

2 **HB 2595** - S AMD - 215

3 By Senators Costa, Heavey, Hargrove and Long

4 ADOPTED 3/2/00

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

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 26.50 RCW
8 to read as follows:

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

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

17 (1) An order for protection of a vulnerable adult issued under this
18 chapter which restrains the respondent or another person from
19 committing acts of abuse, prohibits contact with the petitioner,
20 excludes the person from any specified location, or prohibits the
21 person from knowingly coming within, or knowingly remaining within a
22 specified distance from a location, shall prominently bear on the front
23 page of the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL
24 NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.50 RCW AND
25 WILL SUBJECT A VIOLATOR TO ARREST.

26 (2) Whenever an order for protection of a vulnerable adult is
27 issued under this chapter, and the respondent or person to be
28 restrained knows of the order, a violation of a provision restraining
29 the person from committing acts of abuse, prohibiting contact with the
30 petitioner, excluding the person from any specified location, or
31 prohibiting the person from knowingly coming within, or knowingly
32 remaining within a specified distance of a location, shall be
33 punishable under RCW 26.50.110, regardless of whether the person is a
34 family or household member as defined in RCW 26.50.010.

1 **Sec. 3.** RCW 10.31.100 and 1999 c 184 s 14 are each amended to read
2 as follows:

3 A police officer having probable cause to believe that a person has
4 committed or is committing a felony shall have the authority to arrest
5 the person without a warrant. A police officer may arrest a person
6 without a warrant for committing a misdemeanor or gross misdemeanor
7 only when the offense is committed in the presence of the officer,
8 except as provided in subsections (1) through (10) of this section.

9 (1) Any police officer having probable cause to believe that a
10 person has committed or is committing a misdemeanor or gross
11 misdemeanor, involving physical harm or threats of harm to any person
12 or property or the unlawful taking of property or involving the use or
13 possession of cannabis, or involving the acquisition, possession, or
14 consumption of alcohol by a person under the age of twenty-one years
15 under RCW 66.44.270, or involving criminal trespass under RCW 9A.52.070
16 or 9A.52.080, shall have the authority to arrest the person.

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

20 (a) An order has been issued of which the person has knowledge
21 under RCW (~~(10.99.040(2), 10.99.050, 26.09.050, 26.09.060, 26.10.040,~~
22 ~~26.10.115,~~) 26.44.063, or chapter 10.99, 26.09, 26.10, 26.26 (~~(RCW, or~~
23 ~~chapter)~~), 26.50, or 74.34 RCW restraining the person and the person
24 has violated the terms of the order restraining the person from acts or
25 threats of violence, or restraining the person from going onto the
26 grounds of or entering a residence, workplace, school, or day care, or
27 prohibiting the person from knowingly coming within, or knowingly
28 remaining within a specified distance of a location or, in the case of
29 an order issued under RCW 26.44.063, imposing any other restrictions or
30 conditions upon the person; or

31 (b) A foreign protection order, as defined in RCW 26.52.010, has
32 been issued of which the person under restraint has knowledge and the
33 person under restraint has violated a provision of the foreign
34 protection order prohibiting the person under restraint from contacting
35 or communicating with another person, or (~~(of a provision))~~ excluding
36 the person under restraint from a residence, workplace, school, or day
37 care, or prohibiting the person from knowingly coming within, or
38 knowingly remaining within a specified distance of a location, or a

1 violation of any provision for which the foreign protection order
2 specifically indicates that a violation will be a crime; or

3 (c) The person is sixteen years or older and within the preceding
4 four hours has assaulted a family or household member as defined in RCW
5 10.99.020 and the officer believes: (i) A felonious assault has
6 occurred; (ii) an assault has occurred which has resulted in bodily
7 injury to the victim, whether the injury is observable by the
8 responding officer or not; or (iii) that any physical action has
9 occurred which was intended to cause another person reasonably to fear
10 imminent serious bodily injury or death. Bodily injury means physical
11 pain, illness, or an impairment of physical condition. When the
12 officer has probable cause to believe that family or household members
13 have assaulted each other, the officer is not required to arrest both
14 persons. The officer shall arrest the person whom the officer believes
15 to be the primary physical aggressor. In making this determination,
16 the officer shall make every reasonable effort to consider: (i) The
17 intent to protect victims of domestic violence under RCW 10.99.010;
18 (ii) the comparative extent of injuries inflicted or serious threats
19 creating fear of physical injury; and (iii) the history of domestic
20 violence between the persons involved.

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

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

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

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

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

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

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

36 (4) A law enforcement officer investigating at the scene of a motor
37 vehicle accident may arrest the driver of a motor vehicle involved in
38 the accident if the officer has probable cause to believe that the

1 driver has committed in connection with the accident a violation of any
2 traffic law or regulation.

