW 9A.40.020);  
6 (p) Kidnapping in the second degree (RCW 9A.40.030);  
7 (q) Unlawful imprisonment (RCW 9A.40.040);  
8 (r) Violation of the provisions of a restraining order restraining  
9 the person or excluding the person from a residence (RCW 26.09.300);  
10 (s) Violation of the provisions of a protection order or no-contact  
11 order restraining the person or excluding the person from a residence  
12 (RCW 26.50.060, 26.50.070, 26.50.130, ~~((or))~~ 10.99.040, or 10.99.050);  
13 (t) Rape in the first degree (RCW 9A.44.040);  
14 (u) Rape in the second degree (RCW 9A.44.050);  
15 (v) Residential burglary (RCW 9A.52.025); ~~((and))~~  
16 (w) Stalking (RCW 9A.46.110); and  
17 (x) Interference with the reporting of domestic violence (section  
18 2 of this act).

19 (4) "Victim" means a family or household member who has been  
20 subjected to domestic violence.

21 **Sec. 4.** RCW 10.99.030 and 1995 c 246 s 22 are each amended to read  
22 as follows:

23 (1) All training relating to the handling of domestic violence  
24 complaints by law enforcement officers shall stress enforcement of  
25 criminal laws in domestic situations, availability of community  
26 resources, and protection of the victim. Law enforcement agencies and  
27 community organizations with expertise in the issue of domestic  
28 violence shall cooperate in all aspects of such training.

29 (2) The criminal justice training commission shall implement by  
30 January 1, 1997, a course of instruction for the training of law  
31 enforcement officers in Washington in the handling of domestic violence  
32 complaints. The basic law enforcement curriculum of the criminal  
33 justice training commission shall include at least twenty hours of  
34 basic training instruction on the law enforcement response to domestic  
35 violence. The course of instruction, the learning and performance  
36 objectives, and the standards for the training shall be developed by  
37 the commission and focus on enforcing the criminal laws, safety of the  
38 victim, and holding the perpetrator accountable for the violence. The

1 curriculum shall include training on the extent and prevalence of  
2 domestic violence, the importance of criminal justice intervention,  
3 techniques for responding to incidents that minimize the likelihood of  
4 officer injury and that promote victim safety, investigation and  
5 interviewing skills, evidence gathering and report writing, assistance  
6 to and services for victims and children, verification and enforcement  
7 of court orders, liability, and any additional provisions that are  
8 necessary to carry out the intention of this subsection.

9 (3) The criminal justice training commission shall develop and  
10 update annually an in-service training program to familiarize law  
11 enforcement officers with the domestic violence laws. The program  
12 shall include techniques for handling incidents of domestic violence  
13 that minimize the likelihood of injury to the officer and that promote  
14 the safety of all parties. The commission shall make the training  
15 program available to all law enforcement agencies in the state.

16 (4) Development of the training in subsections (2) and (3) of this  
17 section shall be conducted in conjunction with agencies having a  
18 primary responsibility for serving victims of domestic violence with  
19 emergency shelter and other services, and representatives to the state-  
20 wide organization providing training and education to these  
21 organizations and to the general public.

22 (5) The primary duty of peace officers, when responding to a  
23 domestic violence situation, is to enforce the laws allegedly violated  
24 and to protect the complaining party.

25 (6)(a) When a peace officer responds to a domestic violence call  
26 and has probable cause to believe that a crime has been committed, the  
27 peace officer shall exercise arrest powers with reference to the  
28 criteria in RCW 10.31.100. The officer shall notify the victim of the  
29 victim's right to initiate a criminal proceeding in all cases where the  
30 officer has not exercised arrest powers or decided to initiate criminal  
31 proceedings by citation or otherwise. The parties in such cases shall  
32 also be advised of the importance of preserving evidence.

33 (b) A peace officer responding to a domestic violence call shall  
34 take a complete offense report including the officer's disposition of  
35 the case.

