

2 **ESHB 1884** - S COMM AMD
3 By Committee on Law & Justice

4 ADOPTED AS AMENDED 4/19/91 - Voice Vote

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

7 "NEW SECTION. **Sec. 1.** The legislature finds that:

8 The collective costs to the community for domestic violence include
9 the systematic destruction of individuals and their families, lost
10 lives, lost productivity, and increased health care, criminal justice,
11 and social service costs.

12 Children growing up in violent homes are deeply affected by the
13 violence as it happens and could be the next generation of batterers
14 and victims.

15 Many communities have made headway in addressing the effects of
16 domestic violence and have devoted energy and resources to stopping
17 this violence. However, the process for breaking the cycle of abuse is
18 lengthy. No single system intervention is enough in itself.

19 An integrated system has not been adequately funded and structured
20 to assure access to a wide range of services, including those of the
21 law/safety/justice system, human service system, and health care
22 system. These services need to be coordinated and multidisciplinary in
23 approach and address the needs of victims, batterers, and children from
24 violent homes.

25 Given the lethal nature of domestic violence and its effect on all
26 within its range, the community has a vested interest in the methods
27 used to stop and prevent future violence. Clear standards of quality
28 are needed so that perpetrator treatment programs receiving public

1 funds or court-ordered referrals can be required to comply with these
2 standards.

3 While incidents of domestic violence are not caused by
4 perpetrator's use of alcohol and illegal substances, substance abuse
5 may be a contributing factor to domestic violence and the injuries and
6 deaths that result from it.

7 There is a need for consistent training of professionals who deal
8 frequently with domestic violence or are in a position to identify
9 domestic violence and provide support and information.

10 Much has been learned about effective interventions in domestic
11 violence situations; however, much is not yet known and further study
12 is required to know how to best stop this violence."

13 **"Sec. 2.** RCW 7.68.070 and 1990 c 3 s 502 are each amended to read
14 as follows:

15 The right to benefits under this chapter and the amount thereof
16 will be governed insofar as is applicable by the provisions contained
17 in chapter 51.32 RCW as now or hereafter amended except as provided in
18 this section:

19 (1) The provisions contained in RCW 51.32.015, 51.32.030,
20 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 as now or
21 hereafter amended are not applicable to this chapter.

22 (2) Each victim injured as a result of a criminal act, including
23 criminal acts committed between July 1, 1981, and January 1, 1983, or
24 the victim's family or dependents in case of death of the victim, are
25 entitled to benefits in accordance with this chapter, subject to the
26 limitations under RCW 7.68.015. The rights, duties, responsibilities,
27 limitations, and procedures applicable to a worker as contained in RCW
28 51.32.010 as now or hereafter amended are applicable to this chapter.

1 (3) The limitations contained in RCW 51.32.020 as now or hereafter
2 amended are applicable to claims under this chapter. In addition
3 thereto, no person or spouse, child, or dependent of such person is
4 entitled to benefits under this chapter when the injury for which
5 benefits are sought, was:

6 (a) The result of consent, provocation, or incitement by the
7 victim, as determined by a reasonable review of the police report and,
8 in cases of domestic violence, an assessment that takes into
9 consideration the primary physical aggressor criteria set forth in RCW
10 10.31.100(2)(b);

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

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

21 (4) The benefits established upon the death of a worker and
22 contained in RCW 51.32.050 as now or hereafter amended shall be the
23 benefits obtainable under this chapter and provisions relating to
24 payment contained in that section shall equally apply under this
25 chapter: PROVIDED, That benefits for burial expenses shall not exceed
26 the maximum cost used by the department of social and health services
27 for the funeral and burial of a deceased indigent person under chapter
28 74.08 RCW in any claim: PROVIDED FURTHER, That if the criminal act
29 results in the death of a victim who was not gainfully employed at the
30 time of the criminal act, and who was not so employed for at least

1 three consecutive months of the twelve months immediately preceding the
2 criminal act;

3 (a) Benefits payable to an eligible surviving spouse, where there
4 are no children of the victim at the time of the criminal act who have
5 survived the victim or where such spouse has legal custody of all of
6 his or her children, shall be limited to burial expenses and a lump sum
7 payment of seven thousand five hundred dollars without reference to
8 number of children, if any;

9 (b) Where any such spouse has legal custody of one or more but not
10 all of such children, then such burial expenses shall be paid, and such
11 spouse shall receive a lump sum payment of three thousand seven hundred
12 fifty dollars and any such child or children not in the legal custody
13 of such spouse shall receive a lump sum of three thousand seven hundred
14 fifty dollars to be divided equally among such child or children;

