**6006-S2 AMH ENGR H3302.E - NOT FOR FLOOR USE**

**2SSB 6006** - H COMM AMD

By Committee on Community Safety, Justice, & Reentry

**ADOPTED AND ENGROSSED 02/29/2024**

Strike everything after the enacting clause and insert the following:

**"Sec.**  RCW 9A.40.100 and 2017 c 126 s 1 are each amended to read as follows:

(1) A person is guilty of trafficking in the first degree when((~~:~~

~~(a) Such person:~~

~~(i) Recruits~~)) such person recruits, entices, harbors, transports, ((~~transfers~~)) isolates, solicits, provides, obtains, buys, purchases, maintains, or receives by any means another person ((~~knowing~~)) and:

(a)(i) Knows, or acts in reckless disregard of the fact, ((~~(A)~~)) that force, fraud, or coercion ((~~as defined in RCW 9A.36.070~~)) will be used to cause the person to engage in((~~:~~

~~(I) Forced labor;~~

~~(II) Involuntary servitude;~~

~~(III) A sexually explicit act; or~~

~~(IV) A commercial sex act, or (B) that the person has not attained the age of eighteen years and is caused to engage in a sexually explicit act or a commercial sex act; or~~

~~(ii) Benefits~~)) forced labor, involuntary servitude, a sexually explicit act, or a commercial sex act; or

(ii) Such person knowingly, or in reckless disregard, causes a person under 18 years of age to engage in a sexually explicit act or commercial sex act, or benefits financially or by receiving anything of value from participation in a venture that has engaged in acts set forth in (a)(i) or (ii) of this subsection; provided, that it is not a defense that such person did not know, or recklessly disregarded the fact, that the other person was under 18 years of age or believed the other person was older, as the case may be; and

(b) The acts or venture set forth in (a)(i) or (ii) of this subsection:

(i) Involve such person committing or attempting to commit kidnapping;

(ii) Involve a finding of sexual motivation ((~~under RCW 9.94A.835~~));

(iii) Involve the illegal harvesting or sale of human organs; or

(iv) Result in a death.

(2) Trafficking in the first degree is a class A felony.

(3)((~~(a)~~)) A person is guilty of trafficking in the second degree when such person((~~:~~

~~(i) Recruits~~)) recruits, entices, harbors, transports, ((~~transfers~~)) isolates, solicits, provides, obtains, buys, purchases, maintains, or receives by any means another person ((~~knowing~~)) and:

(a) Knows, or acts in reckless disregard of the fact, that force, fraud, or coercion ((~~as defined in RCW 9A.36.070~~)) will be used to cause the person to engage in forced labor, involuntary servitude, a sexually explicit act, or a commercial sex act((~~, or that the person has not attained the age of eighteen years and is caused to engage in a sexually explicit act or a commercial sex act; or~~

~~(ii) Benefits~~)) ; or

(b) Such person knowingly, or in reckless disregard, causes a person under 18 years of age to engage in a sexually explicit act or commercial sex act, or benefits financially or by receiving anything of value from participation in a venture that has engaged in acts set forth in (a)((~~(i)~~)) or (b) of this subsection; provided, that it is not a defense that such person did not know, or recklessly disregarded the fact, that the other person was under 18 years of age or believed the other person was older, as the case may be.

((~~(b)~~)) (4) Trafficking in the second degree is a class A felony.

((~~(4)(a) In any prosecution under this chapter in which the offense or degree of the offense depends on the victim's age, it is not a defense that the perpetrator did not know the victim's age, or that the perpetrator believed the victim to be older, as the case may be.~~

~~(b)~~)) (5) If the victim of any offense identified in this section is a minor, then force, fraud, or coercion are not necessary elements of an offense and consent to the sexually explicit act or commercial sex act does not constitute a defense.

(6) For purposes of this section:

(a) "Coercion" includes, but is not limited to, the following circumstances:

(i) Using or threatening to use physical force against any person;

(ii) Restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against their will;

(iii) Using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, constituting debt bondage, if the value of the labor or services are pledged as a security for the debt, the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, or the length and nature of the labor or services are not respectively limited and defined;

(iv) Destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person;

(v) Causing or threatening to cause financial harm to any person;

(vi) Enticing or luring any person by fraud or deceit;

(vii) Providing or withholding any drug, alcohol, controlled substance, property, or necessities of life including money, food, lodging, or anything else of value that belongs to or was promised to another person knowing that this other person will be caused to engage in forced labor, involuntary servitude, a sexually explicit act, or a commercial sex act;

(viii) Accusing any person of a crime or causing criminal charges to be instituted against any person;

(ix) Exposing a secret or publicizing an asserted fact, whether true or false, tending to subject any person to hatred, contempt, or ridicule;

(x) Testifying or providing information, or withholding testimony or information, with respect to another's legal claim or defense;

(xi) Taking wrongful action as an official against anyone or anything, or wrongfully withholding official action, or causing such action or withholding;

(xii) Committing any other act which is intended to harm substantially the person threatened or another with respect to his or her health, safety, business, financial condition, or personal relationships; or

(xiii) Holding or returning a person to a condition of involuntary servitude, debt bondage, or forced labor, with the intent of placing them in or returning them to a condition of involuntary servitude, debt bondage, or forced labor, where such condition is based on the alleged, implied, or actual inheritance of another's debt, constituting peonage.

(b) "Commercial sex act" means any act of sexual contact or sexual intercourse, both as defined in chapter 9A.44 RCW, for which something of value is given or received by any person.

(c) "Kidnapping" means intentionally abducting another person.

(d) "Maintain" means, in relation to forced labor, involuntary servitude, a sexually explicit act, or a commercial sex act, to secure or make possible continued performance thereof, regardless of any initial agreement on the part of the victim to perform such labor, servitude, or act.

(e) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(f) "Sexually explicit act" means a public, private, or live photographed, recorded, or videotaped act or show intended to arouse or satisfy the sexual desires or appeal to the prurient interests of patrons for which something of value is given or received.

(7) A person who is ((~~either~~)) convicted ((~~or~~)), enters into a plea agreement to a reduced or different charge, is given a deferred sentence or a deferred prosecution, or ((~~who has entered~~)) enters into a statutory or nonstatutory diversion agreement as a result of an arrest for a violation of a trafficking crime shall be assessed a ((~~ten thousand dollar~~)) $10,000 fee. The court shall not reduce, waive, or suspend payment of all or part of the fee assessed in this section unless it finds, on the record, that the offender does not have the ability to pay the fee in which case it may reduce the fee by an amount up to two-thirds of the maximum allowable fee.

((~~(c) The court shall not reduce, waive, or suspend payment of all or part of the fee assessed in this section unless it finds, on the record, that the offender does not have the ability to pay the fee in which case it may reduce the fee by an amount up to two-thirds of the maximum allowable fee.~~

~~(d)~~)) (8)(a) Fees assessed under this section shall be collected by the clerk of the court and remitted ((~~to the treasurer of the county where the offense occurred for deposit in the county general fund, except in cases in which the offense occurred in a city or town that provides for its own law enforcement, in which case these amounts shall be remitted to the treasurer of the city or town for deposit in the general fund of the city or town. Revenue from the fees must be used for local efforts to reduce the commercial sale of sex including, but not limited to, increasing enforcement of commercial sex laws.~~

~~(i) At least fifty percent of the revenue from fees imposed under this section must be spent on prevention, including education programs for offenders, such as john school, and rehabilitative services, such as mental health and substance abuse counseling, parenting skills, training, housing relief, education, vocational training, drop-in centers, and employment counseling.~~

~~(ii)~~)) as follows:

(i) 45 percent to the treasurer of the county where the offense occurred for deposit in the county general fund, except in cases in which the offense occurred in a city or town that provides for its own law enforcement, in which case these amounts shall be remitted to the treasurer of the city or town for deposit in the general fund of the city or town, and which must be spent on services for victims of trafficking crimes in that jurisdiction;

(ii) 45 percent to the treasurer of the county where the offense occurred for deposit in the county general fund, except in cases in which the offense occurred in a city or town that provides for its own law enforcement, in which case these amounts shall be remitted to the treasurer of the city or town for deposit in the general fund of the city or town, and which must be spent on: (A) Local efforts to reduce the commercial sale of sex, including but not limited to increasing enforcement of commercial sex laws; (B) prevention, including education programs for offenders, such as programs to educate and divert persons from soliciting commercial sexual services; and (C) rehabilitative services, such as mental health and substance abuse counseling, parenting skills, training, housing relief, education, vocational training, drop-in centers, and employment counseling; and

(iii) 10 percent must be retained by the clerks of the courts for their official services.

(b) Revenues from these fees are not subject to the distribution requirements under RCW 3.50.100, 3.62.020, 3.62.040, 10.82.070, or 35.20.220.

((~~(5) If the victim of any offense identified in this section is a minor, force, fraud, or coercion are not necessary elements of an offense and consent to the sexually explicit act or commercial sex act does not constitute a defense.~~

~~(6) For purposes of this section:~~

~~(a) "Commercial sex act" means any act of sexual contact or sexual intercourse, both as defined in chapter 9A.44 RCW, for which something of value is given or received by any person; and~~

~~(b) "Sexually explicit act" means a public, private, or live photographed, recorded, or videotaped act or show intended to arouse or satisfy the sexual desires or appeal to the prurient interests of patrons for which something of value is given or received.~~))

NEW SECTION. **Sec.**  (1) The state auditor must conduct a performance audit of the collection and use of mandatory fees assessed pursuant to RCW 9A.40.100. In addition to other measures established by the state auditor, the audit shall:

(a) Determine whether jurisdictions are assessing fees consistent with the requirements of RCW 9A.40.100;

(b) Determine whether jurisdictions are using the revenue from assessed fees to fund local efforts to reduce the commercial sale of sex as required by RCW 9A.40.100;

(c) Determine whether jurisdictions are using at least 50 percent of the revenue from assessed fees on prevention and rehabilitative services as required by RCW 9A.40.100; and

(d) If fees are not being assessed or used as required, make recommendations for corrective action.

(2) The state auditor may conduct the audit at a sample of jurisdictions as needed.

(3) The state auditor shall publish its final audit report no later than December 31, 2025.

(4) This section expires January 31, 2026.

NEW SECTION. **Sec.**  A new section is added to chapter 7.68 RCW to read as follows:

(1) Subject to the availability of funds appropriated for this purpose, the commercially sexually exploited children statewide coordinating committee is established to facilitate a statewide coordinated response to the commercial sexual exploitation of children, youth, and young adults 24 years old and younger by relying on the voices of those with lived experience, qualitative and quantitative data, and the collective expertise of youth-serving professionals and youth policy experts to increase supports, protections, and resource identification in the areas of prevention and intervention with a particular emphasis on improving the response of systems of care, including but not limited to child welfare, juvenile criminal legal, health care, and education.

(2) The committee is convened by the office of the attorney general. The committee consists of the following members:

(a) One member from each of the two largest caucuses of the house of representatives appointed by the speaker of the house of representatives;

(b) One member from each of the two largest caucuses of the senate appointed by the president of the senate;

(c) A representative of the governor's office appointed by the governor;

(d) The secretary of the department of children, youth, and families or his or her designee;

(e) The secretary of the juvenile rehabilitation administration or his or her designee;

(f) The attorney general or his or her designee;

(g) The superintendent of public instruction or his or her designee;

(h) A representative of the administrative office of the courts appointed by the administrative office of the courts;

(i) A representative of the Washington state patrol;

(j) The executive director of the Washington association of sheriffs and police chiefs or his or her designee;

(k) The executive director of the Washington state criminal justice training commission or his or her designee;

(l) A representative of the Washington association of prosecuting attorneys appointed by the association;

(m) The executive director of the office of public defense or his or her designee;

(n) Three representatives of community service providers that provide direct services to commercially sexually exploited children appointed by the attorney general;

(o) Two representatives of nongovernmental organizations familiar with the issues affecting commercially sexually exploited children appointed by the attorney general;

(p) The president of the superior court judges' association or his or her designee;

(q) The president of the juvenile court administrators or his or her designee;

(r) Any existing chairs of regional task forces on commercially sexually exploited children;

(s) A representative from the criminal defense bar;

(t) A representative of the center for children and youth justice;

(u) A representative from the office of crime victims advocacy;

(v) The executive director of the Washington coalition of sexual assault programs;

(w) The executive director of the statewide organization representing children's advocacy centers or his or her designee;

(x) A representative of an organization that provides inpatient chemical dependency treatment to youth, appointed by the attorney general;

(y) A representative of an organization that provides mental health treatment to youth, appointed by the attorney general;

(z) A survivor of human trafficking, appointed by the attorney general;

(aa) Two subject matter experts in intervention and prevention of commercial sexual exploitation of children, youth, and young adults;

(bb) A representative from a youth advocacy organization;

(cc) A representative from the office of homeless youth;

(dd) A representative from a homeless youth policy advocacy organization; and

(ee) A representative from the LGBTQ+ community.

(3) The duties of the committee include, but are not limited to:

(a) Overseeing and reviewing the implementation of the Washington state model protocol for commercially sexually exploited children at task force sites;

(b) Receiving reports and data from local and regional entities regarding the incidence of commercially sexually exploited children in their areas as well as data information regarding perpetrators, geographic data and location trends, and any other data deemed relevant;

(c) Receiving reports on local coordinated community response practices and results of the community responses;

(d) Reviewing recommendations from local and regional entities regarding policy and legislative changes that would improve the efficiency and effectiveness of local response practices;

(e) Making recommendations regarding policy and legislative changes that would improve the effectiveness of the state's response to and promote best practices for suppression of the commercial sexual exploitation of children;

(f) Making recommendations regarding data collection useful to understanding or addressing the problem of commercially sexually exploited children;

(g) Reviewing and making recommendations regarding strategic local investments or opportunities for federal and state funding to address the commercial sexual exploitation of children;

(h) Compiling data on the number of juveniles believed to be victims of sexual exploitation taken into custody under RCW 43.185C.260;

(i) Making recommendations on how to fulfill and improve Washington's safe harbor law, chapter 331, Laws of 2020 (Engrossed Third Substitute House Bill 1775), including addressing the lack of receiving centers; and

(j) Coordinating efforts on behalf of commercially sexually exploited children and youth across the state so as to avoid duplicative efforts, use resources more efficiently, and increase awareness of available resources.

(4) The committee must meet no less than annually.

(5) The committee shall annually report its findings and recommendations to the appropriate committees of the legislature and to any other known statewide committees addressing trafficking or the commercial sex trade.

(6) This section expires June 30, 2030.

**PART I - VICTIM IDENTIFICATION, REPORTING, AND SCREENING**

**Sec.**  RCW 13.34.030 and 2021 c 304 s 1 and 2021 c 67 s 2 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Abandoned" means when the child's parent, guardian, or other custodian has expressed, either by statement or conduct, an intent to forego, for an extended period, parental rights or responsibilities despite an ability to exercise such rights and responsibilities. If the court finds that the petitioner has exercised due diligence in attempting to locate the parent, no contact between the child and the child's parent, guardian, or other custodian for a period of three months creates a rebuttable presumption of abandonment, even if there is no expressed intent to abandon.

(2) "Child," "juvenile," and "youth" mean:

(a) Any individual under the age of eighteen years; or

(b) Any individual age eighteen to twenty-one years who is eligible to receive and who elects to receive the extended foster care services authorized under RCW 74.13.031. A youth who remains dependent and who receives extended foster care services under RCW 74.13.031 shall not be considered a "child" under any other statute or for any other purpose.

(3) "Current placement episode" means the period of time that begins with the most recent date that the child was removed from the home of the parent, guardian, or legal custodian for purposes of placement in out-of-home care and continues until: (a) The child returns home; (b) an adoption decree, a permanent custody order, or guardianship order is entered; or (c) the dependency is dismissed, whichever occurs first.

(4) "Department" means the department of children, youth, and families.

(5) "Dependency guardian" means the person, nonprofit corporation, or Indian tribe appointed by the court pursuant to this chapter for the limited purpose of assisting the court in the supervision of the dependency.

(6) "Dependent child" means any child who:

(a) Has been abandoned;

(b) Is abused or neglected as defined in ((~~chapter 26.44~~)) RCW 26.44.020 by a person legally responsible for the care of the child;

(c) Has no parent, guardian, or custodian capable of adequately caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development; ((~~or~~))

(d) Is receiving extended foster care services, as authorized by RCW 74.13.031; or

(e) Is a victim of sex trafficking or severe forms of trafficking in persons under the trafficking victims protection act of 2000, 22 U.S.C. Sec. 7101 et seq., when the parent is involved in the trafficking, facilitating the trafficking, or should have known that the child is being trafficked.