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

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

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

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

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

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

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

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

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

36 **Sec. 4.** RCW 10.99.020 and 1997 c 338 s 53 are each amended to read
37 as follows:

1 Unless the context clearly requires otherwise, the definitions in
2 this section apply throughout this chapter.

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

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

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

- 18 (a) Assault in the first degree (RCW 9A.36.011);
- 19 (b) Assault in the second degree (RCW 9A.36.021);
- 20 (c) Assault in the third degree (RCW 9A.36.031);
- 21 (d) Assault in the fourth degree (RCW 9A.36.041);
- 22 (e) Drive-by shooting (RCW 9A.36.045);
- 23 (f) Reckless endangerment (RCW 9A.36.050);
- 24 (g) Coercion (RCW 9A.36.070);
- 25 (h) Burglary in the first degree (RCW 9A.52.020);
- 26 (i) Burglary in the second degree (RCW 9A.52.030);
- 27 (j) Criminal trespass in the first degree (RCW 9A.52.070);
- 28 (k) Criminal trespass in the second degree (RCW 9A.52.080);
- 29 (l) Malicious mischief in the first degree (RCW 9A.48.070);
- 30 (m) Malicious mischief in the second degree (RCW 9A.48.080);
- 31 (n) Malicious mischief in the third degree (RCW 9A.48.090);
- 32 (o) Kidnapping in the first degree (RCW 9A.40.020);
- 33 (p) Kidnapping in the second degree (RCW 9A.40.030);
- 34 (q) Unlawful imprisonment (RCW 9A.40.040);
- 35 (r) Violation of the provisions of a restraining order, no-contact
36 order, or protection order restraining the person or restraining the
37 person from going onto the grounds of or entering a residence,
38 workplace, school, or day care, or prohibiting the person from
39 knowingly coming within, or knowingly remaining within a specified

1 distance of a location (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220,
2 ~~((or))~~ 26.26.138, 26.50.060, 26.50.070, 26.50.130, 26.52.070, or
3 section 2 of this act);

4 ~~(s) ((Violation of the provisions of a protection order or no-~~
5 ~~contact order restraining the person or restraining the person from~~
6 ~~going onto the grounds of or entering a residence, workplace, school,~~
7 ~~or day care (RCW 26.50.060, 26.50.070, 26.50.130, 10.99.040, or~~
8 ~~10.99.050);~~

9 ~~(t))~~ Rape in the first degree (RCW 9A.44.040);

10 ~~((u))~~ (t) Rape in the second degree (RCW 9A.44.050);

11 ~~((v))~~ (u) Residential burglary (RCW 9A.52.025);

12 ~~((w))~~ (v) Stalking (RCW 9A.46.110); and

13 ~~((x))~~ (w) Interference with the reporting of domestic violence
14 (RCW 9A.36.150).

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

17 **Sec. 5.** RCW 26.09.050 and 1995 c 93 s 2 are each amended to read
18 as follows:

19 (1) In entering a decree of dissolution of marriage, legal
20 separation, or declaration of invalidity, the court shall determine the
21 marital status of the parties, make provision for a parenting plan for
22 any minor child of the marriage, make provision for the support of any
23 child of the marriage entitled to support, consider or approve
24 provision for the maintenance of either spouse, make provision for the
25 disposition of property and liabilities of the parties, make provision
26 for the allocation of the children as federal tax exemptions, make
27 provision for any necessary continuing restraining orders including the
28 provisions contained in RCW 9.41.800, make provision for the issuance
29 within this action of the restraint provisions of a domestic violence
30 protection order under chapter 26.50 RCW or an antiharassment
31 protection order under chapter 10.14 RCW, and make provision for the
32 change of name of any party.

33 (2) Restraining orders issued under this section restraining the
34 person from molesting or disturbing another party, or from going onto
35 the grounds of or entering the home, workplace, or school of the other
36 party or the day care or school of any child, or prohibiting the person
37 from knowingly coming within, or knowingly remaining within a specified
38 distance of a location, shall prominently bear on the front page of the

1 order the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS
2 TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER ((26.09)) 26.50 RCW AND WILL
3 SUBJECT A VIOLATOR TO ARREST.

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

15 **Sec. 6.** RCW 26.09.060 and 1995 c 246 s 26 are each amended to read
16 as follows:

17 (1) In a proceeding for:

18 (a) Dissolution of marriage, legal separation, or a declaration of
19 invalidity; or

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

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

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

36 (b) Molesting or disturbing the peace of the other party or of any
37 child;

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

4 (d) Knowingly coming within, or knowingly remaining within a
5 specified distance from a specified location;

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

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

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

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

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

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

38 (8) 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 intelligence
6 information system available in this state used by law enforcement
7 agencies to list outstanding warrants. Entry into the law enforcement
8 information system constitutes notice to all law enforcement agencies
9 of the existence of the order. The order is fully enforceable in any
10 county in the state.

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

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

15 (b) May be revoked or modified;

16 (c) Terminates when the final decree is entered, except as provided
17 under subsection (10) of this section, or when the petition for
18 dissolution, legal separation, or declaration of invalidity is
19 dismissed;

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

22 (10) Delinquent support payments accrued under an order for
23 temporary support remain collectible and are not extinguished when a
24 final decree is entered unless the decree contains specific language to
25 the contrary. A support debt under a temporary order owed to the state
26 for public assistance expenditures shall not be extinguished by the
27 final decree if:

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

30 (b) The temporary order directs the obligor to make support
31 payments to the office of support enforcement or the Washington state
32 support registry.

33 **Sec. 7.** RCW 26.10.040 and 1995 c 93 s 3 are each amended to read
34 as follows:

35 In entering an order under this chapter, the court shall consider,
36 approve, or make provision for:

37 (1) Child custody, visitation, and the support of any child
38 entitled to support;

1 (2) The allocation of the children as a federal tax exemption;

2 (3) Any necessary continuing restraining orders, including the
3 provisions contained in RCW 9.41.800;

4 (4) A domestic violence protection order under chapter 26.50 RCW or
5 an antiharassment protection order under chapter 10.14 RCW. The court
6 may grant any of the relief provided in RCW 26.50.060 except relief
7 pertaining to residential provisions for the children which provisions
8 shall be provided for under this chapter, and any of the relief
9 provided in RCW 10.14.080;

10 (5) Restraining orders issued under this section restraining the
11 person from molesting or disturbing another party, or from going onto
12 the grounds of or entering the home, workplace, or school of the other
13 party or the day care or school of any child, or prohibiting the person
14 from knowingly coming within, or knowingly remaining within a specified
15 distance of a location, shall prominently bear on the front page of the
16 order the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS
17 TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER ((26.10)) 26.50 RCW AND WILL
18 SUBJECT A VIOLATOR TO ARREST;

19 (6) The court shall order that any restraining order bearing a
20 criminal offense legend, any domestic violence protection order, or any
21 antiharassment protection order granted under this section, in addition
22 to the law enforcement information sheet or proof of service of the
23 order, 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 intelligence
27 information system available in this state used by law enforcement
28 agencies to list outstanding warrants. The order is fully enforceable
29 in any county in the state.