15 (c) If any such spouse does not have legal custody of any of the
16 children, the burial expenses shall be paid and the spouse shall
17 receive a lump sum payment of up to three thousand seven hundred fifty
18 dollars and any such child or children not in the legal custody of the
19 spouse shall receive a lump sum payment of up to three thousand seven
20 hundred fifty dollars to be divided equally among the child or
21 children;

22 (d) If no such spouse survives, then such burial expenses shall be
23 paid, and each surviving child of the victim at the time of the
24 criminal act shall receive a lump sum payment of three thousand seven
25 hundred fifty dollars up to a total of two such children and where
26 there are more than two such children the sum of seven thousand five
27 hundred dollars shall be divided equally among such children.

28 No other benefits may be paid or payable under these circumstances.

29 (5) The benefits established in RCW 51.32.060 as now or hereafter
30 amended for permanent total disability proximately caused by the

1 criminal act shall be the benefits obtainable under this chapter, and
2 provisions relating to payment contained in that section apply under
3 this chapter: PROVIDED, That if a victim becomes permanently and
4 totally disabled as a proximate result of the criminal act and was not
5 gainfully employed at the time of the criminal act, the victim shall
6 receive monthly during the period of the disability the following
7 percentages, where applicable, of the average monthly wage determined
8 as of the date of the criminal act pursuant to RCW 51.08.018 as now or
9 hereafter amended:

10 (a) If married at the time of the criminal act, twenty-nine percent
11 of the average monthly wage.

12 (b) If married with one child at the time of the criminal act,
13 thirty-four percent of the average monthly wage.

14 (c) If married with two children at the time of the criminal act,
15 thirty-eight percent of the average monthly wage.

16 (d) If married with three children at the time of the criminal act,
17 forty-one percent of the average monthly wage.

18 (e) If married with four children at the time of the criminal act,
19 forty-four percent of the average monthly wage.

20 (f) If married with five or more children at the time of the
21 criminal act, forty-seven percent of the average monthly wage.

22 (g) If unmarried at the time of the criminal act, twenty-five
23 percent of the average monthly wage.

24 (h) If unmarried with one child at the time of the criminal act,
25 thirty percent of the average monthly wage.

26 (i) If unmarried with two children at the time of the criminal act,
27 thirty-four percent of the average monthly wage.

28 (j) If unmarried with three children at the time of the criminal
29 act, thirty-seven percent of the average monthly wage.

1 (k) If unmarried with four children at the time of the criminal
2 act, forty percent of the average monthly wage.

3 (l) If unmarried with five or more children at the time of the
4 criminal act, forty-three percent of the average monthly wage.

5 (6) The benefits established in RCW 51.32.080 as now or hereafter
6 amended for permanent partial disability shall be the benefits
7 obtainable under this chapter, and provisions relating to payment
8 contained in that section equally apply under this chapter.

9 (7) The benefits established in RCW 51.32.090 as now or hereafter
10 amended for temporary total disability shall be the benefits obtainable
11 under this chapter, and provisions relating to payment contained in
12 that section apply under this chapter: PROVIDED, That no person is
13 eligible for temporary total disability benefits under this chapter if
14 such person was not gainfully employed at the time of the criminal act,
15 and was not so employed for at least three consecutive months of the
16 twelve months immediately preceding the criminal act.

17 (8) The benefits established in RCW 51.32.095 as now or hereafter
18 amended for continuation of benefits during vocational rehabilitation
19 shall be benefits obtainable under this chapter, and provisions
20 relating to payment contained in that section apply under this chapter:
21 PROVIDED, That benefits shall not exceed five thousand dollars for any
22 single injury.

23 (9) The provisions for lump sum payment of benefits upon death or
24 permanent total disability as contained in RCW 51.32.130 as now or
25 hereafter amended apply under this chapter.

26 (10) The provisions relating to payment of benefits to, for or on
27 behalf of workers contained in RCW 51.32.040, 51.32.055, 51.32.100,
28 51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and
29 51.32.210 as now or hereafter amended are applicable to payment of
30 benefits to, for or on behalf of victims under this chapter.

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

7 (12) In addition to other benefits provided under this chapter,
8 victims of sexual assault are entitled to receive appropriate
9 counseling. Fees for such counseling shall be determined by the
10 department in accordance with RCW 51.04.030, subject to the limitations
11 of RCW 7.68.080. Counseling services may include, if determined
12 appropriate by the department, counseling of members of the victim's
13 immediate family, other than the perpetrator of the assault.