(7) "Developmental disability" means a disability attributable to intellectual disability, cerebral palsy, epilepsy, autism, or another neurological or other condition of an individual found by the secretary of the department of social and health services to be closely related to an intellectual disability or to require treatment similar to that required for individuals with intellectual disabilities, which disability originates before the individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial limitation to the individual.

(8) "Educational liaison" means a person who has been appointed by the court to fulfill responsibilities outlined in RCW 13.34.046.

(9) "Experiencing homelessness" means lacking a fixed, regular, and adequate nighttime residence, including circumstances such as sharing the housing of other persons due to loss of housing, economic hardship, fleeing domestic violence, or a similar reason as described in the federal McKinney-Vento homeless assistance act (Title 42 U.S.C., chapter 119, subchapter I) as it existed on January 1, 2021.

(10) "Extended foster care services" means residential and other support services the department is authorized to provide under RCW 74.13.031. These services may include placement in licensed, relative, or otherwise approved care, or supervised independent living settings; assistance in meeting basic needs; independent living services; medical assistance; and counseling or treatment.

(11) "Guardian" means the person or agency that: (a) Has been appointed as the guardian of a child in a legal proceeding, including a guardian appointed pursuant to chapter 13.36 RCW; and (b) has the legal right to custody of the child pursuant to such appointment. The term "guardian" does not include a "dependency guardian" appointed pursuant to a proceeding under this chapter.

(12) "Guardian ad litem" means a person, appointed by the court to represent the best interests of a child in a proceeding under this chapter, or in any matter which may be consolidated with a proceeding under this chapter. A "court-appointed special advocate" appointed by the court to be the guardian ad litem for the child, or to perform substantially the same duties and functions as a guardian ad litem, shall be deemed to be guardian ad litem for all purposes and uses of this chapter.

(13) "Guardian ad litem program" means a court-authorized volunteer program, which is or may be established by the superior court of the county in which such proceeding is filed, to manage all aspects of volunteer guardian ad litem representation for children alleged or found to be dependent. Such management shall include but is not limited to: Recruitment, screening, training, supervision, assignment, and discharge of volunteers.

(14) "Guardianship" means a guardianship pursuant to chapter 13.36 RCW or a limited guardianship of a minor pursuant to RCW 11.130.215 or equivalent laws of another state or a federally recognized Indian tribe.

(15) "Housing assistance" means appropriate referrals by the department or other agencies to federal, state, local, or private agencies or organizations, assistance with forms, applications, or financial subsidies or other monetary assistance for housing. For purposes of this chapter, "housing assistance" is not a remedial service or family reunification service as described in RCW 13.34.025(2).

(16) "Indigent" means a person who, at any stage of a court proceeding, is:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, aged, blind, or disabled assistance benefits, medical care services under RCW 74.09.035, pregnant women assistance benefits, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, or supplemental security income; or

(b) Involuntarily committed to a public mental health facility; or

(c) Receiving an annual income, after taxes, of one hundred twenty-five percent or less of the federally established poverty level; or

(d) Unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are insufficient to pay any amount for the retention of counsel.

(17) "Nonminor dependent" means any individual age eighteen to twenty-one years who is participating in extended foster care services authorized under RCW 74.13.031.

(18) "Out-of-home care" means placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.

(19) "Parent" means the biological or adoptive parents of a child, or an individual who has established a parent-child relationship under RCW 26.26A.100, unless the legal rights of that person have been terminated by a judicial proceeding pursuant to this chapter, chapter 26.33 RCW, or the equivalent laws of another state or a federally recognized Indian tribe.

(20) "Prevention and family services and programs" means specific mental health prevention and treatment services, substance abuse prevention and treatment services, and in-home parent skill-based programs that qualify for federal funding under the federal family first prevention services act, P.L. 115-123. For purposes of this chapter, prevention and family services and programs are not remedial services or family reunification services as described in RCW 13.34.025(2).

(21) "Prevention services" means preservation services, as defined in chapter 74.14C RCW, and other reasonably available services, including housing assistance, capable of preventing the need for out-of-home placement while protecting the child. Prevention services include, but are not limited to, prevention and family services and programs as defined in this section.

(22) "Qualified residential treatment program" means a program that meets the requirements provided in RCW 13.34.420, qualifies for funding under the family first prevention services act under 42 U.S.C. Sec. 672(k), and, if located within Washington state, is licensed as a group care facility under chapter 74.15 RCW.

(23) "Relative" includes persons related to a child in the following ways:

(a) Any blood relative, including those of half-blood, and including first cousins, second cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;

(b) Stepfather, stepmother, stepbrother, and stepsister;

(c) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law;

(d) Spouses of any persons named in (a), (b), or (c) of this subsection, even after the marriage is terminated;

(e) Relatives, as named in (a), (b), (c), or (d) of this subsection, of any half sibling of the child; or

(f) Extended family members, as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent who provides care in the family abode on a twenty-four hour basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4).

(24) "Shelter care" means temporary physical care in a facility licensed pursuant to RCW 74.15.030 or in a home not required to be licensed pursuant to RCW 74.15.030.

(25) "Sibling" means a child's birth brother, birth sister, adoptive brother, adoptive sister, half-brother, or half-sister, or as defined by the law or custom of the Indian child's tribe for an Indian child as defined in RCW 13.38.040.

(26) "Social study" means a written evaluation of matters relevant to the disposition of the case that contains the information required by RCW 13.34.430.

(27) "Supervised independent living" includes, but is not limited to, apartment living, room and board arrangements, college or university dormitories, and shared roommate settings. Supervised independent living settings must be approved by the department or the court.

(28) "Voluntary placement agreement" means, for the purposes of extended foster care services, a written voluntary agreement between a nonminor dependent who agrees to submit to the care and authority of the department for the purposes of participating in the extended foster care program.

**Sec.**  RCW 26.44.020 and 2023 c 122 s 5 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Abuse or neglect" means sexual abuse, sexual exploitation, female genital mutilation as defined in RCW 18.130.460, trafficking as described in RCW 9A.40.100, sex trafficking or severe forms of trafficking in persons under the trafficking victims protection act of 2000, 22 U.S.C. Sec. 7101 et seq., or injury of a child by any person under circumstances which cause harm to the child's health, welfare, or safety, excluding conduct permitted under RCW 9A.16.100; or the negligent treatment or maltreatment of a child by a person responsible for or providing care to the child. An abused child is a child who has been subjected to child abuse or neglect as defined in this section.

(2) "Child" or "children" means any person under the age of eighteen years of age.

(3) "Child forensic interview" means a developmentally sensitive and legally sound method of gathering factual information regarding allegations of child abuse, child neglect, or exposure to violence. This interview is conducted by a competently trained, neutral professional utilizing techniques informed by research and best practice as part of a larger investigative process.

(4) "Child protective services" means those services provided by the department designed to protect children from child abuse and neglect and safeguard such children from future abuse and neglect, and conduct investigations of child abuse and neglect reports. Investigations may be conducted regardless of the location of the alleged abuse or neglect. Child protective services includes referral to services to ameliorate conditions that endanger the welfare of children, the coordination of necessary programs and services relevant to the prevention, intervention, and treatment of child abuse and neglect, and services to children to ensure that each child has a permanent home. In determining whether protective services should be provided, the department shall not decline to provide such services solely because of the child's unwillingness or developmental inability to describe the nature and severity of the abuse or neglect.

(5) "Child protective services section" means the child protective services section of the department.

(6) "Child who is a candidate for foster care" means a child who the department identifies as being at imminent risk of entering foster care but who can remain safely in the child's home or in a kinship placement as long as services or programs that are necessary to prevent entry of the child into foster care are provided, and includes but is not limited to a child whose adoption or guardianship arrangement is at risk of a disruption or dissolution that would result in a foster care placement. The term includes a child for whom there is reasonable cause to believe that any of the following circumstances exist:

(a) The child has been abandoned by the parent as defined in RCW 13.34.030 and the child's health, safety, and welfare is seriously endangered as a result;

(b) The child has been abused or neglected as defined in this chapter and the child's health, safety, and welfare is seriously endangered as a result;

(c) There is no parent capable of meeting the child's needs such that the child is in circumstances that constitute a serious danger to the child's development;

(d) The child is otherwise at imminent risk of harm.

(7) "Children's advocacy center" means a child-focused facility in good standing with the state chapter for children's advocacy centers and that coordinates a multidisciplinary process for the investigation, prosecution, and treatment of sexual and other types of child abuse. Children's advocacy centers provide a location for forensic interviews and coordinate access to services such as, but not limited to, medical evaluations, advocacy, therapy, and case review by multidisciplinary teams within the context of county protocols as defined in RCW 26.44.180 and 26.44.185.

(8) "Clergy" means any regularly licensed or ordained minister, priest, or rabbi of any church or religious denomination, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(9) "Court" means the superior court of the state of Washington, juvenile department.

(10) "Department" means the department of children, youth, and families.

(11) "Experiencing homelessness" means lacking a fixed, regular, and adequate nighttime residence, including circumstances such as sharing the housing of other persons due to loss of housing, economic hardship, fleeing domestic violence, or a similar reason as described in the federal McKinney-Vento homeless assistance act (Title 42 U.S.C., chapter 119, subchapter I) as it existed on January 1, 2021.

(12) "Family assessment" means a comprehensive assessment of child safety, risk of subsequent child abuse or neglect, and family strengths and needs that is applied to a child abuse or neglect report. Family assessment does not include a determination as to whether child abuse or neglect occurred, but does determine the need for services to address the safety of the child and the risk of subsequent maltreatment.

(13) "Family assessment response" means a way of responding to certain reports of child abuse or neglect made under this chapter using a differential response approach to child protective services. The family assessment response shall focus on the safety of the child, the integrity and preservation of the family, and shall assess the status of the child and the family in terms of risk of abuse and neglect including the parent's or guardian's or other caretaker's capacity and willingness to protect the child and, if necessary, plan and arrange the provision of services to reduce the risk and otherwise support the family. No one is named as a perpetrator, and no investigative finding is entered in the record as a result of a family assessment.

(14) "Founded" means the determination following an investigation by the department that, based on available information, it is more likely than not that child abuse or neglect did occur.

(15) "Inconclusive" means the determination following an investigation by the department of social and health services, prior to October 1, 2008, that based on available information a decision cannot be made that more likely than not, child abuse or neglect did or did not occur.

(16) "Institution" means a private or public hospital or any other facility providing medical diagnosis, treatment, or care.

(17) "Law enforcement agency" means the police department, the prosecuting attorney, the state patrol, the director of public safety, or the office of the sheriff.

(18) "Malice" or "maliciously" means an intent, wish, or design to intimidate, annoy, or injure another person. Such malice may be inferred from an act done in willful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a willful disregard of social duty.

(19) "Negligent treatment or maltreatment" means an act or a failure to act, or the cumulative effects of a pattern of conduct, behavior, or inaction, that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to a child's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42.100. When considering whether a clear and present danger exists, evidence of a parent's substance abuse as a contributing factor to negligent treatment or maltreatment shall be given great weight. The fact that siblings share a bedroom is not, in and of itself, negligent treatment or maltreatment. Poverty, experiencing homelessness, or exposure to domestic violence as defined in RCW 7.105.010 that is perpetrated against someone other than the child does not constitute negligent treatment or maltreatment in and of itself.

(20) "Pharmacist" means any registered pharmacist under chapter 18.64 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(21) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state to practice podiatric medicine and surgery, optometry, chiropractic, nursing, dentistry, osteopathic medicine and surgery, or medicine and surgery or to provide other health services. The term "practitioner" includes a duly accredited Christian Science practitioner. A person who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner will not be considered, for that reason alone, a neglected person for the purposes of this chapter.

(22) "Prevention and family services and programs" means specific mental health prevention and treatment services, substance abuse prevention and treatment services, and in-home parent skill-based programs that qualify for federal funding under the federal family first prevention services act, P.L. 115-123. For purposes of this chapter, prevention and family services and programs are not remedial services or family reunification services as described in RCW 13.34.025(2).

(23) "Professional school personnel" include, but are not limited to, teachers, counselors, administrators, child care facility personnel, and school nurses.

(24) "Psychologist" means any person licensed to practice psychology under chapter 18.83 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(25) "Screened-out report" means a report of alleged child abuse or neglect that the department has determined does not rise to the level of a credible report of abuse or neglect and is not referred for investigation.

(26) "Sexual exploitation" includes: (a) Allowing, permitting, or encouraging a child to engage in prostitution by any person; or (b) allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child by any person.

(27) "Sexually aggressive youth" means a child who is defined in RCW 74.13.075(1)(b) as being a sexually aggressive youth.

(28) "Social service counselor" means anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support, or education of children, or providing social services to adults or families, including mental health, drug and alcohol treatment, and domestic violence programs, whether in an individual capacity, or as an employee or agent of any public or private organization or institution.

(29) "Unfounded" means the determination following an investigation by the department that available information indicates that, more likely than not, child abuse or neglect did not occur, or that there is insufficient evidence for the department to determine whether the alleged child abuse did or did not occur.

**Sec.**  RCW 26.44.030 and 2019 c 172 s 6 are each amended to read as follows:

(1)(a) When any practitioner, county coroner or medical examiner, law enforcement officer, professional school personnel, registered or licensed nurse, social service counselor, psychologist, pharmacist, employee of the department of children, youth, and families, licensed or certified child care providers or their employees, employee of the department of social and health services, juvenile probation officer, diversion unit staff, placement and liaison specialist, responsible living skills program staff, HOPE center staff, state family and children's ombuds or any volunteer in the ((~~ombuds's~~)) ombuds' office, or host home program has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(b) When any person, in his or her official supervisory capacity with a nonprofit or for-profit organization, has reasonable cause to believe that a child has suffered abuse or neglect caused by a person over whom he or she regularly exercises supervisory authority, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency, provided that the person alleged to have caused the abuse or neglect is employed by, contracted by, or volunteers with the organization and coaches, trains, educates, or counsels a child or children or regularly has unsupervised access to a child or children as part of the employment, contract, or voluntary service. No one shall be required to report under this section when he or she obtains the information solely as a result of a privileged communication as provided in RCW 5.60.060.

Nothing in this subsection (1)(b) shall limit a person's duty to report under (a) of this subsection.

For the purposes of this subsection, the following definitions apply:

(i) "Official supervisory capacity" means a position, status, or role created, recognized, or designated by any nonprofit or for-profit organization, either for financial gain or without financial gain, whose scope includes, but is not limited to, overseeing, directing, or managing another person who is employed by, contracted by, or volunteers with the nonprofit or for-profit organization.

(ii) "Organization" includes a sole proprietor, partnership, corporation, limited liability company, trust, association, financial institution, governmental entity, other than the federal government, and any other individual or group engaged in a trade, occupation, enterprise, governmental function, charitable function, or similar activity in this state whether or not the entity is operated as a nonprofit or for-profit entity.

(iii) "Reasonable cause" means a person witnesses or receives a credible written or oral report alleging abuse, including sexual contact, or neglect of a child.

(iv) "Regularly exercises supervisory authority" means to act in his or her official supervisory capacity on an ongoing or continuing basis with regards to a particular person.

(v) "Sexual contact" has the same meaning as in RCW 9A.44.010.

(c) The reporting requirement also applies to department of corrections personnel who, in the course of their employment, observe offenders or the children with whom the offenders are in contact. If, as a result of observations or information received in the course of his or her employment, any department of corrections personnel has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report the incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(d) The reporting requirement shall also apply to any adult who has reasonable cause to believe that a child who resides with them, has suffered severe abuse, and is able or capable of making a report. For the purposes of this subsection, "severe abuse" means any of the following: Any single act of abuse that causes physical trauma of sufficient severity that, if left untreated, could cause death; any single act of sexual abuse that causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.

(e) The reporting requirement also applies to guardians ad litem, including court-appointed special advocates, appointed under Titles 11 and 13 RCW and this title, who in the course of their representation of children in these actions have reasonable cause to believe a child has been abused or neglected.

(f) The reporting requirement in (a) of this subsection also applies to administrative and academic or athletic department employees, including student employees, of institutions of higher education, as defined in RCW 28B.10.016, and of private institutions of higher education.

(g) The report must be made at the first opportunity, but in no case longer than forty-eight hours after there is reasonable cause to believe that the child has suffered abuse or neglect. The report must include the identity of the accused if known.

(2) The reporting requirement of subsection (1) of this section does not apply to the discovery of abuse or neglect that occurred during childhood if it is discovered after the child has become an adult. However, if there is reasonable cause to believe other children are or may be at risk of abuse or neglect by the accused, the reporting requirement of subsection (1) of this section does apply.