30 **Sec. 8.** RCW 26.10.115 and 1995 c 246 s 29 are each amended to read
31 as follows:

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

36 (2) In a proceeding under this chapter either party may file a
37 motion for a temporary restraining order or preliminary injunction,

1 providing relief proper in the circumstances, and restraining or
2 enjoining any person from:

3 (a) Molesting or disturbing the peace of the other party or of any
4 child;

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

7 (c) Knowingly coming within, or knowingly remaining within a
8 specified distance from a specified location;

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

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

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

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

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

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

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

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

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

17 (b) May be revoked or modified;

18 (c) Terminates when the final order is entered or when the motion
19 is dismissed;

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

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

1 **Sec. 9.** RCW 26.26.130 and 1997 c 58 s 947 are each amended to read
2 as follows:

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

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

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

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

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

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

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

36 (8) In any dispute between the natural parents of a child and a
37 person or persons who have (a) commenced adoption proceedings or who
38 have been granted an order of adoption, and (b) pursuant to a court
39 order, or placement by the department of social and health services or

1 by a licensed agency, have had actual custody of the child for a period
2 of one year or more before court action is commenced by the natural
3 parent or parents, the court shall consider the best welfare and
4 interests of the child, including the child's need for situation
5 stability, in determining the matter of custody, and the parent or
6 person who is more fit shall have the superior right to custody.

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

11 (10) 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 specified
16 distance of a location, shall prominently bear on the front page of the
17 order the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS
18 TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER ((26.26)) 26.50 RCW AND WILL
19 SUBJECT A VIOLATOR TO ARREST.

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

30 **Sec. 10.** RCW 26.26.137 and 1995 c 246 s 32 are each amended to
31 read as follows:

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

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

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

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

7 (c) Knowingly coming within, or knowingly remaining within a
8 specified distance from a specified location; or

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

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

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

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

1 (6) 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 (7) The court may issue a temporary restraining order or
7 preliminary injunction and an order for temporary support in such
8 amounts and on such terms as are just and proper in the circumstances.
9 In issuing the order, the court shall consider the provisions of RCW
10 9.41.800.

11 (8) A temporary order, temporary restraining order, or preliminary
12 injunction:

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

15 (b) May be revoked or modified;

16 (c) Terminates when the final order is entered or when the petition
17 is dismissed; and

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

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

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

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

3 (a) Restrain the respondent from committing acts of domestic
4 violence;

5 (b) Exclude the respondent from the dwelling which the parties
6 share, from the residence, workplace, or school of the petitioner, or
7 from the day care or school of a child;

8 (c) Prohibit the respondent from knowingly coming within, or
9 knowingly remaining within a specified distance from a specified
10 location;

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

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

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

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

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

28 (~~(h)~~) (i) Require the respondent to submit to electronic
29 monitoring. The order shall specify who shall provide the electronic
30 monitoring services and the terms under which the monitoring must be
31 performed. The order also may include a requirement that the
32 respondent pay the costs of the monitoring. The court shall consider
33 the ability of the respondent to pay for electronic monitoring;

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

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

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

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

13 If the petitioner has petitioned for relief on behalf of the
14 respondent's minor children, the court shall advise the petitioner that
15 if the petitioner wants to continue protection for a period beyond one
16 year the petitioner may either petition for renewal pursuant to the
17 provisions of this chapter or may seek relief pursuant to the
18 provisions of chapter 26.09 or 26.26 RCW.

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

1 protection order for another fixed time period or may enter a permanent
2 order as provided in this section. The court may award court costs,
3 service fees, and reasonable attorneys' fees as provided in subsection
4 (1)(f) of this section.

5 (4) In providing relief under this chapter, the court may realign
6 the designation of the parties as "petitioner" and "respondent" where
7 the court finds that the original petitioner is the abuser and the
8 original respondent is the victim of domestic violence and may issue an
9 ex parte temporary order for protection in accordance with RCW
10 26.50.070 on behalf of the victim until the victim is able to prepare
11 a petition for an order for protection in accordance with RCW
12 26.50.030.

13 (5) Except as provided in subsection (4) of this section, no order
14 for protection shall grant relief to any party except upon notice to
15 the respondent and hearing pursuant to a petition or counter-petition
16 filed and served by the party seeking relief in accordance with RCW
17 26.50.050.