14 (13) Except for medical benefits authorized under RCW 7.68.080, no
15 more than thirty thousand dollars shall be granted as a result of a
16 single injury or death, except that benefits granted as the result of
17 total permanent disability or death shall not exceed forty thousand
18 dollars.

19 (14) Notwithstanding other provisions of this chapter and Title 51
20 RCW, benefits payable for total temporary disability under subsection
21 (7) of this section, shall be limited to fifteen thousand dollars.

22 (15) Any person who is responsible for the victim's injuries, or
23 who would otherwise be unjustly enriched as a result of the victim's
24 injuries, shall not be a beneficiary under this chapter.

25 (16) Crime victims' compensation is not available to pay for
26 services covered under chapter 74.09 RCW or Title XIX of the federal
27 social security act, except to the extent that the costs for such
28 services exceed service limits established by the department of social
29 and health services.

1 (17) In addition to other benefits provided under this chapter,
2 victims of domestic violence as defined in RCW 10.99.020 are entitled
3 to receive appropriate counseling. Fees for counseling shall be
4 determined by the department in accordance with RCW 51.04.030, subject
5 to the limitations of RCW 7.68.080. Benefits for victims of domestic
6 violence shall be based on the entire history of domestic violence
7 experienced by the victim in the specific relationship for which
8 benefits are claimed."

9 "Sec. 3. RCW 10.99.020 and 1986 c 257 s 8 are each amended to read
10 as follows:

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

13 (1) "Family or household members" means spouses, former spouses,
14 ~~((adult persons related by blood or marriage, persons who are presently~~
15 ~~residing together or who have resided together in the past, and))~~
16 persons who have a child in common regardless of whether they have been
17 married or have lived together at any time, adult persons related by
18 blood or marriage, and adult persons who are presently residing
19 together or who have resided together in the past.

20 (2) "Domestic violence" includes but is not limited to any of the
21 following crimes when committed by one family or household member
22 against another:

- 23 (a) Assault in the first degree (RCW 9A.36.011);
- 24 (b) Assault in the second degree (RCW 9A.36.021);
- 25 (c) Assault in the third degree (RCW 9A.36.031);
- 26 (d) Assault in the fourth degree (RCW 9A.36.041);
- 27 (e) Reckless endangerment in the first degree (RCW 9A.36.045);
- 28 (f) Reckless endangerment (~~{in the second degree}~~) in the second
29 degree (RCW 9A.36.050);

1 (~~(f)~~) (g) Coercion (RCW 9A.36.070);
2 (~~(g)~~) (h) Burglary in the first degree (RCW 9A.52.020);
3 (~~(h)~~) (i) Burglary in the second degree (RCW 9A.52.030);
4 (~~(i)~~) (j) Criminal trespass in the first degree (RCW 9A.52.070);
5 (~~(j)~~) (k) Criminal trespass in the second degree (RCW 9A.52.080);
6 (~~(k)~~) (l) Malicious mischief in the first degree (RCW 9A.48.070);
7 (~~(l)~~) (m) Malicious mischief in the second degree (RCW
8 9A.48.080);
9 (~~(m)~~) (n) Malicious mischief in the third degree (RCW 9A.48.090);
10 (~~(n)~~) (o) Kidnapping in the first degree (RCW 9A.40.020);
11 (~~(o)~~) (p) Kidnapping in the second degree (RCW 9A.40.030);
12 (~~(p)~~) (q) Unlawful imprisonment (RCW 9A.40.040);
13 (~~(q)~~) (r) Violation of the provisions of a restraining order
14 restraining the person or excluding the person from a residence (RCW
15 26.09.300);
16 (~~(r)~~) (s) Violation of the provisions of a protection order
17 restraining the person or excluding the person from a residence (RCW
18 26.50.060, 26.50.070, or 26.50.130);
19 (~~(s)~~) (t) Rape in the first degree (RCW 9A.44.040); and
20 (~~(t)~~) (u) Rape in the second degree (RCW 9A.44.050).

21 (3) "Victim" means a family or household member who has been
22 subjected to domestic violence."