(3) Any other person who has reasonable cause to believe that a child has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(4) The department, upon receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means or who has been subjected to alleged sexual abuse, shall report such incident to the proper law enforcement agency, including military law enforcement, if appropriate. In emergency cases, where the child's welfare is endangered, the department shall notify the proper law enforcement agency within twenty-four hours after a report is received by the department. In all other cases, the department shall notify the law enforcement agency within seventy-two hours after a report is received by the department. If the department makes an oral report, a written report must also be made to the proper law enforcement agency within five days thereafter.

(5) Any law enforcement agency receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means, or who has been subjected to alleged sexual abuse, shall report such incident in writing as provided in RCW 26.44.040 to the proper county prosecutor or city attorney for appropriate action whenever the law enforcement agency's investigation reveals that a crime may have been committed. The law enforcement agency shall also notify the department of all reports received and the law enforcement agency's disposition of them. In emergency cases, where the child's welfare is endangered, the law enforcement agency shall notify the department within twenty-four hours. In all other cases, the law enforcement agency shall notify the department within seventy-two hours after a report is received by the law enforcement agency.

(6) Any county prosecutor or city attorney receiving a report under subsection (5) of this section shall notify the victim, any persons the victim requests, and the local office of the department, of the decision to charge or decline to charge a crime, within five days of making the decision.

(7) The department may conduct ongoing case planning and consultation with those persons or agencies required to report under this section, with consultants designated by the department, and with designated representatives of Washington Indian tribes if the client information exchanged is pertinent to cases currently receiving child protective services. Upon request, the department shall conduct such planning and consultation with those persons required to report under this section if the department determines it is in the best interests of the child. Information considered privileged by statute and not directly related to reports required by this section must not be divulged without a valid written waiver of the privilege.

(8) Any case referred to the department by a physician licensed under chapter 18.57 or 18.71 RCW on the basis of an expert medical opinion that child abuse, neglect, or sexual assault has occurred and that the child's safety will be seriously endangered if returned home, the department shall file a dependency petition unless a second licensed physician of the parents' choice believes that such expert medical opinion is incorrect. If the parents fail to designate a second physician, the department may make the selection. If a physician finds that a child has suffered abuse or neglect but that such abuse or neglect does not constitute imminent danger to the child's health or safety, and the department agrees with the physician's assessment, the child may be left in the parents' home while the department proceeds with reasonable efforts to remedy parenting deficiencies.

(9) Persons or agencies exchanging information under subsection (7) of this section shall not further disseminate or release the information except as authorized by state or federal statute. Violation of this subsection is a misdemeanor.

(10) Upon receiving a report that a child is a candidate for foster care as defined in RCW 26.44.020, the department may provide prevention and family services and programs to the child's parents, guardian, or caregiver. The department may not be held civilly liable for the decision regarding whether to provide prevention and family services and programs, or for the provision of those services and programs, for a child determined to be a candidate for foster care.

(11) Upon receiving a report of alleged abuse or neglect, the department shall make reasonable efforts to learn the name, address, and telephone number of each person making a report of abuse or neglect under this section. The department shall provide assurances of appropriate confidentiality of the identification of persons reporting under this section. If the department is unable to learn the information required under this subsection, the department shall only investigate cases in which:

(a) The department believes there is a serious threat of substantial harm to the child;

(b) The report indicates conduct involving a criminal offense that has, or is about to occur, in which the child is the victim; or

(c) The department has a prior founded report of abuse or neglect with regard to a member of the household that is within three years of receipt of the referral.

(12)(a) Upon receiving a report of alleged abuse or neglect, the department shall use one of the following discrete responses to reports of child abuse or neglect that are screened in and accepted for departmental response:

(i) Investigation; or

(ii) Family assessment.

(b) In making the response in (a) of this subsection the department shall:

(i) Use a method by which to assign cases to investigation or family assessment which are based on an array of factors that may include the presence of: Imminent danger, level of risk, number of previous child abuse or neglect reports, or other presenting case characteristics, such as the type of alleged maltreatment and the age of the alleged victim. Age of the alleged victim shall not be used as the sole criterion for determining case assignment;

(ii) Allow for a change in response assignment based on new information that alters risk or safety level;

(iii) Allow families assigned to family assessment to choose to receive an investigation rather than a family assessment;

(iv) Provide a full investigation if a family refuses the initial family assessment;

(v) Provide voluntary services to families based on the results of the initial family assessment. If a family refuses voluntary services, and the department cannot identify specific facts related to risk or safety that warrant assignment to investigation under this chapter, and there is not a history of reports of child abuse or neglect related to the family, then the department must close the family assessment response case. However, if at any time the department identifies risk or safety factors that warrant an investigation under this chapter, then the family assessment response case must be reassigned to investigation;

(vi) Conduct an investigation, and not a family assessment, in response to an allegation that, the department determines based on the intake assessment:

(A) Indicates a child's health, safety, and welfare will be seriously endangered if not taken into custody for reasons including, but not limited to, sexual abuse and sexual exploitation of the child as defined in this chapter;

(B) Poses a serious threat of substantial harm to a child;

(C) Constitutes conduct involving a criminal offense that has, or is about to occur, in which the child is the victim;

(D) The child is an abandoned child as defined in RCW 13.34.030;

(E) The child is an adjudicated dependent child as defined in RCW 13.34.030, or the child is in a facility that is licensed, operated, or certified for care of children by the department under chapter 74.15 RCW.

(c) In addition, the department may use a family assessment response to assess for and provide prevention and family services and programs, as defined in RCW 26.44.020, for the following children and their families, consistent with requirements under the federal family first prevention services act and this section:

(i) A child who is a candidate for foster care, as defined in RCW 26.44.020; and

(ii) A child who is in foster care and who is pregnant, parenting, or both.

(d) The department may not be held civilly liable for the decision to respond to an allegation of child abuse or neglect by using the family assessment response under this section unless the state or its officers, agents, or employees acted with reckless disregard.

(13)(a) For reports of alleged abuse or neglect that are accepted for investigation by the department, the investigation shall be conducted within time frames established by the department in rule. In no case shall the investigation extend longer than ninety days from the date the report is received, unless the investigation is being conducted under a written protocol pursuant to RCW 26.44.180 and a law enforcement agency or prosecuting attorney has determined that a longer investigation period is necessary. At the completion of the investigation, the department shall make a finding that the report of child abuse or neglect is founded or unfounded.

(b) If a court in a civil or criminal proceeding, considering the same facts or circumstances as are contained in the report being investigated by the department, makes a judicial finding by a preponderance of the evidence or higher that the subject of the pending investigation has abused or neglected the child, the department shall adopt the finding in its investigation.

(14) For reports of alleged abuse or neglect that are responded to through family assessment response, the department shall:

(a) Provide the family with a written explanation of the procedure for assessment of the child and the family and its purposes;

(b) Collaborate with the family to identify family strengths, resources, and service needs, and develop a service plan with the goal of reducing risk of harm to the child and improving or restoring family well-being;

(c) Complete the family assessment response within forty-five days of receiving the report except as follows:

(i) Upon parental agreement, the family assessment response period may be extended up to one hundred twenty days. The department's extension of the family assessment response period must be operated within the department's appropriations;

(ii) For cases in which the department elects to use a family assessment response as authorized under subsection (12)(c) of this section, and upon agreement of the child's parent, legal guardian, legal custodian, or relative placement, the family assessment response period may be extended up to one year. The department's extension of the family assessment response must be operated within the department's appropriations.

(d) Offer services to the family in a manner that makes it clear that acceptance of the services is voluntary;

(e) Implement the family assessment response in a consistent and cooperative manner;

(f) Have the parent or guardian agree to participate in services before services are initiated. The department shall inform the parents of their rights under family assessment response, all of their options, and the options the department has if the parents do not agree to participate in services.

(15)(a) In conducting an investigation or family assessment of alleged abuse or neglect, the department or law enforcement agency:

(i) May interview children. If the department determines that the response to the allegation will be family assessment response, the preferred practice is to request a parent's, guardian's, or custodian's permission to interview the child before conducting the child interview unless doing so would compromise the safety of the child or the integrity of the assessment. The interviews may be conducted on school premises, at day-care facilities, at the child's home, or at other suitable locations outside of the presence of parents. If the allegation is investigated, parental notification of the interview must occur at the earliest possible point in the investigation that will not jeopardize the safety or protection of the child or the course of the investigation. Prior to commencing the interview the department or law enforcement agency shall determine whether the child wishes a third party to be present for the interview and, if so, shall make reasonable efforts to accommodate the child's wishes. Unless the child objects, the department or law enforcement agency shall make reasonable efforts to include a third party in any interview so long as the presence of the third party will not jeopardize the course of the investigation; and

(ii) Shall have access to all relevant records of the child in the possession of mandated reporters and their employees.

(b) The Washington state school directors' association shall adopt a model policy addressing protocols when an interview, as authorized by this subsection, is conducted on school premises. In formulating its policy, the association shall consult with the department and the Washington association of sheriffs and police chiefs.

(16) If a report of alleged abuse or neglect is founded and constitutes the third founded report received by the department within the last twelve months involving the same child or family, the department shall promptly notify the office of the family and children's ombuds of the contents of the report. The department shall also notify the ombuds of the disposition of the report.

(17) In investigating and responding to allegations of child abuse and neglect, the department may conduct background checks as authorized by state and federal law.

(18)(a) The department shall maintain investigation records and conduct timely and periodic reviews of all founded cases of abuse and neglect. The department shall maintain a log of screened-out nonabusive cases.

(b) In the family assessment response, the department shall not make a finding as to whether child abuse or neglect occurred. No one shall be named as a perpetrator and no investigative finding shall be entered in the department's child abuse or neglect database.

(19) The department shall use a risk assessment process when investigating alleged child abuse and neglect referrals. The department shall present the risk factors at all hearings in which the placement of a dependent child is an issue. Substance abuse must be a risk factor.

(20) Upon receipt of a report of alleged abuse or neglect the law enforcement agency may arrange to interview the person making the report and any collateral sources to determine if any malice is involved in the reporting.

(21) Upon receiving a report of alleged abuse or neglect involving a child under the court's jurisdiction under chapter 13.34 RCW, the department shall promptly notify the child's guardian ad litem of the report's contents. The department shall also notify the guardian ad litem of the disposition of the report. For purposes of this subsection, "guardian ad litem" has the meaning provided in RCW 13.34.030.

(22) The department shall make efforts as soon as practicable to determine the military status of parents whose children are subject to abuse or neglect allegations. If the department determines that a parent or guardian is in the military, the department shall notify a department of defense family advocacy program that there is an allegation of abuse and neglect that is screened in and open for investigation that relates to that military parent or guardian.

(23) The department shall make available on its public website a downloadable and printable poster that includes the reporting requirements included in this section. The poster must be no smaller than eight and one-half by eleven inches with all information on one side. The poster must be made available in both the English and Spanish languages. Organizations that include employees or volunteers subject to the reporting requirements of this section must clearly display this poster in a common area. At a minimum, this poster must include the following:

(a) Who is required to report child abuse and neglect;

(b) The standard of knowledge to justify a report;

(c) The definition of reportable crimes;

(d) Where to report suspected child abuse and neglect; and

(e) What should be included in a report and the appropriate timing.

NEW SECTION. **Sec.**  A new section is added to chapter 26.44 RCW to read as follows:

(1) The department must use a validated assessment tool to screen a child for commercial sexual abuse of a minor if a report of abuse and neglect under RCW 26.44.030 alleges commercial sexual abuse of a minor.

(2) Whenever there is reasonable cause to believe that a child under the jurisdiction of a juvenile justice agency has suffered commercial sexual abuse of a minor, the juvenile justice agency must use a validated assessment tool to screen the child for commercial sexual abuse of a minor and report such abuse and neglect pursuant to RCW 26.44.030.

(3) For purposes of this section, "juvenile justice agency" means any of the following: Law enforcement; diversion units; juvenile courts; detention centers; and persons or public or private agencies having children committed to their custody.

**Sec.**  RCW 74.13.031 and 2023 c 221 s 3 are each amended to read as follows:

(1) The department shall develop, administer, supervise, and monitor a coordinated and comprehensive plan that establishes, aids, and strengthens services for the protection and care of runaway, dependent, or neglected children.

(2) Within available resources, the department shall recruit an adequate number of prospective adoptive and foster homes, both regular and specialized, i.e. homes for children of ethnic minority, including Indian homes for Indian children, sibling groups, children with disabilities or behavioral health conditions, teens, pregnant and parenting teens, and the department shall annually provide data and information to the governor and the legislature concerning the department's success in: (a) Placing children with relatives; (b) providing supports to kinship caregivers including guardianship assistance payments; (c) supporting relatives to pass home studies and become licensed caregivers; and (d) meeting the need for nonrelative family foster homes when children cannot be placed with relatives.

(3) The department shall investigate complaints of any recent act or failure to act on the part of a parent or caretaker that results in death, serious physical or emotional harm, or sexual abuse or exploitation, or that presents an imminent risk of serious harm, and on the basis of the findings of such investigation, offer child welfare services in relation to the problem to such parents, legal custodians, or persons serving in loco parentis, and/or bring the situation to the attention of an appropriate court, or another community agency. An investigation is not required of nonaccidental injuries which are clearly not the result of a lack of care or supervision by the child's parents, legal custodians, or persons serving in loco parentis. If the investigation reveals that a crime against a child may have been committed, the department shall notify the appropriate law enforcement agency.

(4) The department shall make recommendations to the legislature about the types of services that need to be offered to children who have been identified by a state or local agency as being a victim of either sex trafficking or severe forms of trafficking in persons described under the trafficking victims protection act of 2000, 22 U.S.C. Sec. 7101 et seq.

(5) For children identified as victims of sex trafficking and victims of severe forms of trafficking in persons described under the trafficking victims protection act of 2000, 22 U.S.C. Sec. 7101 et seq., the department:

(a) Shall assess and offer services to dependent children as described under RCW 13.34.030; and

(b) May assess and offer services to children who have not been found dependent.

(6) As provided in RCW 26.44.030, the department may respond to a report of child abuse or neglect by using the family assessment response.

((~~(5)~~)) (7) The department shall offer, on a voluntary basis, family reconciliation services to families who are in conflict.

((~~(6)~~)) (8) The department shall monitor placements of children in out-of-home care and in-home dependencies to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010. Under this section children in out-of-home care and in-home dependencies and their caregivers shall receive a private and individual face-to-face visit each month. The department shall randomly select no less than ten percent of the caregivers currently providing care to receive one unannounced face‑to‑face visit in the caregiver's home per year. No caregiver will receive an unannounced visit through the random selection process for two consecutive years. If the caseworker makes a good faith effort to conduct the unannounced visit to a caregiver and is unable to do so, that month's visit to that caregiver need not be unannounced. The department is encouraged to group monthly visits to caregivers by geographic area so that in the event an unannounced visit cannot be completed, the caseworker may complete other required monthly visits. The department shall use a method of random selection that does not cause a fiscal impact to the department.

The department shall conduct the monthly visits with children and caregivers to whom it is providing child welfare services.

((~~(7)~~)) (9) The department shall have authority to accept custody of children from parents and to accept custody of children from juvenile courts, where authorized to do so under law, to provide child welfare services including placement for adoption, to provide for the routine and necessary medical, dental, and mental health care, or necessary emergency care of the children, and to provide for the physical care of such children and make payment of maintenance costs if needed. Except where required by Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which receives children for adoption from the department shall discriminate on the basis of race, creed, or color when considering applications in their placement for adoption.

((~~(8)~~)) (10) The department may accept custody of children from parents through a voluntary placement agreement to provide child welfare services. The department may place children with a relative, a suitable person, or a licensed foster home under a voluntary placement agreement. In seeking a placement for a voluntary placement agreement, the department should consider the preferences of the parents and attempt to place with relatives or suitable persons over licensed foster care.

((~~(9)~~)) (11) The department shall have authority to provide temporary shelter to children who have run away from home and who are admitted to crisis residential centers.

((~~(10)~~)) (12) The department shall have authority to purchase care for children.

((~~(11)~~)) (13) The department shall establish a children's services advisory committee which shall assist the secretary in the development of a partnership plan for utilizing resources of the public and private sectors, and advise on all matters pertaining to child welfare, licensing of child care agencies, adoption, and services related thereto. At least one member shall represent the adoption community.

((~~(12)~~)) (14)(a) The department shall provide continued extended foster care services to nonminor dependents who are:

(i) Enrolled in a secondary education program or a secondary education equivalency program;

(ii) Enrolled and participating in a postsecondary academic or postsecondary vocational education program;

(iii) Participating in a program or activity designed to promote employment or remove barriers to employment;

(iv) Engaged in employment for eighty hours or more per month; or

(v) Not able to engage in any of the activities described in (a)(i) through (iv) of this subsection due to a documented medical condition.