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

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

26 **Sec. 12.** RCW 26.50.070 and 1996 c 248 s 14 are each amended to
27 read as follows:

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

34 (a) Restraining any party from committing acts of domestic
35 violence;

36 (b) Restraining any party from going onto the grounds of or
37 entering the dwelling that the parties share, from the residence,

1 workplace, or school of the other, or from the day care or school of a
2 child until further order of the court;

3 (c) Prohibiting any party from knowingly coming within, or
4 knowingly remaining within a specified distance from a specified
5 location;

6 (d) Restraining any party from interfering with the other's custody
7 of the minor children or from removing the children from the
8 jurisdiction of the court;

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

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

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

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

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

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

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

1 IX Assault of a Child 2 (RCW 9A.36.130)
2 Controlled Substance Homicide (RCW
3 69.50.415)
4 Explosive devices prohibited (RCW
5 70.74.180)
6 Homicide by Watercraft, by being under the
7 influence of intoxicating liquor or
8 any drug (RCW ((88.12.029))
9 79A.60.050)
10 Inciting Criminal Profiteering (RCW
11 9A.82.060(1)(b))
12 Malicious placement of an explosive 2 (RCW
13 70.74.270(2))
14 Over 18 and deliver narcotic from Schedule
15 III, IV, or V or a nonnarcotic, except
16 flunitrazepam or methamphetamine, from
17 Schedule I-V to someone under 18 and 3
18 years junior (RCW 69.50.406)
19 Robbery 1 (RCW 9A.56.200)
20 Sexual Exploitation (RCW 9.68A.040)
21 Vehicular Homicide, by being under the
22 influence of intoxicating liquor or
23 any drug (RCW 46.61.520)
24 VIII Arson 1 (RCW 9A.48.020)
25 Deliver or possess with intent to deliver
26 m e t h a m p h e t a m i n e (R C W
27 69.50.401(a)(1)(ii))
28 Homicide by Watercraft, by the operation of
29 any vessel in a reckless manner (RCW
30 ((88.12.029)) 79A.60.050)
31 Manslaughter 2 (RCW 9A.32.070)
32 Manufacture, deliver, or possess with
33 intent to deliver amphetamine (RCW
34 69.50.401(a)(1)(ii))
35 Manufacture, deliver, or possess with
36 intent to deliver heroin or cocaine
37 (RCW 69.50.401(a)(1)(i))

1 Possession of ephedrine or pseudoephedrine
2 with intent to manufacture
3 methamphetamine (RCW 69.50.440)
4 Promoting Prostitution 1 (RCW 9A.88.070)
5 Selling for profit (controlled or
6 counterfeit) any controlled substance
7 (RCW 69.50.410)
8 Vehicular Homicide, by the operation of any
9 vehicle in a reckless manner (RCW
10 46.61.520)

11 VII Burglary 1 (RCW 9A.52.020)
12 Child Molestation 2 (RCW 9A.44.086)
13 Dealing in depictions of minor engaged in
14 sexually explicit conduct (RCW
15 9.68A.050)
16 Drive-by Shooting (RCW 9A.36.045)
17 Homicide by Watercraft, by disregard for
18 the safety of others (RCW
19 ((~~88.12.029~~)) 79A.60.050)
20 Indecent Liberties (without forcible
21 compulsion) (RCW 9A.44.100(1) (b) and
22 (c))
23 Introducing Contraband 1 (RCW 9A.76.140)
24 Involving a minor in drug dealing (RCW
25 69.50.401(f))
26 Malicious placement of an explosive 3 (RCW
27 70.74.270(3))
28 Sending, bringing into state depictions of
29 minor engaged in sexually explicit
30 conduct (RCW 9.68A.060)
31 Unlawful Possession of a Firearm in the
32 first degree (RCW 9.41.040(1)(a))
33 Use of a Machine Gun in Commission of a
34 Felony (RCW 9.41.225)
35 Vehicular Homicide, by disregard for the
36 safety of others (RCW 46.61.520)

37 VI Bail Jumping with Murder 1 (RCW
38 9A.76.170(2)(a))

1 Bribery (RCW 9A.68.010)
2 Incest 1 (RCW 9A.64.020(1))
3 Intimidating a Judge (RCW 9A.72.160)
4 Intimidating a Juror/Witness (RCW
5 9A.72.110, 9A.72.130)
6 Malicious placement of an imitation device
7 2 (RCW 70.74.272(1)(b))
8 Manufacture, deliver, or possess with
9 intent to deliver narcotics from
10 Schedule I or II (except heroin or
11 cocaine) or flunitrazepam from
12 Schedule IV (RCW 69.50.401(a)(1)(i))
13 Rape of a Child 3 (RCW 9A.44.079)
14 Theft of a Firearm (RCW 9A.56.300)

15 V Abandonment of dependent person 1 (RCW
16 9A.42.060)
17 Advancing money or property for
18 extortionate extension of credit (RCW
19 9A.82.030)
20 Bail Jumping with class A Felony (RCW
21 9A.76.170(2)(b))
22 Child Molestation 3 (RCW 9A.44.089)
23 Criminal Mistreatment 1 (RCW 9A.42.020)
24 Custodial Sexual Misconduct 1 (RCW
25 9A.44.160)
26 Delivery of imitation controlled substance
27 by person eighteen or over to person
28 under eighteen (RCW 69.52.030(2))
29 Domestic Violence Court Order Violation
30 (RCW 10.99.040, 10.99.050, 26.09.300,
31 26.10.220, 26.26.138, 26.50.110,
32 26.52.070, or section 2 of this act)
33 Extortion 1 (RCW 9A.56.120)
34 Extortionate Extension of Credit (RCW
35 9A.82.020)
36 Extortionate Means to Collect Extensions of
37 Credit (RCW 9A.82.040)
38 Incest 2 (RCW 9A.64.020(2))
39 Kidnapping 2 (RCW 9A.40.030)