36 (7) When a peace officer responds to a domestic violence call, the  
37 officer shall advise victims of all reasonable means to prevent further  
38 abuse, including advising each person of the availability of a shelter  
39 or other services in the community, and giving each person immediate

1 notice of the legal rights and remedies available. The notice shall  
2 include handing each person a copy of the following statement:

3 "IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE, you can ask the  
4 city or county prosecuting attorney to file a criminal  
5 complaint. You also have the right to file a petition in  
6 superior, district, or municipal court requesting an order for  
7 protection from domestic abuse which could include any of the  
8 following: (a) An order restraining your abuser from further  
9 acts of abuse; (b) an order directing your abuser to leave your  
10 household; (c) an order preventing your abuser from entering  
11 your residence, school, business, or place of employment; (d)  
12 an order awarding you or the other parent custody of or  
13 visitation with your minor child or children; and (e) an order  
14 restraining your abuser from molesting or interfering with  
15 minor children in your custody. The forms you need to obtain  
16 a protection order are available in any municipal, district, or  
17 superior court.

18 Information about shelters and alternatives to domestic  
19 violence is available from a state-wide twenty-four-hour toll-  
20 free hotline at (include appropriate phone number). The  
21 battered women's shelter and other resources in your area are  
22 . . . . . (include local information)"

23 (8) The peace officer may offer, arrange, or facilitate  
24 transportation for the victim to a hospital for treatment of injuries  
25 or to a place of safety or shelter.

26 (9) The law enforcement agency shall forward the offense report to  
27 the appropriate prosecutor within ten days of making such report if  
28 there is probable cause to believe that an offense has been committed,  
29 unless the case is under active investigation.

30 (10) Each law enforcement agency shall make as soon as practicable  
31 a written record and shall maintain records of all incidents of  
32 domestic violence reported to it.

33 (11) Records kept pursuant to subsections (6) and (10) of this  
34 section shall be made identifiable by means of a departmental code for  
35 domestic violence.

36 (12) Commencing January 1, 1994, records of incidents of domestic  
37 violence shall be submitted, in accordance with procedures described in  
38 this subsection, to the Washington association of sheriffs and police

1 chiefs by all law enforcement agencies. The Washington criminal  
2 justice training commission shall amend its contract for collection of  
3 state-wide crime data with the Washington association of sheriffs and  
4 police chiefs:

5 (a) To include a table, in the annual report of crime in Washington  
6 produced by the Washington association of sheriffs and police chiefs  
7 pursuant to the contract, showing the total number of actual offenses  
8 and the number and percent of the offenses that are domestic violence  
9 incidents for the following crimes: (i) Criminal homicide, with  
10 subtotals for murder and nonnegligent homicide and manslaughter by  
11 negligence; (ii) forcible rape, with subtotals for rape by force and  
12 attempted forcible rape; (iii) robbery, with subtotals for firearm,  
13 knife or cutting instrument, or other dangerous weapon, and strongarm  
14 robbery; (iv) assault, with subtotals for firearm, knife or cutting  
15 instrument, other dangerous weapon, hands, feet, aggravated, and other  
16 nonaggravated assaults; (v) burglary, with subtotals for forcible  
17 entry, nonforcible unlawful entry, and attempted forcible entry; (vi)  
18 larceny theft, except motor vehicle theft; (vii) motor vehicle theft,  
19 with subtotals for autos, trucks and buses, and other vehicles; ((and))  
20 (viii) arson; and (ix) violations of the provisions of a protection  
21 order or no-contact order restraining the person from going onto the  
22 grounds of or entering a residence, workplace, school, or day care;

23 (b) To require that the table shall continue to be prepared and  
24 contained in the annual report of crime in Washington until that time  
25 as comparable or more detailed information about domestic violence  
26 incidents is available through the Washington state incident based  
27 reporting system and the information is prepared and contained in the  
28 annual report of crime in Washington; and

29 (c) To require that, in consultation with interested persons, the  
30 Washington association of sheriffs and police chiefs prepare and  
31 disseminate procedures to all law enforcement agencies in the state as  
32 to how the agencies shall code and report domestic violence incidents  
33 to the Washington association of sheriffs and police chiefs.