23 "**Sec. 4.** RCW 10.99.040 and 1985 c 303 s 10 are each amended to
24 read as follows:

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

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

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

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

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

10 (2) Because of the likelihood of repeated violence directed at
11 those who have been victims of domestic violence in the past, when any
12 person charged with or arrested for a crime involving domestic violence
13 is released from custody before arraignment or trial on bail or
14 personal recognizance, the court authorizing the release may prohibit
15 that person from having any contact with the victim. The jurisdiction
16 authorizing the release shall determine whether that person should be
17 prohibited from having any contact with the victim. If there is no
18 outstanding restraining or protective order prohibiting that person
19 from having contact with the victim, the court authorizing release may
20 issue, by telephone, a no-contact order prohibiting the person charged
21 or arrested from having contact with the victim. The no-contact order
22 shall also be issued in writing as soon as possible. If the court has
23 probable cause to believe that the person charged or arrested is likely
24 to use or display or threaten to use a deadly weapon as defined in RCW
25 9A.04.110 in any further acts of violence, the court may also require
26 that person to surrender any deadly weapon in that person's immediate
27 possession or control, or subject to that person's immediate possession
28 or control, to the sheriff of the county or chief of police of the
29 municipality in which that person resides or to the defendant's counsel
30 for safekeeping.

1 (3) At the time of arraignment the court shall determine whether a
2 no-contact order shall be issued or extended.

3 (4) Willful violation of a court order issued under subsection (2)
4 or (3) of this section is a misdemeanor. Any assault that is a
5 violation of an order issued under this section and that does not
6 amount to assault in the first or second degree under RCW 9A.36.011 or
7 9A.36.021 is a class C felony, and any conduct in violation of a
8 protective order issued under this section that is reckless and creates
9 a substantial risk of death or serious physical injury to another
10 person is a class C felony. The written order releasing the person
11 charged or arrested shall contain the court's directives and shall bear
12 the legend: Violation of this order is a criminal offense under
13 chapter 10.99 RCW and will subject a violator to arrest; any assault or
14 reckless endangerment that is a violation of this order is a felony.
15 A certified copy of the order shall be provided to the victim. If a
16 no-contact order has been issued prior to charging, that order shall
17 expire at arraignment or within seventy-two hours if charges are not
18 filed. Such orders need not be entered into the computer information
19 system in this state which is used by law enforcement agencies to list
20 outstanding warrants.

21 (5) Whenever an order prohibiting contact is issued, modified, or
22 terminated under subsection (2) or (3) of this section, the clerk of
23 the court shall forward a copy of the order on or before the next
24 judicial day to the appropriate law enforcement agency specified in the
25 order. Upon receipt of the copy of the order the law enforcement
26 agency shall forthwith enter the order for one year or until the
27 expiration date specified on the order into any computer information
28 system available in this state used by law enforcement agencies to list
29 outstanding warrants. Entry into the law enforcement information
30 system constitutes notice to all law enforcement agencies of the

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

3 "Sec. 5. RCW 10.99.050 and 1985 c 303 s 12 are each amended to
4 read as follows:

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

9 (2) Willful violation of a court order issued under this section is
10 a misdemeanor. Any assault that is a violation of an order issued
11 under this section and that does not amount to assault in the first or
12 second degree under RCW 9A.36.011 or 9A.36.021 is a class C felony, and
13 any conduct in violation of a protective order issued under this
14 section that is reckless and creates a substantial risk of death or
15 serious physical injury to another person is a class C felony. The
16 written order shall contain the court's directives and shall bear the
17 legend: Violation of this order is a criminal offense under chapter
18 10.99 RCW and will subject a violator to arrest; any assault or
19 reckless endangerment that is a violation of this order is a felony.

20 (3) Whenever an order prohibiting contact is issued pursuant to
21 this section, the clerk of the court shall forward a copy of the order
22 on or before the next judicial day to the appropriate law enforcement
23 agency specified in the order. Upon receipt of the copy of the order
24 the law enforcement agency shall forthwith enter the order for one year
25 into any computer-based criminal intelligence information system
26 available in this state used by law enforcement agencies to list
27 outstanding warrants. Entry into the law enforcement information system
28 constitutes notice to all law enforcement agencies of the existence of

1 the order. The order is fully enforceable in any jurisdiction in the
2 state."

3 "Sec. 6. RCW 26.50.110 and 1984 c 263 s 12 are each amended to
4 read as follows:

5 (1) Whenever an order for protection is granted under this chapter
6 and the respondent or person to be restrained knows of the order, a
7 violation of the restraint provisions or of a provision excluding the
8 person from a residence is a misdemeanor.

9 (2) A peace officer shall arrest without a warrant and take into
10 custody a person whom the peace officer has probable cause to believe
11 has violated an order issued under this chapter that restrains the
12 person or excludes the person from a residence, if the person
13 restrained knows of the order.