1 (~~On and after July 1, 2000: No Contact~~
2 ~~Order Violation: Domestic Violence~~
3 ~~Pretrial Condition (RCW 10.99.040(4)~~
4 ~~(b) and (c))~~
5 ~~On and after July 1, 2000: No Contact~~
6 ~~Order Violation: Domestic Violence~~
7 ~~Sentence Condition (RCW 10.99.050(2))~~
8 ~~On and after July 1, 2000: Protection~~
9 ~~Order Violation: Domestic Violence~~
10 ~~Civil Action (RCW 26.50.110 (4) and~~
11 ~~(5))~~
12 ~~On and after July 1, 2000: Stalking (RCW~~
13 ~~9A.46.110))~~
14 Perjury 1 (RCW 9A.72.020)
15 Persistent prison misbehavior (RCW
16 9.94.070)
17 Possession of a Stolen Firearm (RCW
18 9A.56.310)
19 Rape 3 (RCW 9A.44.060)
20 Rendering Criminal Assistance 1 (RCW
21 9A.76.070)
22 Sexual Misconduct with a Minor 1 (RCW
23 9A.44.093)
24 Sexually Violating Human Remains (RCW
25 9A.44.105)
26 Stalking (RCW 9A.46.110)

27 IV Arson 2 (RCW 9A.48.030)
28 Assault 2 (RCW 9A.36.021)
29 Assault by Watercraft (RCW (~~88.12.032~~)
30 79A.60.060)
31 Bribing a Witness/Bribe Received by Witness
32 (RCW 9A.72.090, 9A.72.100)
33 Commercial Bribery (RCW 9A.68.060)
34 Counterfeiting (RCW 9.16.035(4))
35 Escape 1 (RCW 9A.76.110)
36 Hit and Run--Injury Accident (RCW
37 46.52.020(4))
38 Hit and Run with Vessel--Injury Accident
39 (RCW (~~88.12.155(3)~~) 79A.60.200(3))

1 Indecent Exposure to Person Under Age
2 Fourteen (subsequent sex offense) (RCW
3 9A.88.010)
4 Influencing Outcome of Sporting Event (RCW
5 9A.82.070)
6 Knowingly Trafficking in Stolen Property
7 (RCW 9A.82.050(2))
8 Malicious Harassment (RCW 9A.36.080)
9 Manufacture, deliver, or possess with
10 intent to deliver narcotics from
11 Schedule III, IV, or V or nonnarcotics
12 from Schedule I-V (except marijuana,
13 amphetamine, methamphetamines, or
14 flunitrazepam) (RCW 69.50.401(a)(1)
15 (iii) through (v))
16 Residential Burglary (RCW 9A.52.025)
17 Robbery 2 (RCW 9A.56.210)
18 Theft of Livestock 1 (RCW 9A.56.080)
19 Threats to Bomb (RCW 9.61.160)
20 Use of Proceeds of Criminal Profiteering
21 (RCW 9A.82.080 (1) and (2))
22 Vehicular Assault (RCW 46.61.522)
23 Willful Failure to Return from Furlough
24 (RCW 72.66.060)
25 III Abandonment of dependent person 2 (RCW
26 9A.42.070)
27 Assault 3 (RCW 9A.36.031)
28 Assault of a Child 3 (RCW 9A.36.140)
29 Bail Jumping with class B or C Felony (RCW
30 9A.76.170(2)(c))
31 Burglary 2 (RCW 9A.52.030)
32 Communication with a Minor for Immoral
33 Purposes (RCW 9.68A.090)
34 Criminal Gang Intimidation (RCW 9A.46.120)
35 Criminal Mistreatment 2 (RCW 9A.42.030)
36 Custodial Assault (RCW 9A.36.100)
37 Delivery of a material in lieu of a
38 controlled substance (RCW
39 69.50.401(c))

1 Escape 2 (RCW 9A.76.120)
2 Extortion 2 (RCW 9A.56.130)
3 Harassment (RCW 9A.46.020)
4 Intimidating a Public Servant (RCW
5 9A.76.180)
6 Introducing Contraband 2 (RCW 9A.76.150)
7 Maintaining a Dwelling or Place for
8 Controlled Substances (RCW
9 69.50.402(a)(6))
10 Malicious Injury to Railroad Property (RCW
11 81.60.070)
12 Manufacture, deliver, or possess with
13 intent to deliver marijuana (RCW
14 69.50.401(a)(1)(iii))
15 Manufacture, distribute, or possess with
16 intent to distribute an imitation
17 controlled substance (RCW
18 69.52.030(1))
19 Patronizing a Juvenile Prostitute (RCW
20 9.68A.100)
21 Perjury 2 (RCW 9A.72.030)
22 Possession of Incendiary Device (RCW
23 9.40.120)
24 Possession of Machine Gun or Short-Barreled
25 Shotgun or Rifle (RCW 9.41.190)
26 Promoting Prostitution 2 (RCW 9A.88.080)
27 Recklessly Trafficking in Stolen Property
28 (RCW 9A.82.050(1))
29 Securities Act violation (RCW 21.20.400)
30 Tampering with a Witness (RCW 9A.72.120)
31 Telephone Harassment (subsequent conviction
32 or threat of death) (RCW 9.61.230)
33 Theft of Livestock 2 (RCW 9A.56.080)
34 Unlawful Imprisonment (RCW 9A.40.040)
35 Unlawful possession of firearm in the
36 second degree (RCW 9.41.040(1)(b))
37 Unlawful Use of Building for Drug Purposes
38 (RCW 69.53.010)