34 **Sec. 5.** RCW 10.99.040 and 1995 c 246 s 23 are each amended to read  
35 as follows:

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

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

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

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

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

13 (2) Because of the likelihood of repeated violence directed at  
14 those who have been victims of domestic violence in the past, when any  
15 person charged with or arrested for a crime involving domestic violence  
16 is released from custody before arraignment or trial on bail or  
17 personal recognizance, the court authorizing the release may prohibit  
18 that person from having any contact with the victim. The jurisdiction  
19 authorizing the release shall determine whether that person should be  
20 prohibited from having any contact with the victim. If there is no  
21 outstanding restraining or protective order prohibiting that person  
22 from having contact with the victim, the court authorizing release may  
23 issue, by telephone, a no-contact order prohibiting the person charged  
24 or arrested from having contact with the victim. In issuing the order,  
25 the court shall consider the provisions of RCW 9.41.800. The no-  
26 contact order shall also be issued in writing as soon as possible.

27 (3) At the time of arraignment the court shall determine whether a  
28 no-contact order shall be issued or extended. If a no-contact order is  
29 issued or extended, the court may also include in the conditions of  
30 release a requirement that the defendant submit to electronic  
31 monitoring. If electronic monitoring is ordered, the court shall  
32 specify who shall provide the monitoring services, and the terms under  
33 which the monitoring shall be performed. Upon conviction, the court  
34 may require as a condition of the sentence that the defendant reimburse  
35 the providing agency for the costs of the electronic monitoring.

36 (4)(a) Willful violation of a court order issued under subsection  
37 (2) or (3) of this section is a gross misdemeanor except as provided in  
38 (b) and (c) of this subsection (4). Upon conviction and in addition to  
39 other penalties provided by law, the court may require that the

1 defendant submit to electronic monitoring. The court shall specify who  
2 shall provide the electronic monitoring services and the terms under  
3 which the monitoring must be performed. The court also may include a  
4 requirement that the defendant pay the costs of the monitoring. The  
5 court shall consider the ability of the convicted person to pay for  
6 electronic monitoring.

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

14 (c) A willful violation of a court order issued under this section  
15 is a class C felony if the offender:

16 (i) Has at least two previous convictions for violating the  
17 provisions of a no-contact order issued under this chapter, a domestic  
18 violence protection order issued under chapter 26.09, 26.10, 26.26, or  
19 26.50 RCW, or any federal or out-of-state order that is comparable to  
20 a no-contact order or protection order issued under Washington law; and

21 (ii) One of the previous convictions was for a crime the offender  
22 committed after being convicted of the other previous crime; and

23 (iii) The offender was convicted of both of the previous crimes  
24 prior to committing the current offense.

25 The previous convictions may involve the same victim or other  
26 victims specifically protected by the no-contact orders or protection  
27 orders the offender violated.

28 (d) The written order releasing the person charged or arrested  
29 shall contain the court's directives and shall bear the legend:  
30 "Violation of this order is a criminal offense under chapter 10.99 RCW  
31 and will subject a violator to arrest; any assault or reckless  
32 endangerment that is a violation of this order is a felony. You can be  
33 arrested even if any person protected by the order invites or allows  
34 you to violate the order's prohibitions. You have the sole  
35 responsibility to avoid or refrain from violating the order's  
36 provisions. Only the court can change the order." A certified copy of  
37 the order shall be provided to the victim. If a no-contact order has  
38 been issued prior to charging, that order shall expire at arraignment  
39 or within seventy-two hours if charges are not filed. Such orders need

1 not be entered into the computer-based criminal intelligence  
2 information system in this state which is used by law enforcement  
3 agencies to list outstanding warrants.