(b) To be eligible for extended foster care services, the nonminor dependent must have been dependent at the time that he or she reached age eighteen years. If the dependency case of the nonminor dependent was dismissed pursuant to RCW 13.34.267, he or she may receive extended foster care services pursuant to a voluntary placement agreement under RCW 74.13.336 or pursuant to an order of dependency issued by the court under RCW 13.34.268. A nonminor dependent whose dependency case was dismissed by the court may request extended foster care services before reaching age twenty-one years. Eligible nonminor dependents may unenroll and reenroll in extended foster care through a voluntary placement agreement an unlimited number of times between ages eighteen and twenty-one.

(c) The department shall develop and implement rules regarding youth eligibility requirements.

(d) The department shall make efforts to ensure that extended foster care services maximize medicaid reimbursements. This must include the department ensuring that health and mental health extended foster care providers participate in medicaid, unless the condition of the extended foster care youth requires specialty care that is not available among participating medicaid providers or there are no participating medicaid providers in the area. The department shall coordinate other services to maximize federal resources and the most cost-efficient delivery of services to extended foster care youth.

(e) The department shall allow a youth who has received extended foster care services, but lost his or her eligibility, to reenter the extended foster care program an unlimited number of times through a voluntary placement agreement when he or she meets the eligibility criteria again.

((~~(13)~~)) (15) The department shall have authority to provide adoption support benefits on behalf of youth ages 18 to 21 years who achieved permanency through adoption at age 16 or older and who meet the criteria described in subsection ((~~(12)~~)) (14) of this section.

((~~(14)~~)) (16) The department shall have the authority to provide guardianship subsidies on behalf of youth ages 18 to 21 who achieved permanency through guardianship and who meet the criteria described in subsection ((~~(12)~~)) (14) of this section.

((~~(15)~~)) (17) The department shall refer cases to the division of child support whenever state or federal funds are expended for the care and maintenance of a child, including a child with a developmental disability who is placed as a result of an action under chapter 13.34 RCW, unless the department finds that there is good cause not to pursue collection of child support against the parent or parents of the child. Cases involving individuals age eighteen through twenty shall not be referred to the division of child support unless required by federal law.

((~~(16)~~)) (18) The department shall have authority within funds appropriated for foster care services to purchase care for Indian children who are in the custody of a federally recognized Indian tribe or tribally licensed child-placing agency pursuant to parental consent, tribal court order, or state juvenile court order. The purchase of such care is exempt from the requirements of chapter 74.13B RCW and may be purchased from the federally recognized Indian tribe or tribally licensed child-placing agency, and shall be subject to the same eligibility standards and rates of support applicable to other children for whom the department purchases care.

Notwithstanding any other provision of RCW 13.32A.170 through 13.32A.200, 43.185C.295, 74.13.035, and 74.13.036, or of this section all services to be provided by the department under subsections ((~~(4), (7), and (9)~~)) (6), (9), and (11) of this section, subject to the limitations of these subsections, may be provided by any program offering such services funded pursuant to Titles II and III of the federal juvenile justice and delinquency prevention act of 1974.

((~~(17)~~)) (19) The department may, within funds appropriated for guardianship subsidies, provide subsidies for eligible guardians who are appointed as guardian of an Indian child by the tribal court of a federally recognized tribe located in Washington state, as defined in RCW 13.38.040. The provision of subsidies shall be subject to the same eligibility standards and rates of support applicable to other children for whom the department provides subsidies. To be eligible, the guardian must either be certified by a department-licensed child-placing agency or licensed by a federally recognized tribe located in Washington state that is a Title IV-E agency, as defined in 45 C.F.R. 1355.20.

((~~(18)~~)) (20) Within amounts appropriated for this specific purpose, the department shall provide preventive services to families with children that prevent or shorten the duration of an out-of-home placement.

((~~(19)~~)) (21) The department shall have authority to provide independent living services to youths, including individuals who have attained eighteen years of age, and have not attained twenty-three years of age, who are or have been in the department's care and custody, or who are or were nonminor dependents.

((~~(20)~~)) (22) The department shall consult at least quarterly with foster parents, including members of the foster parent association of Washington state, for the purpose of receiving information and comment regarding how the department is performing the duties and meeting the obligations specified in this section and RCW 74.13.250 regarding the recruitment of foster homes, reducing foster parent turnover rates, providing effective training for foster parents, and administering a coordinated and comprehensive plan that strengthens services for the protection of children. Consultation shall occur at the regional and statewide levels.

((~~(21)~~)) (23)(a) The department shall, within current funding levels, place on its public website a document listing the duties and responsibilities the department has to a child subject to a dependency petition including, but not limited to, the following:

(i) Reasonable efforts, including the provision of services, toward reunification of the child with his or her family;

(ii) Sibling visits subject to the restrictions in RCW 13.34.136(2)(b)(ii);

(iii) Parent-child visits;

(iv) Statutory preference for placement with a relative or other suitable person, if appropriate; and

(v) Statutory preference for an out-of-home placement that allows the child to remain in the same school or school district, if practical and in the child's best interests.

(b) The document must be prepared in conjunction with a community-based organization and must be updated as needed.

((~~(22)~~)) (24)(a) The department shall have the authority to purchase legal representation for parents or kinship caregivers, or both, of children who are at risk of being dependent, or who are dependent, to establish or modify a parenting plan under RCW 13.34.155 or chapter 26.09, 26.26A, or 26.26B RCW or secure orders establishing other relevant civil legal relationships authorized by law, when it is necessary for the child's safety, permanence, or well-being. The department's purchase of legal representation for kinship caregivers must be within the department's appropriations. This subsection does not create an entitlement to legal representation purchased by the department and does not create judicial authority to order the department to purchase legal representation for a parent or kinship caregiver. Such determinations are solely within the department's discretion. The term "kinship caregiver" as used in this section means a caregiver who meets the definition of "kin" in RCW 74.13.600(1), unless the child is an Indian child as defined in RCW 13.38.040 and 25 U.S.C. Sec. 1903. For an Indian child as defined in RCW 13.38.040 and 25 U.S.C. Sec. 1903, the term "kinship caregiver" as used in this section means a caregiver who is an "extended family member" as defined in RCW 13.38.040(8).

(b) The department is encouraged to work with the office of public defense parent representation program and the office of civil legal aid to develop a cost-effective system for providing effective civil legal representation for parents and kinship caregivers if it exercises its authority under this subsection.

**PART II - CIVIL PROTECTION ORDERS**

**Sec.**  RCW 7.105.010 and 2022 c 268 s 1 and 2022 c 231 s 8 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Abandonment" means action or inaction by a person or entity with a duty of care for a vulnerable adult that leaves the vulnerable adult without the means or ability to obtain necessary food, clothing, shelter, or health care.

(2) "Abuse," for the purposes of a vulnerable adult protection order, means intentional, willful, or reckless action or inaction that inflicts injury, unreasonable confinement, intimidation, or punishment on a vulnerable adult. In instances of abuse of a vulnerable adult who is unable to express or demonstrate physical harm, pain, or mental anguish, the abuse is presumed to cause physical harm, pain, or mental anguish. "Abuse" includes sexual abuse, mental abuse, physical abuse, personal exploitation, and improper use of restraint against a vulnerable adult, which have the following meanings:

(a) "Improper use of restraint" means the inappropriate use of chemical, physical, or mechanical restraints for convenience or discipline, or in a manner that: (i) Is inconsistent with federal or state licensing or certification requirements for facilities, hospitals, or programs authorized under chapter 71A.12 RCW; (ii) is not medically authorized; or (iii) otherwise constitutes abuse under this section.

(b) "Mental abuse" means an intentional, willful, or reckless verbal or nonverbal action that threatens, humiliates, harasses, coerces, intimidates, isolates, unreasonably confines, or punishes a vulnerable adult. "Mental abuse" may include ridiculing, yelling, swearing, or withholding or tampering with prescribed medications or their dosage.

(c) "Personal exploitation" means an act of forcing, compelling, or exerting undue influence over a vulnerable adult causing the vulnerable adult to act in a way that is inconsistent with relevant past behavior, or causing the vulnerable adult to perform services for the benefit of another.

(d) "Physical abuse" means the intentional, willful, or reckless action of inflicting bodily injury or physical mistreatment. "Physical abuse" includes, but is not limited to, striking with or without an object, slapping, pinching, strangulation, suffocation, kicking, shoving, or prodding.

(e) "Sexual abuse" means any form of nonconsensual sexual conduct including, but not limited to, unwanted or inappropriate touching, rape, molestation, indecent liberties, sexual coercion, sexually explicit photographing or recording, voyeurism, indecent exposure, and sexual harassment. "Sexual abuse" also includes any sexual conduct between a staff person, who is not also a resident or client, of a facility or a staff person of a program authorized under chapter 71A.12 RCW, and a vulnerable adult living in that facility or receiving service from a program authorized under chapter 71A.12 RCW, whether or not the sexual conduct is consensual.

(3) "Chemical restraint" means the administration of any drug to manage a vulnerable adult's behavior in a way that reduces the safety risk to the vulnerable adult or others, has the temporary effect of restricting the vulnerable adult's freedom of movement, and is not standard treatment for the vulnerable adult's medical or psychiatric condition.

(4)(a) "Coercive control" means a pattern of behavior that is used to cause another to suffer physical, emotional, or psychological harm, and in purpose or effect unreasonably interferes with a person's free will and personal liberty. In determining whether the interference is unreasonable, the court shall consider the context and impact of the pattern of behavior from the perspective of a similarly situated person. Examples of coercive control include, but are not limited to, engaging in any of the following:

(i) Intimidation or controlling or compelling conduct by:

(A) Damaging, destroying, or threatening to damage or destroy, or forcing the other party to relinquish, goods, property, or items of special value;

(B) Using technology to threaten, humiliate, harass, stalk, intimidate, exert undue influence over, or abuse the other party, including by engaging in cyberstalking, monitoring, surveillance, impersonation, manipulation of electronic media, or distribution of or threats to distribute actual or fabricated intimate images;

(C) Carrying, exhibiting, displaying, drawing, or threatening to use, any firearm or any other weapon apparently capable of producing bodily harm, in a manner, under circumstances, and at a time and place that either manifests an intent to intimidate the other party or that warrants alarm by the other party for their safety or the safety of other persons;

(D) Driving recklessly with the other party or minor children in the vehicle;

(E) Communicating, directly or indirectly, the intent to:

(I) Harm the other party's children, family members, friends, or pets, including by use of physical forms of violence;

(II) Harm the other party's career;

(III) Attempt suicide or other acts of self-harm; or

(IV) Contact local or federal agencies based on actual or suspected immigration status;

(F) Exerting control over the other party's identity documents;

(G) Making, or threatening to make, private information public, including the other party's sexual orientation or gender identity, medical or behavioral health information, or other confidential information that jeopardizes safety; or

(H) Engaging in sexual or reproductive coercion;

(ii) Causing dependence, confinement, or isolation of the other party from friends, relatives, or other sources of support, including schooling and employment, or subjecting the other party to physical confinement or restraint;

(iii) Depriving the other party of basic necessities or committing other forms of financial exploitation;

(iv) Controlling, exerting undue influence over, interfering with, regulating, or monitoring the other party's movements, communications, daily behavior, finances, economic resources, or employment, including but not limited to interference with or attempting to limit access to services for children of the other party, such as health care, medication, child care, or school-based extracurricular activities;

(v) Engaging in vexatious litigation or abusive litigation as defined in RCW 26.51.020 against the other party to harass, coerce, or control the other party, to diminish or exhaust the other party's financial resources, or to compromise the other party's employment or housing; or

(vi) Engaging in psychological aggression, including inflicting fear, humiliating, degrading, or punishing the other party.

(b) "Coercive control" does not include protective actions taken by a party in good faith for the legitimate and lawful purpose of protecting themselves or children from the risk of harm posed by the other party.

(5) "Commercial sexual exploitation" means commercial sexual abuse of a minor and sex trafficking.

(6) "Consent" in the context of sexual acts means that at the time of sexual contact, there are actual words or conduct indicating freely given agreement to that sexual contact. Consent must be ongoing and may be revoked at any time. Conduct short of voluntary agreement does not constitute consent as a matter of law. Consent cannot be freely given when a person does not have capacity due to disability, intoxication, or age. Consent cannot be freely given when the other party has authority or control over the care or custody of a person incarcerated or detained.

((~~(6)~~)) (7)(a) "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. "Course of conduct" includes any form of communication, contact, or conduct, including the sending of an electronic communication, but does not include constitutionally protected free speech. Constitutionally protected activity is not included within the meaning of "course of conduct."

(b) In determining whether the course of conduct serves any legitimate or lawful purpose, a court should consider whether:

(i) Any current contact between the parties was initiated by the respondent only or was initiated by both parties;

(ii) The respondent has been given clear notice that all further contact with the petitioner is unwanted;

(iii) The respondent's course of conduct appears designed to alarm, annoy, or harass the petitioner;

(iv) The respondent is acting pursuant to any statutory authority including, but not limited to, acts which are reasonably necessary to:

(A) Protect property or liberty interests;

(B) Enforce the law; or

(C) Meet specific statutory duties or requirements;

(v) The respondent's course of conduct has the purpose or effect of unreasonably interfering with the petitioner's privacy or the purpose or effect of creating an intimidating, hostile, or offensive living environment for the petitioner; or

(vi) Contact by the respondent with the petitioner or the petitioner's family has been limited in any manner by any previous court order.

((~~(7)~~)) (8) "Court clerk" means court administrators in courts of limited jurisdiction and elected court clerks.

((~~(8)~~)) (9) "Dating relationship" means a social relationship of a romantic nature. Factors that the court may consider in making this determination include: (a) The length of time the relationship has existed; (b) the nature of the relationship; and (c) the frequency of interaction between the parties.

((~~(9)~~)) (10) "Domestic violence" means:

(a) Physical harm, bodily injury, assault, or the infliction of fear of physical harm, bodily injury, or assault; nonconsensual sexual conduct or nonconsensual sexual penetration; coercive control; unlawful harassment; or stalking of one intimate partner by another intimate partner; or

(b) Physical harm, bodily injury, assault, or the infliction of fear of physical harm, bodily injury, or assault; nonconsensual sexual conduct or nonconsensual sexual penetration; coercive control; unlawful harassment; or stalking of one family or household member by another family or household member.

((~~(10)~~)) (11) "Electronic monitoring" has the same meaning as in RCW 9.94A.030.

((~~(11)~~)) (12) "Essential personal effects" means those items necessary for a person's immediate health, welfare, and livelihood. "Essential personal effects" includes, but is not limited to, clothing, cribs, bedding, medications, personal hygiene items, cellular phones and other electronic devices, and documents, including immigration, health care, financial, travel, and identity documents.

((~~(12)~~)) (13) "Facility" means a residence licensed or required to be licensed under chapter 18.20 RCW, assisted living facilities; chapter 18.51 RCW, nursing homes; chapter 70.128 RCW, adult family homes; chapter 72.36 RCW, soldiers' homes; chapter 71A.20 RCW, residential habilitation centers; or any other facility licensed or certified by the department of social and health services.

((~~(13)~~)) (14) "Family or household members" means: (a) Persons related by blood, marriage, domestic partnership, or adoption; (b) persons who currently or formerly resided together; (c) persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren, or a parent's intimate partner and children; and (d) a person who is acting or has acted as a legal guardian.

((~~(14)~~)) (15) "Financial exploitation" means the illegal or improper use of, control over, or withholding of, the property, income, resources, or trust funds of the vulnerable adult by any person or entity for any person's or entity's profit or advantage other than for the vulnerable adult's profit or advantage. "Financial exploitation" includes, but is not limited to:

(a) The use of deception, intimidation, or undue influence by a person or entity in a position of trust and confidence with a vulnerable adult to obtain or use the property, income, resources, government benefits, health insurance benefits, or trust funds of the vulnerable adult for the benefit of a person or entity other than the vulnerable adult;

(b) The breach of a fiduciary duty, including, but not limited to, the misuse of a power of attorney, trust, or a guardianship or conservatorship appointment, that results in the unauthorized appropriation, sale, or transfer of the property, income, resources, or trust funds of the vulnerable adult for the benefit of a person or entity other than the vulnerable adult; or

(c) Obtaining or using a vulnerable adult's property, income, resources, or trust funds without lawful authority, by a person or entity who knows or clearly should know that the vulnerable adult lacks the capacity to consent to the release or use of the vulnerable adult's property, income, resources, or trust funds.

((~~(15)~~)) (16) "Firearm" means a weapon or device from which a projectile or projectiles may be fired by an explosive such as gunpowder. "Firearm" does not include a flare gun or other pyrotechnic visual distress signaling device, or a powder-actuated tool or other device designed solely to be used for construction purposes. "Firearm" also includes parts that can be assembled to make a firearm.