1 Willful Failure to Return from Work Release
2 (RCW 72.65.070)

3 II Computer Trespass 1 (RCW 9A.52.110)
4 Counterfeiting (RCW 9.16.035(3))
5 Create, deliver, or possess a counterfeit
6 controlled substance (RCW
7 69.50.401(b))
8 Escape from Community Custody (RCW
9 72.09.310)

10 Health Care False Claims (RCW 48.80.030)
11 Malicious Mischief 1 (RCW 9A.48.070)
12 Possession of controlled substance that is
13 either heroin or narcotics from
14 Schedule I or II or flunitrazepam from
15 Schedule IV (RCW 69.50.401(d))
16 Possession of phencyclidine (PCP) (RCW
17 69.50.401(d))
18 Possession of Stolen Property 1 (RCW
19 9A.56.150)
20 Theft 1 (RCW 9A.56.030)
21 Theft of Rental, Leased, or Lease-purchased
22 Property (valued at one thousand five
23 hundred dollars or more) (RCW
24 9A.56.096(4))
25 Trafficking in Insurance Claims (RCW
26 48.30A.015)
27 Unlawful Practice of Law (RCW 2.48.180)
28 Unlicensed Practice of a Profession or
29 Business (RCW 18.130.190(7))

30 I Attempting to Elude a Pursuing Police
31 Vehicle (RCW 46.61.024)
32 False Verification for Welfare (RCW
33 74.08.055)
34 Forged Prescription (RCW 69.41.020)
35 Forged Prescription for a Controlled
36 Substance (RCW 69.50.403)
37 Forgery (RCW 9A.60.020)
38 Malicious Mischief 2 (RCW 9A.48.080)

1 Possess Controlled Substance that is a
2 Narcotic from Schedule III, IV, or V
3 or Non-narcotic from Schedule I-V
4 (except phencyclidine or
5 flunitrazepam) (RCW 69.50.401(d))
6 Possession of Stolen Property 2 (RCW
7 9A.56.160)
8 Reckless Burning 1 (RCW 9A.48.040)
9 Taking Motor Vehicle Without Permission
10 (RCW 9A.56.070)
11 Theft 2 (RCW 9A.56.040)
12 Theft of Rental, Leased, or Lease-purchased
13 Property (valued at two hundred fifty
14 dollars or more but less than one
15 thousand five hundred dollars) (RCW
16 9A.56.096(4))
17 Unlawful Issuance of Checks or Drafts (RCW
18 9A.56.060)
19 Unlawful Use of Food Stamps (RCW 9.91.140
20 (2) and (3))
21 Vehicle Prowl 1 (RCW 9A.52.095)

22 **Sec. 14.** RCW 9.94A.440 and 1999 c 322 s 6 and 1999 c 196 s 11 are
23 each reenacted and amended to read as follows:

24 (1) Decision not to prosecute.

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

30 GUIDELINE/COMMENTARY:

31 Examples

32 The following are examples of reasons not to prosecute which could
33 satisfy the standard.

34 (a) Contrary to Legislative Intent - It may be proper to decline to
35 charge where the application of criminal sanctions would be clearly
36 contrary to the intent of the legislature in enacting the particular
37 statute.

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

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

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

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

8 (iv) The statute has not been recently reconsidered by the
9 legislature.

10 This reason is not to be construed as the basis for declining cases
11 because the law in question is unpopular or because it is difficult to
12 enforce.

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

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

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

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

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

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

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

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

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

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

35 (f) High Disproportionate Cost of Prosecution - It may be proper to
36 decline to charge where the cost of locating or transporting, or the
37 burden on, prosecution witnesses is highly disproportionate to the
38 importance of prosecuting the offense in question. This reason should

1 be limited to minor cases and should not be relied upon in serious
2 cases.

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

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

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

16 (i) Assault cases where the victim has suffered little or no
17 injury;

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

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

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

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

25 Notification

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

28 (2) Decision to prosecute.

29 (a) STANDARD:

30 Crimes against persons will be filed if sufficient admissible
31 evidence exists, which, when considered with the most plausible,
32 reasonably foreseeable defense that could be raised under the evidence,
33 would justify conviction by a reasonable and objective fact-finder.
34 With regard to offenses prohibited by RCW 9A.44.040, 9A.44.050,
35 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, 9A.44.089, and
36 9A.64.020 the prosecutor should avoid prefiling agreements or
37 diversions intended to place the accused in a program of treatment or
38 counseling, so that treatment, if determined to be beneficial, can be
39 provided pursuant to RCW 9.94A.120(8).

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

6 See table below for the crimes within these categories.

7 CATEGORIZATION OF CRIMES FOR PROSECUTING STANDARDS

8 CRIMES AGAINST PERSONS

9 Aggravated Murder
10 1st Degree Murder
11 2nd Degree Murder
12 1st Degree Kidnaping
13 1st Degree Assault
14 1st Degree Assault of a Child
15 1st Degree Rape
16 1st Degree Robbery
17 1st Degree Rape of a Child
18 1st Degree Arson
19 2nd Degree Kidnaping
20 2nd Degree Assault
21 2nd Degree Assault of a Child
22 2nd Degree Rape
23 2nd Degree Robbery
24 1st Degree Burglary
25 1st Degree Manslaughter
26 2nd Degree Manslaughter
27 1st Degree Extortion
28 Indecent Liberties
29 Incest
30 2nd Degree Rape of a Child
31 Vehicular Homicide
32 Vehicular Assault
33 3rd Degree Rape
34 3rd Degree Rape of a Child
35 1st Degree Child Molestation
36 2nd Degree Child Molestation
37 3rd Degree Child Molestation
38 2nd Degree Extortion