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

16 **Sec. 6.** RCW 10.99.050 and 1991 c 301 s 5 are each amended to read  
17 as follows:

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

22 (2) Willful violation of a court order issued under this section is  
23 a gross misdemeanor. Any assault that is a violation of an order  
24 issued under this section and that does not amount to assault in the  
25 first or second degree under RCW 9A.36.011 or 9A.36.021 is a class C  
26 felony, and any conduct in violation of a protective order issued under  
27 this section that is reckless and creates a substantial risk of death  
28 or serious physical injury to another person is a class C felony. A  
29 willful violation of a court order issued under this section is also a  
30 class C felony if the offender:

31 (a) Has at least two previous convictions for violating the  
32 provisions of a no-contact order issued under this chapter, or a  
33 domestic violence protection order issued under chapter 26.09, 26.10,  
34 26.26, or 26.50 RCW, or any federal or out-of-state order that is  
35 comparable to a no-contact order or protection order that is issued  
36 under Washington law; and

37 (b) One of the previous convictions was for a crime the offender  
38 committed after being convicted of the other previous crime; and

1       (c) The offender was convicted of both of the previous crimes prior  
2 to committing the current offense.

3       The previous convictions may involve the same victim or other  
4 victims specifically protected by the no-contact orders or protection  
5 orders the offender violated.

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

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

21       **Sec. 7.** RCW 26.50.110 and 1995 c 246 s 14 are each amended to read  
22 as follows:

23       (1) Whenever an order for protection is granted under this chapter  
24 and the respondent or person to be restrained knows of the order, a  
25 violation of the restraint provisions or of a provision excluding the  
26 person from a residence, workplace, school, or day care is a gross  
27 misdemeanor except as provided in subsections (4) and (5) of this  
28 section. Upon conviction, and in addition to any other penalties  
29 provided by law, the court may require that the respondent submit to  
30 electronic monitoring. The court shall specify who shall provide the  
31 electronic monitoring services, and the terms under which the  
32 monitoring shall be performed. The order also may include a  
33 requirement that the respondent pay the costs of the monitoring. The  
34 court shall consider the ability of the convicted person to pay for  
35 electronic monitoring.

36       (2) A peace officer shall arrest without a warrant and take into  
37 custody a person whom the peace officer has probable cause to believe  
38 has violated an order issued under this chapter that restrains the

1 person or excludes the person from a residence, workplace, school, or  
2 day care, if the person restrained knows of the order. Presence of the  
3 order in the law enforcement computer-based criminal intelligence  
4 information system is not the only means of establishing knowledge of  
5 the order.

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

8 (4) Any assault that is a violation of an order issued under this  
9 chapter and that does not amount to assault in the first or second  
10 degree under RCW 9A.36.011 or 9A.36.021 is a class C felony, and any  
11 conduct in violation of a protective order issued under this chapter  
12 that is reckless and creates a substantial risk of death or serious  
13 physical injury to another person is a class C felony.

14 (5) A violation of a court order issued under this chapter is a  
15 class C felony if the offender:

16 (a) Has at least two previous convictions for violating the  
17 provisions of a no-contact order issued under chapter 10.99 RCW, a  
18 domestic violence protection order issued under chapter 26.09, 26.10,  
19 or 26.26 RCW or this chapter, or any federal or out-of-state order that  
20 is comparable to a no-contact or protection order issued under  
21 Washington law; and

22 (b) One of the previous convictions was for a crime the offender  
23 committed after being convicted of the other previous crime; and

24 (c) The offender was convicted of both of the previous crimes prior  
25 to committing the current offense.

26 The previous convictions may involve the same victim or other  
27 victims specifically protected by the no-contact orders or protection  
28 orders the offender violated.