((~~(16)~~)) (17) "Full hearing" means a hearing where the court determines whether to issue a full protection order.

((~~(17)~~)) (18) "Full protection order" means a protection order that is issued by the court after notice to the respondent and where the parties had the opportunity for a full hearing by the court. "Full protection order" includes a protection order entered by the court by agreement of the parties to resolve the petition for a protection order without a full hearing.

((~~(18)~~)) (19) "Hospital" means a facility licensed under chapter 70.41 or 71.12 RCW or a state hospital defined in chapter 72.23 RCW and any employee, agent, officer, director, or independent contractor thereof.

((~~(19)~~)) (20) "Interested person" means a person who demonstrates to the court's satisfaction that the person is interested in the welfare of a vulnerable adult, that the person has a good faith belief that the court's intervention is necessary, and that the vulnerable adult is unable, due to incapacity, undue influence, or duress at the time the petition is filed, to protect his or her own interests.

((~~(20)~~)) (21) "Intimate partner" means: (a) Spouses or domestic partners; (b) former spouses or former domestic partners; (c) persons who have a child in common regardless of whether they have been married or have lived together at any time, unless the child is conceived through sexual assault; or (d) persons who have or have had a dating relationship where both persons are at least 13 years of age or older.

((~~(21)~~)) (22)(a) "Isolate" or "isolation" means to restrict a person's ability to communicate, visit, interact, or otherwise associate with persons of his or her choosing. Isolation may be evidenced by acts including, but not limited to:

(i) Acts that prevent a person from sending, making, or receiving his or her personal mail, electronic communications, or telephone calls; or

(ii) Acts that prevent or obstruct a person from meeting with others, such as telling a prospective visitor or caller that the person is not present or does not wish contact, where the statement is contrary to the express wishes of the person.

(b) The term "isolate" or "isolation" may not be construed in a manner that prevents a guardian or limited guardian from performing his or her fiduciary obligations under chapter 11.92 RCW or prevents a hospital or facility from providing treatment consistent with the standard of care for delivery of health services.

((~~(22)~~)) (23) "Judicial day" means days of the week other than Saturdays, Sundays, or legal holidays.

((~~(23)~~)) (24) "Mechanical restraint" means any device attached or adjacent to a vulnerable adult's body that the vulnerable adult cannot easily remove that restricts freedom of movement or normal access to the vulnerable adult's body. "Mechanical restraint" does not include the use of devices, materials, or equipment that are (a) medically authorized, as required, and (b) used in a manner that is consistent with federal or state licensing or certification requirements for facilities, hospitals, or programs authorized under chapter 71A.12 RCW.

((~~(24)~~)) (25) "Minor" means a person who is under 18 years of age.

((~~(25)~~)) (26) "Neglect" means: (a) A pattern of conduct or inaction by a person or entity with a duty of care that fails to provide the goods and services that maintain the physical or mental health of a vulnerable adult, or that fails to avoid or prevent physical or mental harm or pain to a vulnerable adult; or (b) an act or omission by a person or entity with a duty of care that demonstrates a serious disregard of consequences of such a magnitude as to constitute a clear and present danger to the vulnerable adult's health, welfare, or safety including, but not limited to, conduct prohibited under RCW 9A.42.100.

((~~(26)~~)) (27) "Nonconsensual" means a lack of freely given consent.

((~~(27)~~)) (28) "Nonphysical contact" includes, but is not limited to, written notes, mail, telephone calls, email, text messages, contact through social media applications, contact through other technologies, or contact through third parties.

((~~(28)~~)) (29) "Petitioner" means any named petitioner or any other person identified in the petition on whose behalf the petition is brought.

((~~(29)~~)) (30) "Physical restraint" means the application of physical force without the use of any device, for the purpose of restraining the free movement of a vulnerable adult's body. "Physical restraint" does not include (a) briefly holding, without undue force, a vulnerable adult in order to calm or comfort him or her, or (b) holding a vulnerable adult's hand to safely escort him or her from one area to another.

((~~(30)~~)) (31) "Possession" means having an item in one's custody or control. Possession may be either actual or constructive. Actual possession occurs when the item is in the actual physical custody of the person charged with possession. Constructive possession occurs when there is no actual physical possession, but there is dominion and control over the item.

((~~(31)~~)) (32) "Respondent" means the person who is identified as the respondent in a petition filed under this chapter.

((~~(32)~~)) (33) "Sexual conduct" means any of the following:

(a) Any intentional or knowing touching or fondling of the genitals, anus, or breasts, directly or indirectly, including through clothing;

(b) Any intentional or knowing display of the genitals, anus, or breasts for the purposes of arousal or sexual gratification of the respondent;

(c) Any intentional or knowing touching or fondling of the genitals, anus, or breasts, directly or indirectly, including through clothing, that the petitioner is forced to perform by another person or the respondent;

(d) Any forced display of the petitioner's genitals, anus, or breasts for the purposes of arousal or sexual gratification of the respondent or others;

(e) Any intentional or knowing touching of the clothed or unclothed body of a child under the age of 16, if done for the purpose of sexual gratification or arousal of the respondent or others; or

(f) Any coerced or forced touching or fondling by a child under the age of 16, directly or indirectly, including through clothing, of the genitals, anus, or breasts of the respondent or others.

((~~(33)~~)) (34) "Sexual penetration" means any contact, however slight, between the sex organ or anus of one person by an object, the sex organ, mouth, or anus of another person, or any intrusion, however slight, of any part of the body of one person or of any animal or object into the sex organ or anus of another person including, but not limited to, cunnilingus, fellatio, or anal penetration. Evidence of emission of semen is not required to prove sexual penetration.

((~~(34)~~)) (35) "Stalking" means any of the following:

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

(b) Any act of cyber harassment as defined under RCW 9A.90.120; or

(c) Any course of conduct involving repeated or continuing contacts, attempts to contact, monitoring, tracking, surveillance, keeping under observation, disrupting activities in a harassing manner, or following of another person that:

(i) Would cause a reasonable person to feel intimidated, frightened, under duress, significantly disrupted, or threatened and that actually causes such a feeling;

(ii) Serves no lawful purpose; and

(iii) The respondent knows, or reasonably should know, threatens, frightens, or intimidates the person, even if the respondent did not intend to intimidate, frighten, or threaten the person.

((~~(35)~~)) (36) "Temporary protection order" means a protection order that is issued before the court has decided whether to issue a full protection order. "Temporary protection order" includes ex parte temporary protection orders, as well as temporary protection orders that are reissued by the court pending the completion of a full hearing to decide whether to issue a full protection order. An "ex parte temporary protection order" means a temporary protection order that is issued without prior notice to the respondent.

((~~(36)~~)) (37) "Unlawful harassment" means:

(a) A knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, harasses, or is detrimental to such person, and that serves no legitimate or lawful purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the petitioner; or

(b) A single act of violence or threat of violence directed at a specific person that seriously alarms, annoys, harasses, or is detrimental to such person, and that serves no legitimate or lawful purpose, which would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the petitioner. A single threat of violence must include: (i) A malicious and intentional threat as described in RCW 9A.36.080(1)(c); or (ii) the presence of a firearm or other weapon.

((~~(37)~~)) (38) "Vulnerable adult" includes a person:

(a) Sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself; or

(b) Subject to a guardianship under RCW 11.130.265 or adult subject to conservatorship under RCW 11.130.360; or

(c) Who has a developmental disability as defined under RCW 71A.10.020; or

(d) Admitted to any facility; or

(e) Receiving services from home health, hospice, or home care agencies licensed or required to be licensed under chapter 70.127 RCW; or

(f) Receiving services from a person under contract with the department of social and health services to provide services in the home under chapter 74.09 or 74.39A RCW; or

(g) Who self-directs his or her own care and receives services from a personal aide under chapter 74.39 RCW.

**Sec.**  RCW 7.105.100 and 2022 c 268 s 5 are each amended to read as follows:

(1) There exists an action known as a petition for a protection order. The following types of petitions for a protection order may be filed:

(a) A petition for a domestic violence protection order, which must allege the existence of domestic violence committed against the petitioner or petitioners by an intimate partner or a family or household member. The petitioner may petition for relief on behalf of himself or herself and on behalf of family or household members who are minors or vulnerable adults. A petition for a domestic violence protection order must specify whether the petitioner and the respondent are intimate partners or family or household members. A petitioner who has been sexually assaulted or stalked by an intimate partner or a family or household member should, but is not required to, seek a domestic violence protection order, rather than a sexual assault protection order or a stalking protection order.

(b) A petition for a sexual assault protection order, which must allege the existence of nonconsensual sexual conduct ((~~or~~)), nonconsensual sexual penetration, or commercial sexual exploitation that was committed against the petitioner by the respondent. A petitioner who has been sexually assaulted by an intimate partner or a family or household member should, but is not required to, seek a domestic violence protection order, rather than a sexual assault protection order. A single incident of nonconsensual sexual conduct or nonconsensual sexual penetration is sufficient grounds for a petition for a sexual assault protection order. The petitioner may petition for a sexual assault protection order on behalf of:

(i) Himself or herself;

(ii) A minor child, where the petitioner is the parent, legal guardian, or custodian;

(iii) A vulnerable adult, where the petitioner is an interested person; or

(iv) Any other adult for whom the petitioner demonstrates to the court's satisfaction that the petitioner is interested in the adult's well-being, the court's intervention is necessary, and the adult cannot file the petition because of age, disability, health, or inaccessibility.

(c) A petition for a stalking protection order, which must allege the existence of stalking committed against the petitioner or petitioners by the respondent. A petitioner who has been stalked by an intimate partner or a family or household member should, but is not required to, seek a domestic violence protection order, rather than a stalking protection order. The petitioner may petition for a stalking protection order on behalf of:

(i) Himself or herself;

(ii) A minor child, where the petitioner is the parent, legal guardian, or custodian;

(iii) A vulnerable adult, where the petitioner is an interested person; or

(iv) Any other adult for whom the petitioner demonstrates to the court's satisfaction that the petitioner is interested in the adult's well-being, the court's intervention is necessary, and the adult cannot file the petition because of age, disability, health, or inaccessibility.

(d) A petition for a vulnerable adult protection order, which must allege that the petitioner, or person on whose behalf the petition is brought, is a vulnerable adult and that the petitioner, or person on whose behalf the petition is brought, has been abandoned, abused, financially exploited, or neglected, or is threatened with abandonment, abuse, financial exploitation, or neglect, by the respondent.

(e) A petition for an extreme risk protection order, which must allege that the respondent poses a significant danger of causing personal injury to self or others by having in the respondent's custody or control, purchasing, possessing, accessing, receiving, or attempting to purchase or receive, a firearm. The petition must also identify information the petitioner is able to provide about the firearms, such as the number, types, and locations of any firearms the petitioner believes to be in the respondent's current ownership, possession, custody, access, or control. A petition for an extreme risk protection order may be filed by (i) an intimate partner or a family or household member of the respondent; or (ii) a law enforcement agency.

(f) A petition for an antiharassment protection order, which must allege the existence of unlawful harassment committed against the petitioner or petitioners by the respondent. If a petitioner is seeking relief based on domestic violence, nonconsensual sexual conduct, nonconsensual sexual penetration, or stalking, the petitioner may, but is not required to, seek a domestic violence, sexual assault, or stalking protection order, rather than an antiharassment order. The petitioner may petition for an antiharassment protection order on behalf of:

(i) Himself or herself;

(ii) A minor child, where the petitioner is the parent, legal guardian, or custodian;

(iii) A vulnerable adult, where the petitioner is an interested person; or

(iv) Any other adult for whom the petitioner demonstrates to the court's satisfaction that the petitioner is interested in the adult's well-being, the court's intervention is necessary, and the adult cannot file the petition because of age, disability, health, or inaccessibility.

(2) With the exception of vulnerable adult protection orders, a person under 18 years of age who is 15 years of age or older may seek relief under this chapter as a petitioner and is not required to seek relief through a petition filed on his or her behalf. He or she may also petition on behalf of a family or household member who is a minor if chosen by the minor and capable of pursuing the minor's stated interest in the action.

(3) A person under 15 years of age who is seeking relief under this chapter is required to seek relief by a person authorized as a petitioner under this section.

(4) If a petition for a protection order is filed by an interested person, the affidavit or declaration must also include a statement of why the petitioner qualifies as an interested person.

(5) A petition for any type of protection order must not be dismissed or denied on the basis that the conduct alleged by the petitioner would meet the criteria for the issuance of another type of protection order. If a petition meets the criteria for a different type of protection order other than the one sought by the petitioner, the court shall consider the petitioner's preference, and enter a temporary protection order or set the matter for a hearing as appropriate under the law. The court's decision on the appropriate type of order shall not be premised on alleviating any potential stigma on the respondent.

(6) The protection order petition must contain a section where the petitioner, regardless of petition type, may request specific relief provided for in RCW 7.105.310 that the petitioner seeks for himself or herself or for family or household members who are minors. The totality of selected relief, and any other relief the court deems appropriate for the petitioner, or family or household members who are minors, must be considered at the time of entry of temporary protection orders and at the time of entry of full protection orders.

(7) If a court reviewing the petition for a protection order or a request for a temporary protection order determines that the petition was not filed in the correct court, the court shall enter findings establishing the correct court, and direct the clerk to transfer the petition to the correct court and to provide notice of the transfer to all parties who have appeared.

(8) Upon filing a petition for a protection order, the petitioner may request that the court enter an ex parte temporary protection order and an order to surrender and prohibit weapons without notice until a hearing on a full protection order may be held. When requested, there shall be a rebuttable presumption to include the petitioner's minor children as protected parties in the ex parte temporary domestic violence protection order until the full hearing to reduce the risk of harm to children during periods of heightened risk, unless there is good cause not to include the minor children. If the court denies the petitioner's request to include the minor children, the court shall make written findings why the children should not be included, pending the full hearing. An ex parte temporary protection order shall be effective for a fixed period of time and shall be issued initially for a period not to exceed 14 days, which may be extended for good cause.

**Sec.**  RCW 7.105.110 and 2021 c 215 s 15 are each amended to read as follows:

The following apply only to the specific type of protection orders referenced in each subsection.

(1) The department of social and health services, in its discretion, may file a petition for a vulnerable adult protection order or a domestic violence protection order on behalf of, and with the consent of, any vulnerable adult. When the department has reason to believe a vulnerable adult lacks the ability or capacity to consent, the department, in its discretion, may seek relief on behalf of the vulnerable adult. Neither the department nor the state of Washington is liable for seeking or failing to seek relief on behalf of any persons under this section. The vulnerable adult shall not be held responsible for any violations of the order by the respondent.

(2)(a) If the petitioner for an extreme risk protection order is a law enforcement agency, the petitioner shall make a good faith effort to provide notice to an intimate partner or family or household member of the respondent and to any known third party who may be at risk of violence. The notice must state that the petitioner intends to petition the court for an extreme risk protection order or has already done so, and include referrals to appropriate resources, including behavioral health, domestic violence, and counseling resources. The petitioner must attest in the petition to having provided such notice, or attest to the steps that will be taken to provide such notice.

(b) Recognizing that an extreme risk protection order may need to be issued outside of normal business hours, courts shall allow law enforcement petitioners to petition after hours for a temporary extreme risk protection order using an on-call, after-hours judge, as is done for approval of after-hours search warrants.

(3) The department of children, youth, and families, when it has reason to believe that a minor lacks the ability or capacity to consent may file a petition for a sexual assault protection order on behalf of the minor. Neither the department nor the state of Washington is liable for seeking or failing to seek relief on behalf of any persons under this section. The minor shall not be held responsible for any violations of the order by the respondent.

(4) A law enforcement agency, when it has reason to believe that a minor lacks the ability or capacity to consent may file a petition for an ex parte temporary sexual assault protection order on behalf of the minor. Neither the law enforcement agency nor the state of Washington is liable for seeking or failing to seek relief on behalf of any persons under this section. The minor shall not be held responsible for any violations of the order by the respondent.

**Sec.**  RCW 7.105.225 and 2021 c 215 s 29 are each amended to read as follows:

(1) The court shall issue a protection order if it finds by a preponderance of the evidence that the petitioner has proved the required criteria specified in (a) through (f) of this subsection for obtaining a protection order under this chapter.

(a) For a domestic violence protection order, that the petitioner has been subjected to domestic violence by the respondent.

(b) For a sexual assault protection order, that the petitioner has been subjected to nonconsensual sexual conduct ((~~or~~)), nonconsensual sexual penetration, or commercial sexual exploitation by the respondent.

(c) For a stalking protection order, that the petitioner has been subjected to stalking by the respondent.