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

23 CRIMES AGAINST PROPERTY/OTHER CRIMES
24 2nd Degree Arson
25 1st Degree Escape
26 2nd Degree Burglary
27 1st Degree Theft
28 1st Degree Perjury
29 1st Degree Introducing Contraband
30 1st Degree Possession of Stolen Property
31 Bribery
32 Bribing a Witness
33 Bribe received by a Witness
34 Bomb Threat (if against property)
35 1st Degree Malicious Mischief
36 2nd Degree Theft
37 2nd Degree Escape
38 2nd Degree Introducing Contraband
39 2nd Degree Possession of Stolen Property

1 2nd Degree Malicious Mischief
2 1st Degree Reckless Burning
3 Taking a Motor Vehicle without Authorization
4 Forgery
5 2nd Degree Perjury
6 2nd Degree Promoting Prostitution
7 Tampering with a Witness
8 Trading in Public Office
9 Trading in Special Influence
10 Receiving/Granting Unlawful Compensation
11 Bigamy
12 Eluding a Pursuing Police Vehicle
13 Willful Failure to Return from Furlough
14 Escape from Community Custody
15 Riot (if against property)
16 Thefts of Livestock

17 ALL OTHER UNCLASSIFIED FELONIES

18 Selection of Charges/Degree of Charge

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

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

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

25 (ii) The prosecutor should not overcharge to obtain a guilty plea.
26 Overcharging includes:

27 (A) Charging a higher degree;

28 (B) Charging additional counts.

29 This standard is intended to direct prosecutors to charge those
30 crimes which demonstrate the nature and seriousness of a defendant's
31 criminal conduct, but to decline to charge crimes which are not
32 necessary to such an indication. Crimes which do not merge as a matter
33 of law, but which arise from the same course of conduct, do not all
34 have to be charged.

35 (b) GUIDELINES/COMMENTARY:

36 (i) Police Investigation

37 A prosecuting attorney is dependent upon law enforcement agencies
38 to conduct the necessary factual investigation which must precede the

1 decision to prosecute. The prosecuting attorney shall ensure that a
2 thorough factual investigation has been conducted before a decision to
3 prosecute is made. In ordinary circumstances the investigation should
4 include the following:

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

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

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

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

13 (ii) Exceptions

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

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

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

19 (C) The arrest of the suspect is necessary to complete the
20 investigation of the crime.

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

26 (iii) Investigation Techniques

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

29 (A) Polygraph testing;

30 (B) Hypnosis;

31 (C) Electronic surveillance;

32 (D) Use of informants.

33 (iv) Pre-Filing Discussions with Defendant

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

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

38 Discussions with the victim(s) or victims' representatives
39 regarding the selection or disposition of charges may occur before the

1 filing of charges. The discussions may be considered by the prosecutor
2 in charging and disposition decisions, and should be considered before
3 reaching any agreement with the defendant regarding these decisions.

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

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

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

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

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

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

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

34 (3) At the time of arraignment the court shall determine whether a
35 no-contact order shall be issued or extended. If a no-contact order is
36 issued or extended, the court may also include in the conditions of
37 release a requirement that the defendant submit to electronic
38 monitoring. If electronic monitoring is ordered, the court shall

1 specify who shall provide the monitoring services, and the terms under
2 which the monitoring shall be performed. Upon conviction, the court
3 may require as a condition of the sentence that the defendant reimburse
4 the providing agency for the costs of the electronic monitoring.

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

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

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

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

1 order's provisions. Only the court can change the order." A certified
2 copy of the order shall be provided to the victim. If a no-contact
3 order has been issued prior to charging, that order shall expire at
4 arraignment or within seventy-two hours if charges are not filed. Such
5 orders need not be entered into the computer-based criminal
6 intelligence information system in this state which is used by law
7 enforcement agencies to list outstanding warrants.

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

20 **Sec. 16.** RCW 10.99.050 and 1997 c 338 s 55 are each amended to
21 read as follows:

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

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

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

5 The written order shall contain the court's directives and shall
6 bear the legend: Violation of this order is a criminal offense under
7 chapter ((10.99)) 26.50 RCW and will subject a violator to arrest; any
8 assault, drive-by shooting, or reckless endangerment that is a
9 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. 17.** RCW 26.09.300 and 1996 c 248 s 9 are each amended to read
22 as follows:

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

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

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

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

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

37 (d) The peace officer gives the person oral or written evidence of
38 the order by reading from it or handing to the person a certified copy

1 of the original order, certified to be an accurate copy of the original
2 by a notary public or by the clerk of the court.

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

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

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

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

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

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

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

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

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

27 **Sec. 18.** RCW 26.10.220 and 1999 c 184 s 11 are each amended to
28 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 **Sec. 19.** RCW 26.26.138 and 1999 c 184 s 12 are each amended to
35 read as follows:

36 (1) Whenever a restraining order is issued under this chapter, and
37 the person to be restrained knows of the order, a violation of the
38 provisions restricting the person from acts or threats of violence or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 **Sec. 20.** RCW 26.50.110 and 1996 c 248 s 16 are each amended to
2 read as follows:

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

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

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

38 (4) Any assault that is a violation of an order issued under this
39 chapter, chapter 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a

1 valid foreign protection order as defined in RCW 26.52.020, and that
2 does not amount to assault in the first or second degree under RCW
3 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in
4 violation of ~~((a protective))~~ such an order ~~((issued under this~~
5 ~~chapter))~~ that is reckless and creates a substantial risk of death or
6 serious physical injury to another person is a class C felony.