29 (6) Upon the filing of an affidavit by the petitioner or any peace  
30 officer alleging that the respondent has violated an order for  
31 protection granted under this chapter, the court may issue an order to  
32 the respondent, requiring the respondent to appear and show cause  
33 within fourteen days why the respondent should not be found in contempt  
34 of court and punished accordingly. The hearing may be held in the  
35 court of any county or municipality in which the petitioner or  
36 respondent temporarily or permanently resides at the time of the  
37 alleged violation.

1        NEW SECTION.    **Sec. 8.**    If specific funding for the impact to the  
2 Washington criminal justice training commission to implement section 4  
3 of this act, referencing this act by bill or chapter number, is not  
4 provided by June 30, 1996, in the supplemental omnibus appropriations  
5 act, section 4 of this act is null and void.

6        **Sec. 9.**    RCW 9.94A.370 and 1989 c 124 s 2 are each amended to read  
7 as follows:

8        (1) The intersection of the column defined by the offender score  
9 and the row defined by the offense seriousness score determines the  
10 presumptive sentencing range (see RCW 9.94A.310, (Table 1)). The  
11 additional time for deadly weapon findings or for those offenses  
12 enumerated in RCW 9.94A.310(4) that were committed in a state  
13 correctional facility or county jail shall be added to the entire  
14 presumptive sentence range. The court may impose any sentence within  
15 the range that it deems appropriate. All presumptive sentence ranges  
16 are expressed in terms of total confinement.

17        (2) In determining any sentence, the trial court may rely on no  
18 more information than is admitted by the plea agreement, or admitted,  
19 acknowledged, or proved in a trial or at the time of sentencing.  
20 Acknowledgement includes not objecting to information stated in the  
21 presentence reports. Where the defendant disputes material facts, the  
22 court must either not consider the fact or grant an evidentiary hearing  
23 on the point. The facts shall be deemed proved at the hearing by a  
24 preponderance of the evidence. Facts that establish the elements of a  
25 more serious crime or additional crimes may not be used to go outside  
26 the presumptive sentence range except upon stipulation or when  
27 specifically provided for in RCW 9.94A.390(2) (c), (d), (f), and  
28 ~~((e))~~ (g)."

29    **SB 6462** - H COMM AMD  
30        By Committee on Law & Justice

31  
32        On page 1, line 1 of the title, after "violence;" strike the  
33 remainder of the title and insert "amending RCW 9.94A.390, 10.99.020,  
34 10.99.030, 10.99.040, 10.99.050, 26.50.110, and 9.94A.370; adding a new  
35 section to chapter 9A.36 RCW; creating a new section; and prescribing  
36 penalties."

1        EFFECT: Clarifying and technical amendments are made as follows:  
2 (1) The provision regarding imposition of an exceptional sentence is  
3 clarified to provide that the crime may have occurred within the sight  
4 or sound of the children and in the presence of either the victim's or  
5 offender's children; (2) The new crime of interfering with reporting  
6 domestic violence is rewritten to clarify that the person must be  
7 convicted of the underlying offense of domestic violence and must be  
8 the person who interfered with the reporting of the crime. It is also  
9 amended to cross reference the list of crimes contained in RCW  
10 10.99.020 rather than the definition of domestic violence in another  
11 statute; (3) A technical cross reference to a crime of domestic  
12 violence is added to the list of crimes of domestic violence; (4) The  
13 provisions regarding raising a third violation of a no-contact order or  
14 protection order are clarified to provide that crime which triggers the  
15 increased penalty must have been committed after commission of at least  
16 two prior convictions one of which must have been committed after the  
17 conviction for the other offense. That provision is also clarified to  
18 provide that other violations may have involved other victims or other  
19 no-contact orders than the conviction for the present offense. A  
20 provision is added that was added in a similar house bill that passed  
21 the house which is to require the Washington Association of Sheriffs  
22 and Police Chiefs, subject to funding in the budget, to collect data on  
23 violations of no-contact and protection orders.

--- END ---