(d) For a vulnerable adult protection order, that the petitioner has been abandoned, abused, financially exploited, or neglected, or is threatened with abandonment, abuse, financial exploitation, or neglect by the respondent.

(e) For an extreme risk protection order, that the respondent poses a significant danger of causing personal injury to self or others by having in the respondent's custody or control, purchasing, possessing, accessing, receiving, or attempting to purchase or receive, a firearm.

(f) For an antiharassment protection order, that the petitioner has been subjected to unlawful harassment by the respondent.

(2) The court may not deny or dismiss a petition for a protection order on the grounds that:

(a) The petitioner or the respondent is a minor, unless provisions in this chapter specifically limit relief or remedies based upon a party's age;

(b) The petitioner did not report the conduct giving rise to the petition to law enforcement;

(c) A no-contact order or a restraining order that restrains the respondent's contact with the petitioner has been issued in a criminal proceeding or in a domestic relations proceeding;

(d) The relief sought by the petitioner may be available in a different action or proceeding, or criminal charges are pending against the respondent;

(e) The conduct at issue did not occur recently or because of the passage of time since the last incident of conduct giving rise to the petition; or

(f) The respondent no longer lives near the petitioner.

(3) In proceedings where the petitioner alleges that the respondent engaged in nonconsensual sexual conduct ((~~or~~)), nonconsensual sexual penetration, or commercial sexual exploitation, the court shall not require proof of physical injury on the person of the petitioner or any other forensic evidence. Denial of a remedy to the petitioner may not be based, in whole or in part, on evidence that:

(a) The respondent was voluntarily intoxicated;

(b) The petitioner was voluntarily intoxicated; or

(c) The petitioner engaged in limited consensual sexual touching.

(4) In proceedings where the petitioner alleges that the respondent engaged in stalking, the court may not require proof of the respondent's intentions regarding the acts alleged by the petitioner.

(5) In proceedings where the petitioner alleges that the respondent engaged in commercial sexual exploitation, denial of a remedy to the petitioner may not be based, in whole or in part, on evidence that the petitioner consented to sexual conduct or sexual penetration.

(6) If the court declines to issue a protection order, the court shall state in writing the particular reasons for the court's denial. If the court declines a request to include one or more of the petitioner's family or household member who is a minor or a vulnerable adult in the order, the court shall state the reasons for that denial in writing. The court shall also explain from the bench:

(a) That the petitioner may refile a petition for a protection order at any time if the petitioner has new evidence to present that would support the issuance of a protection order;

(b) The parties' rights to seek revision, reconsideration, or appeal of the order; and

(c) The parties' rights to have access to the court transcript or recording of the hearing.

((~~(6)~~)) (7) A court's ruling on a protection order must be filed by the court in writing and must be made by the court on the mandatory form developed by the administrative office of the courts.

**Sec.**  RCW 7.105.405 and 2021 c 215 s 54 are each amended to read as follows:

The following provisions apply to the renewal of all full protection orders issued under this chapter, with the exception of the renewal of extreme risk protection orders.

(1) If the court grants a protection order for a fixed time period, the petitioner may file a motion to renew the order at any time within the 90 days before the order expires. The motion for renewal must state the reasons the petitioner seeks to renew the protection order. Upon receipt of a motion for renewal, the court shall order a hearing, which must be not later than 14 days from the date of the order. Service must be made on the respondent not less than five judicial days before the hearing, as provided in RCW 7.105.150.

(2) If the motion for renewal is uncontested and the petitioner seeks no modification of the order, the order may be renewed on the basis of the petitioner's motion and statement of the reason for the requested renewal.

(3) The petitioner bears no burden of proving that he or she has a current reasonable fear of harm by the respondent.

(4) The court shall grant the motion for renewal unless the respondent proves by a preponderance of the evidence that there has been a substantial change in circumstances and the following:

(a) For a domestic violence protection order, that the respondent proves that the respondent will not resume acts of domestic violence against the petitioner or the petitioner's family or household members who are minors or vulnerable adults when the order expires;

(b) For a sexual assault protection order, that the respondent proves that the respondent will not engage in, or attempt to engage in, physical or nonphysical contact, or acts of commercial sexual exploitation, with the petitioner when the order expires;

(c) For a stalking protection order, that the respondent proves that the respondent will not resume acts of stalking against the petitioner or the petitioner's family or household members when the order expires;

(d) For a vulnerable adult protection order, that the respondent proves that the respondent will not resume acts of abandonment, abuse, financial exploitation, or neglect against the vulnerable adult when the order expires; or

(e) For an antiharassment protection order, that the respondent proves that the respondent will not resume harassment of the petitioner when the order expires.

(5) In determining whether there has been a substantial change in circumstances, the court may consider the following unweighted factors, and no inference is to be drawn from the order in which the factors are listed:

(a) Whether the respondent has committed or threatened sexual assault; commercial sexual exploitation; domestic violence; stalking; abandonment, abuse, financial exploitation, or neglect of a vulnerable adult; or other harmful acts against the petitioner or any other person since the protection order was entered;

(b) Whether the respondent has violated the terms of the protection order and the time that has passed since the entry of the order;

(c) Whether the respondent has exhibited suicidal ideation or attempts since the protection order was entered;

(d) Whether the respondent has been convicted of criminal activity since the protection order was entered;

(e) Whether the respondent has either: Acknowledged responsibility for acts of sexual assault, commercial sexual exploitation, domestic violence, or stalking, or acts of abandonment, abuse, financial exploitation, or neglect of a vulnerable adult, or behavior that resulted in the entry of the protection order; or successfully completed state-certified perpetrator treatment or counseling since the protection order was entered;

(f) Whether the respondent has a continuing involvement with drug or alcohol abuse, if such abuse was a factor in the protection order; and

(g) Other factors relating to a substantial change in circumstances.

(6) The court shall not deny a motion to renew a protection order for any of the following reasons:

(a) The respondent has not violated the protection order previously issued by the court;

(b) The petitioner or the respondent is a minor;

(c) The petitioner did not report the conduct giving rise to the protection order, or subsequent violations of the protection order, to law enforcement;

(d) A no-contact order or a restraining order that restrains the respondent's contact with the petitioner has been issued in a criminal proceeding or in a domestic relations proceeding;

(e) The relief sought by the petitioner may be available in a different action or proceeding;

(f) The passage of time since the last incident of conduct giving rise to the issuance of the protection order; or

(g) The respondent no longer lives near the petitioner.

(7) The terms of the original protection order must not be changed on a motion for renewal unless the petitioner has requested the change.

(8) The court may renew the protection order for another fixed time period of no less than one year, or may enter a permanent order as provided in this section.

(9) If the protection order includes the parties' children, a renewed protection order may be issued for more than one year, subject to subsequent orders entered in a proceeding under chapter 26.09, 26.26A, or 26.26B RCW.

(10) The court may award court costs, service fees, and reasonable attorneys' fees to the petitioner as provided in RCW 7.105.310.

(11) If the court declines to renew the protection order, the court shall state, in writing in the order, the particular reasons for the court's denial. If the court declines to renew a protection order that had restrained the respondent from having contact with children protected by the order, the court shall determine on the record whether the respondent and the children should undergo reunification therapy. Any reunification therapy provider should be made aware of the respondent's history of domestic violence and should have training and experience in the dynamics of intimate partner violence.

(12) In determining whether there has been a substantial change in circumstances for respondents under the age of 18, or in determining the appropriate duration for an order, the court shall consider the circumstances surrounding the respondent's youth at the time of the initial behavior alleged in the petition for a protection order. The court shall consider developmental factors, including the impact of time of a youth's development, and any information the minor respondent presents about his or her personal progress or change in circumstances.

**Sec.**  RCW 7.105.500 and 2022 c 268 s 23 are each amended to read as follows:

This section applies to modification or termination of domestic violence protection orders, sexual assault protection orders, stalking protection orders, and antiharassment protection orders.

(1) Upon a motion with notice to all parties and after a hearing, the court may modify the terms of an existing protection order or terminate an existing order.

(2) A respondent's motion to modify or terminate an existing protection order must include a declaration setting forth facts supporting the requested order for modification or termination. The nonmoving parties to the proceeding may file opposing declarations. All motions to modify or terminate shall be based on the written materials and evidence submitted to the court. The court shall set a hearing only if the court finds that adequate cause is established. If the court finds that the respondent established adequate cause, the court shall set a date for hearing the respondent's motion, which must be at least 14 days from the date the court finds adequate cause.

(3) Upon the motion of a respondent, the court may not modify or terminate an existing protection order unless the respondent proves by a preponderance of the evidence that there has been a substantial change in circumstances such that the respondent will not resume, engage in, or attempt to engage in, the following acts against the petitioner or those persons protected by the protection order if the order is terminated or modified:

(a) Acts of domestic violence, in cases involving domestic violence protection orders;

(b) Physical or nonphysical contact, or acts of commercial sexual exploitation, in cases involving sexual assault protection orders;

(c) Acts of stalking, in cases involving stalking protection orders; or

(d) Acts of unlawful harassment, in cases involving antiharassment protection orders.

The petitioner bears no burden of proving that he or she has a current reasonable fear of harm by the respondent.

(4) In determining whether there has been a substantial change in circumstances, the court may consider the following unweighted factors, and no inference is to be drawn from the order in which the factors are listed:

(a) Whether the respondent has committed or threatened sexual assault, commercial sexual exploitation, domestic violence, stalking, or other harmful acts against the petitioner or any other person since the protection order was entered;

(b) Whether the respondent has violated the terms of the protection order and the time that has passed since the entry of the order;

(c) Whether the respondent has exhibited suicidal ideation or attempts since the protection order was entered;

(d) Whether the respondent has been convicted of criminal activity since the protection order was entered;

(e) Whether the respondent has either acknowledged responsibility for acts of sexual assault, commercial sexual exploitation, domestic violence, stalking, or behavior that resulted in the entry of the protection order, or successfully completed state-certified perpetrator treatment or counseling since the protection order was entered;

(f) Whether the respondent has a continuing involvement with drug or alcohol abuse, if such abuse was a factor in the protection order;

(g) Whether the petitioner consents to terminating the protection order, provided that consent is given voluntarily and knowingly; or

(h) Other factors relating to a substantial change in circumstances.

(5) In determining whether there has been a substantial change in circumstances, the court may not base its determination on the fact that time has passed without a violation of the order.

(6) Regardless of whether there is a substantial change in circumstances, the court may decline to terminate a protection order if it finds that the acts of domestic violence, sexual assault, commercial sexual exploitation, stalking, unlawful harassment, and other harmful acts that resulted in the issuance of the protection order were of such severity that the order should not be terminated.

(7) A respondent may file a motion to modify or terminate an order no more than once in every 12-month period that the order is in effect, starting from the date of the order and continuing through any renewal period.

(8) If a person who is protected by a protection order has a child or adopts a child after a protection order has been issued, but before the protection order has expired, the petitioner may seek to include the new child in the order of protection on an ex parte basis if the child is already in the physical custody of the petitioner. If the restrained person is the legal or biological parent of the child, a hearing must be set and notice given to the restrained person prior to final modification of the full protection order.

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

**PART III - CRIME VICTIMS COMPENSATION**

**Sec.**  RCW 7.68.060 and 2020 c 308 s 1 are each amended to read as follows:

(1) Except for applications received pursuant to subsection (6) of this section, no compensation of any kind shall be available under this chapter if:

(a) An application for benefits is not received by the department within three years after the date the criminal act was reported to a local police department or sheriff's office or the date the rights of beneficiaries accrued, unless the director has determined that "good cause" exists to expand the time permitted to receive the application. "Good cause" shall be determined by the department on a case-by-case basis and may extend the period of time in which an application can be received for up to five years after the date the criminal act was reported to a local police department or sheriff's office or the date the rights of beneficiaries accrued; or

(b) The criminal act is not reported by the victim or someone on his or her behalf to a local police department or sheriff's office within twelve months of its occurrence or, if it could not reasonably have been reported within that period, within twelve months of the time when a report could reasonably have been made. In making determinations as to reasonable time limits, the department shall give greatest weight to the needs of the victims.

(2) No person or spouse, child, or dependent of such person is eligible for benefits under this chapter when the injury for which benefits are sought was:

(a) The result of consent, provocation, or incitement by the victim, unless an injury resulting from a criminal act caused the death of the victim;

(b) Sustained while the crime victim was engaged in the attempt to commit, or the commission of, a felony; or

(c) Sustained while the victim was confined in any county or city jail, federal jail or prison or in any other federal institution, or any state correctional institution maintained and operated by the department of social and health services or the department of corrections, prior to release from lawful custody; or confined or living in any other institution maintained and operated by the department of social and health services or the department of corrections.

(3) No person or spouse, child, or dependent of such person is eligible for benefits under this chapter where the person making a claim for such benefits has refused to give reasonable cooperation to state or local law enforcement agencies in their efforts to apprehend and convict the perpetrator of the criminal act which gave rise to the claim.

(4) A victim is not eligible for benefits under this chapter if the victim:

(a) Has been convicted of a felony offense within five years preceding the criminal act for which the victim is applying where the felony offense is a violent offense under RCW 9.94A.030 or a crime against persons under RCW 9.94A.411, or is convicted of such a felony offense after the criminal act for which the victim is applying; and

(b) Has not completely satisfied all legal financial obligations owed.

(5) Because victims of childhood criminal acts may repress conscious memory of such criminal acts far beyond the age of eighteen, the rights of adult victims of childhood criminal acts shall accrue at the time the victim discovers or reasonably should have discovered the elements of the crime. In making determinations as to reasonable time limits, the department shall give greatest weight to the needs of the victim.

(6)(a) Benefits under this chapter are available to any victim of a person against whom the state initiates proceedings under chapter 71.09 RCW. The right created under this subsection shall accrue when the victim is notified of proceedings under chapter 71.09 RCW or the victim is interviewed, deposed, or testifies as a witness in connection with the proceedings. An application for benefits under this subsection must be received by the department within two years after the date the victim's right accrued unless the director determines that good cause exists to expand the time to receive the application. The director shall determine "good cause" on a case-by-case basis and may extend the period of time in which an application can be received for up to five years after the date the right of the victim accrued. Benefits under this subsection shall be limited to compensation for costs or losses incurred on or after the date the victim's right accrues for a claim allowed under this subsection.

(b) A person identified as a minor victim of sex trafficking or as the "minor" in the charge of commercial sexual abuse of a minor under RCW 9.68A.100, promoting commercial sexual abuse of a minor under RCW 9.68A.101, or promoting travel for commercial sexual abuse of a minor under RCW 9.68A.102 is considered a victim of a criminal act for the purpose of the right to benefits under this chapter even if the person is also charged with prostitution under RCW 9A.88.030. A person identified under this subsection (6)(b) may file an application for benefits at any time, and the ineligibility factors of subsections (1) and (2) of this section do not apply to such a person.

**PART IV - STATUTE OF LIMITATIONS AND EVIDENTIARY PROCEDURES**

**Sec.**  RCW 9A.04.080 and 2023 c 197 s 8 and 2023 c 122 s 8 are each reenacted and amended to read as follows:

(1) Prosecutions for criminal offenses shall not be commenced after the periods prescribed in this section.

(a) The following offenses may be prosecuted at any time after their commission:

(i) Murder;

(ii) Homicide by abuse;

(iii) Arson if a death results;

(iv) Vehicular homicide;

(v) Vehicular assault if a death results;

(vi) Hit-and-run injury-accident if a death results (RCW 46.52.020(4));

(vii) Rape in the first degree (RCW 9A.44.040) if the victim is under the age of sixteen;

(viii) Rape in the second degree (RCW 9A.44.050) if the victim is under the age of sixteen;

(ix) Rape of a child in the first degree (RCW 9A.44.073);

(x) Rape of a child in the second degree (RCW 9A.44.076);

(xi) Rape of a child in the third degree (RCW 9A.44.079);

(xii) Sexual misconduct with a minor in the first degree (RCW 9A.44.093);

(xiii) Custodial sexual misconduct in the first degree (RCW 9A.44.160);

(xiv) Child molestation in the first degree (RCW 9A.44.083);

(xv) Child molestation in the second degree (RCW 9A.44.086);

(xvi) Child molestation in the third degree (RCW 9A.44.089); ((~~and~~))

(xvii) Sexual exploitation of a minor (RCW 9.68A.040);

(xviii) Trafficking (RCW 9A.40.100) if the victim is under the age of 18;

(xix) Commercial sexual abuse of a minor (RCW 9.68A.100);

(xx) Promoting commercial sexual abuse of a minor (RCW 9.68A.101);

(xxi) Promoting travel for commercial sexual abuse of a minor (RCW 9.68A.102); and

(xxii) Permitting commercial sexual abuse of a minor (RCW 9.68A.103).