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

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

31 **Sec. 21.** RCW 26.50.160 and 1995 c 246 s 18 are each amended to
32 read as follows:

33 To prevent the issuance of competing protection orders in different
34 courts and to give courts needed information for issuance of orders,
35 the judicial information system shall be available in each district,
36 municipal, and superior court by July 1, 1997, and shall include a data
37 base containing the following information:

1 (1) The names of the parties and the cause number for every order
2 of protection issued under this title, every criminal no-contact order
3 issued under chapter 10.99 RCW, every antiharassment order issued under
4 chapter 10.14 RCW, every dissolution action under chapter 26.09 RCW,
5 every third-party custody action under chapter 26.10 RCW, ~~((and))~~ every
6 parentage action under chapter ~~((26.10))~~ 26.26 RCW, every foreign
7 protection order filed under chapter 26.52 RCW, and every order for
8 protection of a vulnerable adult under chapter 74.34 RCW. When a
9 guardian or the department of social and health services has petitioned
10 for relief on behalf of a vulnerable adult, the name of the vulnerable
11 adult shall be included in the data base as a party rather than the
12 guardian or department;

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

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

17 **Sec. 22.** RCW 26.52.070 and 1999 c 184 s 9 are each amended to read
18 as follows:

19 (1) Whenever a foreign protection order is granted to a person
20 entitled to protection and the person under restraint knows of the
21 foreign protection order, a violation of a provision prohibiting the
22 person under restraint from contacting or communicating with another
23 person, or of a provision excluding the person under restraint from a
24 residence, workplace, school, or day care, or of a provision
25 prohibiting a person from knowingly coming within, or knowingly
26 remaining within a specified distance of a location, or a violation of
27 any provision for which the foreign protection order specifically
28 indicates that a violation will be a crime, is ~~((a gross misdemeanor~~
29 except as provided in subsections (3) and (4) of this section. Upon
30 conviction, and in addition to any other penalties provided by law, the
31 court may require the person under restraint to submit to electronic
32 monitoring. The court shall specify who will provide the electronic
33 monitoring services, and the terms under which the monitoring will be
34 performed. The order also may include a requirement that the person
35 under restraint pay the costs of the monitoring. The court shall
36 consider the ability of the convicted person to pay for electronic
37 monitoring)) punishable under RCW 26.50.110.

1 (2) A peace officer shall arrest without a warrant and take into
2 custody a person when the peace officer has probable cause to believe
3 that a foreign protection order has been issued of which the person
4 under restraint has knowledge and the person under restraint has
5 violated a provision of the foreign protection order that prohibits the
6 person under restraint from contacting or communicating with another
7 person, or a provision that excludes the person under restraint from a
8 residence, workplace, school, or day care, or of a provision
9 prohibiting a person from knowingly coming within, or knowingly
10 remaining within a specified distance of a location, or a violation of
11 any provision for which the foreign protection order specifically
12 indicates that a violation will be a crime. Presence of the order in
13 the law enforcement computer-based criminal intelligence information
14 system is not the only means of establishing knowledge of the order.

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

21 ~~(4) A violation of a valid foreign protection order is a class C~~
22 ~~felony if the offender has at least two previous convictions for~~
23 ~~violating the provisions of a no-contact order issued under chapter~~
24 ~~10.99 RCW, a domestic violence protection order issued under chapter~~
25 ~~26.09, 26.10, 26.26, or 26.50 RCW, or a federal or out-of-state order~~
26 ~~that is comparable to a no-contact or protection order issued under~~
27 ~~Washington law. The previous convictions may involve the same person~~
28 ~~entitled to protection or other person entitled to protection~~
29 ~~specifically protected by the no-contact orders or protection orders~~
30 ~~the offender violated.))~~

31 **Sec. 23.** RCW 74.34.130 and 1999 c 176 s 13 are each amended to
32 read as follows:

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

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

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

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

3 (4) Prohibiting the respondent from knowingly coming within, or
4 knowingly remaining within a specified distance from a specified
5 location;

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

8 ~~((+5))~~ (6) Restraining the transfer of property for a specified
9 period not exceeding ninety days;

10 ~~((+6))~~ (7) Requiring the respondent to pay the filing fee and
11 court costs, including service fees, and to reimburse the petitioner
12 for costs incurred in bringing the action, including a reasonable
13 attorney's fee.

14 Any relief granted by an order for protection, other than a
15 judgment for costs, shall be for a fixed period not to exceed one year.
16 The clerk of the court shall enter any order for protection issued
17 under this section into the judicial information system.

18 NEW SECTION. Sec. 24. Section 13 of this act takes effect July 1,
19 2000.

20 NEW SECTION. Sec. 25. The penalties prescribed in this act apply
21 to violations of court orders which occur on or after July 1, 2000,
22 regardless of the date the court issued the order."

23 **HB 2595** - S AMD - 215

24 By Senators Costa, Heavey, Hargrove and Long

25 ADOPTED 3/2/00

26 On page 1, line 1 of the title, after "orders;" strike the
27 remainder of the title and insert "amending RCW 10.31.100, 10.99.020,
28 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26.130, 26.26.137,
29 26.50.060, 26.50.070, 10.99.040, 10.99.050, 26.09.300, 26.10.220,
30 26.26.138, 26.50.110, 26.50.160, 26.52.070, and 74.34.130; reenacting
31 and amending RCW 9.94A.320 and 9.94A.440; adding a new section to
32 chapter 26.50 RCW; adding a new section to chapter 74.34 RCW; creating
33 a new section; prescribing penalties; and providing an effective date."

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