(b) Except as provided in (a) of this subsection, the following offenses may not be prosecuted more than ((~~twenty~~)) 20 years after its commission:

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

(ii) Rape in the second degree (RCW 9A.44.050); or

(iii) Indecent liberties (RCW 9A.44.100).

(c) The following offenses may not be prosecuted more than ten years after its commission:

(i) Any felony committed by a public officer if the commission is in connection with the duties of his or her office or constitutes a breach of his or her public duty or a violation of the oath of office;

(ii) Arson if no death results;

(iii) Rape in the third degree (RCW 9A.44.060);

(iv) Attempted murder; or

(v) Trafficking under RCW 9A.40.100.

(d) A violation of ((~~any~~)) this offense listed in this subsection (1)(d) may be prosecuted up to ((~~ten~~)) 10 years after its commission or, if committed against a victim under the age of ((~~eighteen~~)) 18, up to the victim's ((~~thirtieth~~)) 30th birthday, whichever is later:

((~~(i) RCW 9.68A.100 (commercial sexual abuse of a minor);~~

~~(ii) RCW 9.68A.101 (promoting commercial sexual abuse of a minor);~~

~~(iii) RCW 9.68A.102 (promoting travel for commercial sexual abuse of a minor); or~~

~~(iv)~~)) RCW 9A.64.020 (incest).

(e) A violation of RCW 9A.36.170 may be prosecuted up to 10 years after its commission, or if committed against a victim under the age of 18, up to the victim's 28th birthday, whichever is later.

(f) The following offenses may not be prosecuted more than six years after its commission or discovery, whichever occurs later:

(i) Violations of RCW 9A.82.060 or 9A.82.080;

(ii) Any felony violation of chapter 9A.83 RCW;

(iii) Any felony violation of chapter 9.35 RCW;

(iv) Theft in the first or second degree under chapter 9A.56 RCW when accomplished by color or aid of deception;

(v) Theft from a vulnerable adult under RCW 9A.56.400;

(vi) Trafficking in stolen property in the first or second degree under chapter 9A.82 RCW in which the stolen property is a motor vehicle or major component part of a motor vehicle as defined in RCW 46.80.010; or

(vii) Violations of RCW 82.32.290 (2)(a)(iii) or (4).

(g) The following offenses may not be prosecuted more than five years after its commission: Any class C felony under chapter 74.09, 82.36, or 82.38 RCW.

(h) Bigamy may not be prosecuted more than three years after the time specified in RCW 9A.64.010.

(i) A violation of RCW 9A.56.030 may not be prosecuted more than three years after the discovery of the offense when the victim is a tax exempt corporation under 26 U.S.C. Sec. 501(c)(3).

(j) No other felony may be prosecuted more than three years after its commission; except that in a prosecution under RCW 9A.44.115, if the person who was viewed, photographed, or filmed did not realize at the time that he or she was being viewed, photographed, or filmed, the prosecution must be commenced within two years of the time the person who was viewed or in the photograph or film first learns that he or she was viewed, photographed, or filmed.

(k) No gross misdemeanor, except as provided under (e) of this subsection, may be prosecuted more than two years after its commission.

(l) No misdemeanor may be prosecuted more than one year after its commission.

(2) The periods of limitation prescribed in subsection (1) of this section do not run during any time when the person charged is not usually and publicly resident within this state.

(3) In any prosecution for a sex offense as defined in RCW 9.94A.030, the periods of limitation prescribed in subsection (1) of this section run from the date of commission or four years from the date on which the identity of the suspect is conclusively established by deoxyribonucleic acid testing or by photograph as defined in RCW 9.68A.011, whichever is later.

(4) If, before the end of a period of limitation prescribed in subsection (1) of this section, an indictment has been found or a complaint or an information has been filed, and the indictment, complaint, or information is set aside, then the period of limitation is extended by a period equal to the length of time from the finding or filing to the setting aside.

**Sec.**  RCW 9A.44.120 and 2019 c 90 s 1 are each amended to read as follows:

(1) A statement not otherwise admissible by statute or court rule, is admissible in evidence in dependency proceedings under Title 13 RCW and criminal proceedings, including juvenile offense adjudications, in the courts of the state of Washington if:

(a)(i) It is made by a child when under the age of ten describing any act of sexual contact performed with or on the child by another, describing any attempted act of sexual contact with or on the child by another, or describing any act of physical abuse of the child by another that results in substantial bodily harm as defined by RCW 9A.04.110; or

(ii) It is made by a child when under the age of ((~~sixteen~~)) 18 describing any of the following acts or attempted acts performed with or on the child: Trafficking under RCW 9A.40.100; commercial sexual abuse of a minor under RCW 9.68A.100; promoting commercial sexual abuse of a minor under RCW 9.68A.101; or promoting travel for commercial sexual abuse of a minor under RCW 9.68A.102;

(b) The court finds, in a hearing conducted outside the presence of the jury, that the time, content, and circumstances of the statement provide sufficient indicia of reliability; and

(c) The child either:

(i) Testifies at the proceedings; or

(ii) Is unavailable as a witness, except that when the child is unavailable as a witness, such statement may be admitted only if there is corroborative evidence of the act.

(2) A statement may not be admitted under this section unless the proponent of the statement makes known to the adverse party his or her intention to offer the statement and the particulars of the statement sufficiently in advance of the proceedings to provide the adverse party with a fair opportunity to prepare to meet the statement.

**Sec.**  RCW 9A.44.150 and 2013 c 302 s 9 are each amended to read as follows:

(1) On motion of the prosecuting attorney in a criminal proceeding, the court may order that a child under the age of ((~~fourteen~~)) 18 may testify in a room outside the presence of the defendant and the jury while one-way closed-circuit television equipment simultaneously projects the child's testimony into another room so the defendant and the jury can watch and hear the child testify if:

(a) The testimony will:

(i) Describe an act or attempted act of sexual contact performed with or on the child witness by another person or with or on a child other than the child witness by another person;

(ii) Describe an act or attempted act of physical abuse against the child witness by another person or against a child other than the child witness by another person;

(iii) Describe a violation of RCW 9A.40.100 (trafficking) or any offense identified in chapter 9.68A RCW (sexual exploitation of children); or

(iv) Describe a violent offense as defined by RCW 9.94A.030 committed against a person known by or familiar to the child witness or by a person known by or familiar to the child witness;

(b) The testimony is taken during the criminal proceeding;

(c) The court finds by substantial evidence, in a hearing conducted outside the presence of the jury, that ((~~requiring the child witness to testify in the presence of the defendant will cause the~~)):

(i) The particular child involved would be traumatized;

(ii) The source of the trauma is not the courtroom generally, but the presence of the defendant; and

(iii) The emotional or mental distress suffered by the child ((~~to suffer serious emotional or mental distress that will prevent~~)) would be more than de minimis, such that the child ((~~from~~)) could not reasonably ((~~communicating~~)) communicate at the trial. If the defendant is excluded from the presence of the child, the jury must also be excluded;

(d) As provided in (a) and (b) of this subsection, the court may allow a child witness to testify in the presence of the defendant but outside the presence of the jury, via closed-circuit television, if the court finds, upon motion and hearing outside the presence of the jury, that ((~~the child will suffer serious emotional distress that will prevent the child from reasonably communicating at the trial in front of the jury, or, that although the child may be able to reasonably communicate at trial in front of the jury, the child will suffer serious emotional or mental distress from testifying~~)): (i) The particular child involved would be traumatized; (ii) the source of the trauma is not the courtroom generally, but the presence of the jury; and (iii) the emotional or mental distress suffered by the child would be more than de minimis, regardless of whether or not the child could reasonably communicate at the trial in front of the jury. If the child is able to communicate in front of the defendant but not the jury the defendant will remain in the room with the child while the jury is excluded from the room;

(e) The court finds that the prosecutor has made all reasonable efforts to prepare the child witness for testifying, including informing the child or the child's parent or guardian about community counseling services, giving court tours, and explaining the trial process. If the prosecutor fails to demonstrate that preparations were implemented or the prosecutor in good faith attempted to implement them, the court shall deny the motion;

(f) The court balances the strength of the state's case without the testimony of the child witness against the defendant's constitutional rights and the degree of infringement of the closed-circuit television procedure on those rights;

(g) The court finds that no less restrictive method of obtaining the testimony exists that can adequately protect the child witness from ((~~the serious~~)) suffering emotional or mental distress that would be more than de minimis;

(h) When the court allows the child witness to testify outside the presence of the defendant, the defendant can communicate constantly with the defense attorney by electronic transmission and be granted reasonable court recesses during the child's testimony for person-to-person consultation with the defense attorney;

(i) The court can communicate with the attorneys by an audio system so that the court can rule on objections and otherwise control the proceedings;

(j) All parties in the room with the child witness are on camera and can be viewed by all other parties. If viewing all participants is not possible, the court shall describe for the viewers the location of the prosecutor, defense attorney, and other participants in relation to the child;

(k) The court finds that the television equipment is capable of making an accurate reproduction and the operator of the equipment is competent to operate the equipment; and

(l) The court imposes reasonable guidelines upon the parties for conducting the filming to avoid trauma to the child witness or abuse of the procedure for tactical advantage.

The prosecutor, defense attorney, and a neutral and trained victim's advocate, if any, shall always be in the room where the child witness is testifying. The court in the court's discretion depending on the circumstances and whether the jury or defendant or both are excluded from the room where the child is testifying, may remain or may not remain in the room with the child.

(2) During the hearing conducted under subsection (1) of this section to determine whether the child witness may testify outside the presence of the defendant and/or the jury, the court may conduct the observation and examination of the child outside the presence of the defendant if:

(a) The prosecutor alleges and the court concurs that the child witness will be unable to testify in front of the defendant or ((~~will suffer severe emotional or mental distress if forced to testify in front of the defendant~~)) that (i) the particular child involved would be traumatized; (ii) the source of the trauma is not the courtroom generally, but the presence of the defendant; and (iii) the emotional or mental distress suffered by the child would be more than de minimis;

(b) The defendant can observe and hear the child witness by closed-circuit television;

(c) The defendant can communicate constantly with the defense attorney during the examination of the child witness by electronic transmission and be granted reasonable court recesses during the child's examination for person-to-person consultation with the defense attorney; and

(d) The court finds the closed-circuit television is capable of making an accurate reproduction and the operator of the equipment is competent to operate the equipment. Whenever possible, all the parties in the room with the child witness shall be on camera so that the viewers can see all the parties. If viewing all participants is not possible, then the court shall describe for the viewers the location of the prosecutor, defense attorney, and other participants in relation to the child.

(3) The court shall make particularized findings on the record articulating the factors upon which the court based its decision to allow the child witness to testify via closed-circuit television pursuant to this section. The factors the court may consider include, but are not limited to, a consideration of the child's age, physical health, emotional stability, expressions by the child of fear of testifying in open court or in front of the defendant, the relationship of the defendant to the child, and the court's observations of the child's inability to reasonably communicate in front of the defendant or in open court. The court's findings shall identify the impact the factors have upon the child's ability to testify in front of the jury or the defendant or both and the specific nature of the emotional or mental trauma the child would suffer. The court shall determine whether the source of the trauma is the presence of the defendant, the jury, or both, and shall limit the use of the closed-circuit television accordingly.

(4) This section does not apply if the defendant is an attorney pro se unless the defendant has a court-appointed attorney assisting the defendant in the defense.

(5) This section may not preclude the presence of both the child witness and the defendant in the courtroom together for purposes of establishing or challenging the identification of the defendant when identification is a legitimate issue in the proceeding.

(6) The Washington supreme court may adopt rules of procedure regarding closed-circuit television procedures.

(7) All recorded tapes of testimony produced by closed-circuit television equipment shall be subject to any protective order of the court for the purpose of protecting the privacy of the child witness.

(8) Nothing in this section creates a right of the child witness to a closed-circuit television procedure in lieu of testifying in open court.

(9) The state shall bear the costs of the closed-circuit television procedure.

(10) A child witness may or may not be a victim in the proceeding.

(11) Nothing in this section precludes the court, under other circumstances arising under subsection (1)(a) of this section, from allowing a child to testify outside the presence of the defendant and the jury so long as the testimony is presented in accordance with the standards and procedures required in this section.

**Sec.**  RCW 9A.82.100 and 2012 c 139 s 2 are each amended to read as follows:

(1)(a) A person who sustains injury to his or her person, business, or property by an act of criminal profiteering that is part of a pattern of criminal profiteering activity, or by an offense defined in RCW 9A.40.100, 9.68A.100, 9.68A.101, 9.68A.102, 9.68A.103, or 9A.88.070, or by a violation of RCW 9A.82.060 or 9A.82.080 may file an action in superior court for the recovery of damages and the costs of the suit, including reasonable investigative and attorney's fees.

(b) The attorney general or county prosecuting attorney may file an action: (i) On behalf of those persons injured or, respectively, on behalf of the state or county if the entity has sustained damages, or (ii) to prevent, restrain, or remedy a pattern of criminal profiteering activity, or an offense defined in RCW 9A.40.100, 9.68A.100, 9.68A.101, 9.68A.102, 9.68A.103, or 9A.88.070, or a violation of RCW 9A.82.060 or 9A.82.080.

(c) An action for damages filed by or on behalf of an injured person, the state, or the county shall be for the recovery of damages and the costs of the suit, including reasonable investigative and attorney's fees.

(d) In an action filed to prevent, restrain, or remedy a pattern of criminal profiteering activity, or an offense defined in RCW 9A.40.100, 9.68A.100, 9.68A.101, 9.68A.102, 9.68A.103, or 9A.88.070, or a violation of RCW 9A.82.060 or 9A.82.080, the court, upon proof of the violation, may impose a civil penalty not exceeding two hundred fifty thousand dollars, in addition to awarding the cost of the suit, including reasonable investigative and attorney's fees.

(2) The superior court has jurisdiction to prevent, restrain, and remedy a pattern of criminal profiteering, or an offense defined in RCW 9A.40.100, 9.68A.100, 9.68A.101, 9.68A.102, 9.68A.103, or 9A.88.070, or a violation of RCW 9A.82.060 or 9A.82.080 after making provision for the rights of all innocent persons affected by the violation and after hearing or trial, as appropriate, by issuing appropriate orders.

(3) Prior to a determination of liability, orders issued under subsection (2) of this section may include, but are not limited to, entering restraining orders or prohibitions or taking such other actions, including the acceptance of satisfactory performance bonds, in connection with any property or other interest subject to damages, forfeiture, or other restraints pursuant to this section as the court deems proper. The orders may also include attachment, receivership, or injunctive relief in regard to personal or real property pursuant to Title 7 RCW. In shaping the reach or scope of receivership, attachment, or injunctive relief, the superior court shall provide for the protection of bona fide interests in property, including community property, of persons who were not involved in the violation of this chapter, except to the extent that such interests or property were acquired or used in such a way as to be subject to forfeiture under RCW 9A.82.100(4)(f).

(4) Following a determination of liability, orders may include, but are not limited to:

(a) Ordering any person to divest himself or herself of any interest, direct or indirect, in any enterprise.

(b) Imposing reasonable restrictions on the future activities or investments of any person, including prohibiting any person from engaging in the same type of endeavor as the enterprise engaged in, the activities of which affect the laws of this state, to the extent the Constitutions of the United States and this state permit.

(c) Ordering dissolution or reorganization of any enterprise.

(d) Ordering the payment of actual damages sustained to those persons injured by a violation of RCW 9A.82.060 or 9A.82.080, or an offense defined in RCW 9A.40.100, 9.68A.100, 9.68A.101, 9.68A.102, 9.68A.103, or 9A.88.070, or an act of criminal profiteering that is part of a pattern of criminal profiteering, and in the court's discretion, increasing the payment to an amount not exceeding three times the actual damages sustained.

(e) Ordering the payment of all costs and expenses of the prosecution and investigation of a pattern of criminal profiteering, or an offense defined in RCW 9A.40.100, 9.68A.100, 9.68A.101, 9.68A.102, 9.68A.103, or 9A.88.070, activity or a violation of RCW 9A.82.060 or 9A.82.080, civil and criminal, incurred by the state or county, including any costs of defense provided at public expense, as appropriate to the state general fund or the antiprofiteering revolving fund of the county.

(f) Ordering forfeiture first as restitution to any person damaged by an act of criminal profiteering that is part of a pattern of criminal profiteering, or by an offense defined in RCW 9A.40.100, then to the state general fund or antiprofiteering revolving fund of the county, as appropriate, to the extent not already ordered to be paid in other damages, of the following:

(i) Any property or other interest acquired or maintained in violation of RCW 9A.82.060 or 9A.82.080 to the extent of the investment of funds, and any appreciation or income attributable to the investment, from a violation of RCW 9A.82.060 or 9A.82.080.

(ii) Any property, contractual right, or claim against property used to influence any enterprise that a person has established, operated, controlled, conducted, or participated in the conduct of, in violation of RCW 9A.82.060 or 9A.82.080.

(iii) All proceeds traceable to or derived from an offense included in the pattern of criminal profiteering activity, or an offense defined in RCW 9A.40.100, 9.68A.100, 9.68A.101, 9.68A.102, 9.68A.103, or 9A.88.070, and all moneys, negotiable instruments, securities, and other things of value significantly used or intended to be used significantly to facilitate commission of the offense.

(g) Ordering payment to the state general fund or antiprofiteering revolving fund of the county, as appropriate, of an amount equal to the gain a person has acquired or maintained through an offense included in the definition of criminal profiteering.

(5) In addition to or in lieu of an action under this section, the attorney general or county prosecuting attorney may file an action for forfeiture to the state general fund or antiprofiteering revolving fund of the county, as appropriate, to the extent not already ordered paid pursuant to this section, of the following:

(a) Any interest acquired or maintained by a person in violation of RCW 9A.82.060 or 9A.82.080 to the extent of the investment of funds obtained from a violation of RCW 9A.82.060 or 9A.82.080 and any appreciation or income attributable to the investment.

(b) Any property, contractual right, or claim against property used to influence any enterprise that a person has established, operated, controlled, conducted, or participated in the conduct of, in violation of RCW 9A.82.060 or 9A.82.080.

(c) All proceeds traceable to or derived from an offense included in the pattern of criminal profiteering activity, or an offense defined in RCW 9A.40.100, 9.68A.100, 9.68A.101, 9.68A.102, 9.68A.103, or 9A.88.070, and all moneys, negotiable instruments, securities, and other things of value significantly used or intended to be used significantly to facilitate the commission of the offense.

(6) A defendant convicted in any criminal proceeding is precluded in any civil proceeding from denying the essential allegations of the criminal offense proven in the criminal trial in which the defendant was convicted. For the purposes of this subsection, a conviction shall be deemed to have occurred upon a verdict, finding, or plea of guilty, notwithstanding the fact that appellate review of the conviction and sentence has been or may be sought. If a subsequent reversal of the conviction occurs, any judgment that was based upon that conviction may be reopened upon motion of the defendant.

(7) The initiation of civil proceedings under this section shall be commenced within the later of the following periods:

(a) Within three years after discovery of the pattern of criminal profiteering activity or after the pattern should reasonably have been discovered; or((~~, in~~))

(b) In the case of an offense that is defined in RCW 9A.40.100, ((~~within~~)) 9.68A.100, 9.68A.101, 9.68A.102, and 9.68A.103:

(i) Within three years of the act alleged to have caused the injury or condition;

(ii) Within three years of the time the victim discovered or reasonably should have discovered that the injury or condition was caused by said act;

(iii) Within three years of the time the victim discovered that the act caused the injury for which the claim is brought; or

(iv) Within three years after the final disposition of any criminal charges relating to the offense((~~, whichever is later~~)).

(8) The attorney general or county prosecuting attorney may, in a civil action brought pursuant to this section, file with the clerk of the superior court a certificate stating that the case is of special public importance. A copy of that certificate shall be furnished immediately by the clerk to the presiding chief judge of the superior court in which the action is pending and, upon receipt of the copy, the judge shall immediately designate a judge to hear and determine the action. The judge so designated shall promptly assign the action for hearing, participate in the hearings and determination, and cause the action to be expedited.

(9) The standard of proof in actions brought pursuant to this section is the preponderance of the evidence test.

(10) A person other than the attorney general or county prosecuting attorney who files an action under this section shall serve notice and one copy of the pleading on the attorney general within thirty days after the action is filed with the superior court. The notice shall identify the action, the person, and the person's attorney. Service of the notice does not limit or otherwise affect the right of the state to maintain an action under this section or intervene in a pending action nor does it authorize the person to name the state or the attorney general as a party to the action.

(11) Except in cases filed by a county prosecuting attorney, the attorney general may, upon timely application, intervene in any civil action or proceeding brought under this section if the attorney general certifies that in the attorney general's opinion the action is of special public importance. Upon intervention, the attorney general may assert any available claim and is entitled to the same relief as if the attorney general had instituted a separate action.

(12) In addition to the attorney general's right to intervene as a party in any action under this section, the attorney general may appear as amicus curiae in any proceeding in which a claim under this section has been asserted or in which a court is interpreting RCW 9A.82.010, 9A.82.080, 9A.82.090, 9A.82.110, or 9A.82.120, or this section.

(13) A private civil action under this section does not limit any other civil or criminal action under this chapter or any other provision. Private civil remedies provided under this section are supplemental and not mutually exclusive.

(14) Upon motion by the defendant, the court may authorize the sale or transfer of assets subject to an order or lien authorized by this chapter for the purpose of paying actual attorney's fees and costs of defense. The motion shall specify the assets for which sale or transfer is sought and shall be accompanied by the defendant's sworn statement that the defendant has no other assets available for such purposes. No order authorizing such sale or transfer may be entered unless the court finds that the assets involved are not subject to possible forfeiture under RCW 9A.82.100(4)(f). Prior to disposition of the motion, the court shall notify the state of the assets sought to be sold or transferred and shall hear argument on the issue of whether the assets are subject to forfeiture under RCW 9A.82.100(4)(f). Such a motion may be made from time to time and shall be heard by the court on an expedited basis.

(15) In an action brought under subsection (1)(a) and (b)(i) of this section, either party has the right to a jury trial.

**PART V - VICTIM PRIVACY**

**Sec.**  RCW 10.97.130 and 2019 c 300 s 2 are each amended to read as follows:

(1) Information revealing the specific details that describe the alleged or proven child victim of sexual assault or commercial sexual exploitation under age ((~~eighteen~~)) 18, or the identity or contact information of an alleged or proven child victim of sexual assault or commercial sexual exploitation under age ((~~eighteen~~)) 18 is confidential and not subject to release to the press or public without the permission of the child victim and the child's legal guardian. Identifying information includes the child victim's name, addresses, location, photographs, and in cases in which the child victim is a relative, stepchild, or stepsibling of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator. Contact information includes phone numbers, email addresses, social media profiles, and user names and passwords. Contact information or information identifying the child victim of sexual assault or commercial sexual exploitation may be released to law enforcement, prosecutors, judges, defense attorneys, or private or governmental agencies that provide services to the child victim of sexual assault. Prior to release of any criminal history record information, the releasing agency shall delete any contact information or information identifying a child victim of sexual assault or commercial sexual exploitation from the information except as provided in this section.

(2) This section does not apply to court documents or other materials admitted in open judicial proceedings.

(3) For purposes of this section, "commercial sexual exploitation" has the same meaning as in RCW 7.105.010.

**Sec.**  RCW 42.56.240 and 2022 c 268 s 31 are each amended to read as follows:

The following investigative, law enforcement, and crime victim information is exempt from public inspection and copying under this chapter:

(1) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy;

(2) Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement, or penology agencies, other than the commission, if disclosure would endanger any person's life, physical safety, or property. If at the time a complaint is filed the complainant, victim, or witness indicates a desire for disclosure or nondisclosure, such desire shall govern. However, all complaints filed with the commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath;

(3) Any records of investigative reports prepared by any state, county, municipal, or other law enforcement agency pertaining to sex offenses contained in chapter 9A.44 RCW or sexually violent offenses as defined in RCW 71.09.020, which have been transferred to the Washington association of sheriffs and police chiefs for permanent electronic retention and retrieval pursuant to RCW 40.14.070(2)(b);

(4) License applications under RCW 9.41.070, except that copies of license applications or information on the applications may be released to law enforcement or corrections agencies or to persons and entities as authorized under RCW 9.41.815;

(5)(a) Information revealing the specific details that describe an alleged or proven child victim of sexual assault or commercial sexual exploitation under age ((~~eighteen~~)) 18, or the identity or contact information of an alleged or proven child victim of sexual assault or commercial sexual exploitation who is under age ((~~eighteen~~)) 18. Identifying information includes the child victim's name, addresses, location, photograph, and in cases in which the child victim is a relative, stepchild, or stepsibling of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator. Contact information includes phone numbers, email addresses, social media profiles, and user names and passwords.

(b) For purposes of this subsection (5), "commercial sexual exploitation" has the same meaning as in RCW 7.105.010;

(6) Information contained in a local or regionally maintained gang database as well as the statewide gang database referenced in RCW 43.43.762;

(7) Data from the electronic sales tracking system established in RCW 69.43.165;

(8) Information submitted to the statewide unified sex offender notification and registration program under RCW 36.28A.040(6) by a person for the purpose of receiving notification regarding a registered sex offender, including the person's name, residential address, and email address;

(9) Personally identifying information collected by law enforcement agencies pursuant to local security alarm system programs and vacation crime watch programs. Nothing in this subsection shall be interpreted so as to prohibit the legal owner of a residence or business from accessing information regarding his or her residence or business;

(10) The felony firearm offense conviction database of felony firearm offenders established in RCW 43.43.822;

(11) The identity of a state employee or officer who has in good faith filed a complaint with an ethics board, as provided in RCW 42.52.410, or who has in good faith reported improper governmental action, as defined in RCW 42.40.020, to the auditor or other public official, as defined in RCW 42.40.020;

(12) The following security threat group information collected and maintained by the department of corrections pursuant to RCW 72.09.745: (a) Information that could lead to the identification of a person's security threat group status, affiliation, or activities; (b) information that reveals specific security threats associated with the operation and activities of security threat groups; and (c) information that identifies the number of security threat group members, affiliates, or associates;

(13) The global positioning system data that would indicate the location of the residence of an employee or worker of a criminal justice agency as defined in RCW 10.97.030;

(14) Body worn camera recordings to the extent nondisclosure is essential for the protection of any person's right to privacy as described in RCW 42.56.050, including, but not limited to, the circumstances enumerated in (a) of this subsection. A law enforcement or corrections agency shall not disclose a body worn camera recording to the extent the recording is exempt under this subsection.

(a) Disclosure of a body worn camera recording is presumed to be highly offensive to a reasonable person under RCW 42.56.050 to the extent it depicts:

(i)(A) Any areas of a medical facility, counseling, or therapeutic program office where:

(I) A patient is registered to receive treatment, receiving treatment, waiting for treatment, or being transported in the course of treatment; or

(II) Health care information is shared with patients, their families, or among the care team; or

(B) Information that meets the definition of protected health information for purposes of the health insurance portability and accountability act of 1996 or health care information for purposes of chapter 70.02 RCW;

(ii) The interior of a place of residence where a person has a reasonable expectation of privacy;

(iii) An intimate image;

(iv) A minor;

(v) The body of a deceased person;

(vi) The identity of or communications from a victim or witness of an incident involving domestic violence as defined in RCW 10.99.020 or sexual assault as defined in RCW 70.125.030, or disclosure of intimate images as defined in RCW 9A.86.010. If at the time of recording the victim or witness indicates a desire for disclosure or nondisclosure of the recorded identity or communications, such desire shall govern; or

(vii) The identifiable location information of a community-based domestic violence program as defined in RCW 70.123.020, or emergency shelter as defined in RCW 70.123.020.

(b) The presumptions set out in (a) of this subsection may be rebutted by specific evidence in individual cases.

(c) In a court action seeking the right to inspect or copy a body worn camera recording, a person who prevails against a law enforcement or corrections agency that withholds or discloses all or part of a body worn camera recording pursuant to (a) of this subsection is not entitled to fees, costs, or awards pursuant to RCW 42.56.550 unless it is shown that the law enforcement or corrections agency acted in bad faith or with gross negligence.

(d) A request for body worn camera recordings must:

(i) Specifically identify a name of a person or persons involved in the incident;

(ii) Provide the incident or case number;

(iii) Provide the date, time, and location of the incident or incidents; or

(iv) Identify a law enforcement or corrections officer involved in the incident or incidents.

(e)(i) A person directly involved in an incident recorded by the requested body worn camera recording, an attorney representing a person directly involved in an incident recorded by the requested body worn camera recording, a person or his or her attorney who requests a body worn camera recording relevant to a criminal case involving that person, or the executive director from either the Washington state commission on African American affairs, Asian Pacific American affairs, or Hispanic affairs, has the right to obtain the body worn camera recording, subject to any exemption under this chapter or any applicable law. In addition, an attorney who represents a person regarding a potential or existing civil cause of action involving the denial of civil rights under the federal or state Constitution, or a violation of a United States department of justice settlement agreement, has the right to obtain the body worn camera recording if relevant to the cause of action, subject to any exemption under this chapter or any applicable law. The attorney must explain the relevancy of the requested body worn camera recording to the cause of action and specify that he or she is seeking relief from redaction costs under this subsection (14)(e).

(ii) A law enforcement or corrections agency responding to requests under this subsection (14)(e) may not require the requesting individual to pay costs of any redacting, altering, distorting, pixelating, suppressing, or otherwise obscuring any portion of a body worn camera recording.

(iii) A law enforcement or corrections agency may require any person requesting a body worn camera recording pursuant to this subsection (14)(e) to identify himself or herself to ensure he or she is a person entitled to obtain the body worn camera recording under this subsection (14)(e).

(f)(i) A law enforcement or corrections agency responding to a request to disclose body worn camera recordings may require any requester not listed in (e) of this subsection to pay the reasonable costs of redacting, altering, distorting, pixelating, suppressing, or otherwise obscuring any portion of the body worn camera recording prior to disclosure only to the extent necessary to comply with the exemptions in this chapter or any applicable law.

(ii) An agency that charges redaction costs under this subsection (14)(f) must use redaction technology that provides the least costly commercially available method of redacting body worn camera recordings, to the extent possible and reasonable.

(iii) In any case where an agency charges a requestor for the costs of redacting a body worn camera recording under this subsection (14)(f), the time spent on redaction of the recording shall not count towards the agency's allocation of, or limitation on, time or costs spent responding to public records requests under this chapter, as established pursuant to local ordinance, policy, procedure, or state law.

(g) For purposes of this subsection (14):

(i) "Body worn camera recording" means a video and/or sound recording that is made by a body worn camera attached to the uniform or eyewear of a law enforcement or corrections officer while in the course of his or her official duties; and

(ii) "Intimate image" means an individual or individuals engaged in sexual activity, including sexual intercourse as defined in RCW 9A.44.010 and masturbation, or an individual's intimate body parts, whether nude or visible through less than opaque clothing, including the genitals, pubic area, anus, or postpubescent female nipple.

(h) Nothing in this subsection shall be construed to restrict access to body worn camera recordings as otherwise permitted by law for official or recognized civilian and accountability bodies or pursuant to any court order.

(i) Nothing in this section is intended to modify the obligations of prosecuting attorneys and law enforcement under *Brady v. Maryland,* 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963), *Kyles v. Whitley*, 541 U.S. 419, 115 S. Ct. 1555, 131 L. Ed.2d 490 (1995), and the relevant Washington court criminal rules and statutes.

(j) A law enforcement or corrections agency must retain body worn camera recordings for at least ((~~sixty~~)) 60 days and thereafter may destroy the records in accordance with the applicable records retention schedule;

(15) Any records and information contained within the statewide sexual assault kit tracking system established in RCW 43.43.545;

(16)(a) Survivor communications with, and survivor records maintained by, campus-affiliated advocates.

(b) Nothing in this subsection shall be construed to restrict access to records maintained by a campus-affiliated advocate in the event that:

(i) The survivor consents to inspection or copying;

(ii) There is a clear, imminent risk of serious physical injury or death of the survivor or another person;

(iii) Inspection or copying is required by federal law; or

(iv) A court of competent jurisdiction mandates that the record be available for inspection or copying.

(c) "Campus-affiliated advocate" and "survivor" have the definitions in RCW 28B.112.030;

(17) Information and records prepared, owned, used, or retained by the Washington association of sheriffs and police chiefs and information and records prepared, owned, used, or retained by the Washington state patrol pursuant to chapter 261, Laws of 2017; and

(18) Any and all audio or video recordings of child forensic interviews as defined in chapter 26.44 RCW. Such recordings are confidential and may only be disclosed pursuant to a court order entered upon a showing of good cause and with advance notice to the child's parent, guardian, or legal custodian. However, if the child is an emancipated minor or has attained the age of majority as defined in RCW 26.28.010, advance notice must be to the child. Failure to disclose an audio or video recording of a child forensic interview as defined in chapter 26.44 RCW is not grounds for penalties or other sanctions available under this chapter.

**PART VI - MISCELLANEOUS**

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec.**  This act takes effect July 1, 2025."

Correct the title.