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

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

22 (5) Upon the filing of an affidavit by the petitioner or any peace
23 officer alleging that the respondent has violated an order for
24 protection granted under this chapter, the court may issue an order to
25 the respondent, requiring the respondent to appear and show cause
26 within fourteen days why the respondent should not be found in contempt
27 of court and punished accordingly. The hearing may be held in the
28 court of any county or municipality in which the petitioner or

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

3 "NEW SECTION. Sec. 7. The department of social and health
4 services shall adopt rules for standards of approval of domestic
5 violence perpetrator programs that accept perpetrators of domestic
6 violence into treatment to satisfy court orders or that represent the
7 programs as ones that treat domestic violence perpetrators. The
8 treatment must meet the following minimum qualifications:

9 (1) All treatment must be based upon a full, complete clinical
10 intake including: Current and past violence history; a lethality risk
11 assessment; a complete diagnostic evaluation; a substance abuse
12 assessment; criminal history; assessment of cultural issues, learning
13 disabilities, literacy, and special language needs; and a treatment
14 plan that adequately and appropriately addresses the treatment needs of
15 the individual.

16 (2) To facilitate communication necessary for periodic safety
17 checks and case monitoring, the program must require the perpetrator to
18 sign the following releases:

19 (a) A release for the program to inform the victim and victim's
20 community and legal advocates that the perpetrator is in treatment with
21 the program, and to provide information, for safety purposes, to the
22 victim and victim's community and legal advocates;

23 (b) A release to prior and current treatment agencies to provide
24 information on the perpetrator to the program; and

25 (c) A release for the program to provide information on the
26 perpetrator to relevant legal entities including: Lawyers, courts,
27 parole, probation, child protective services, and child welfare
28 services.

1 (3) Treatment must be for a minimum treatment period defined by the
2 secretary of the department by rule. The weekly treatment sessions
3 must be in a group unless there is a documented, clinical reason for
4 another modality. Any other therapies, such as individual, marital, or
5 family therapy, substance abuse evaluations or therapy, medication
6 reviews, or psychiatric interviews, may be concomitant with the weekly
7 group treatment sessions described in this section but not a substitute
8 for it.

9 (4) The treatment must focus primarily on ending the violence,
10 holding the perpetrator accountable for his or her violence, and
11 changing his or her behavior. The treatment must be based on
12 nonvictim-blaming strategies and philosophies and shall include
13 education about the individual, family, and cultural dynamics of
14 domestic violence.

15 (5) Satisfactory completion of treatment must be contingent upon
16 the perpetrator meeting specific criteria, defined by rule by the
17 secretary of the department, and not just upon the end of a certain
18 period of time or a certain number of sessions.

19 (6) The program must have policies and procedures for dealing with
20 reoffenses and noncompliance.

21 (7) All evaluation and treatment services must be provided by, or
22 under the supervision of, qualified personnel.

23 (8) The secretary of the department may adopt rules and establish
24 fees as necessary to implement this section."

25 "Sec. 8. RCW 26.50.010 and 1984 c 263 s 2 are each amended to read
26 as follows:

27 As used in this chapter, the following terms shall have the
28 meanings given them:

1 (1) "Domestic violence" means: (a) Physical harm, bodily injury,
2 assault, or the infliction of fear of imminent physical harm, bodily
3 injury or assault, between family or household members; or (b) sexual
4 assault of one family or household member by another.

5 (2) "Family or household members" means spouses, former spouses,
6 (~~adult persons related by blood or marriage, persons who are presently~~
7 ~~residing together, or who have resided together in the past, and~~)
8 persons who have a child in common regardless of whether they have been
9 married or have lived together at any time, adult persons related by
10 blood or marriage, and adult persons who are presently residing
11 together or who have resided together in the past.

12 (3) "Court" includes the superior, district, and municipal courts
13 of the state of Washington.

14 (4) "Judicial day" does not include Saturdays, Sundays, or legal
15 holidays."

16 **"Sec. 9.** RCW 70.123.020 and 1979 ex.s. c 245 s 2 are each amended
17 to read as follows:

18 Unless the context clearly requires otherwise, the definitions in
19 this section apply throughout this chapter.

20 (1) "Shelter" means a place of temporary refuge, offered on a
21 twenty-four hour, seven day per week basis to victims of domestic
22 violence and their children.

23 (2) "Domestic violence" is a categorization of offenses, as defined
24 in RCW 10.99.020, committed by one cohabitant against another.

25 (3) "Department" means the department of social and health
26 services.

27 (4) "Victim" means a cohabitant who has been subjected to domestic
28 violence.

1 (5) "Cohabitant" means a person who is married or who is cohabiting
2 with a person of the opposite sex like husband and wife at the present
3 or at sometime in the past. Any person who has one or more children in
4 common with another person, regardless of whether they have been
5 married or lived together at any time, shall be treated as a
6 cohabitant.

7 (6) "Community advocate" means a person employed by a local
8 domestic violence program to provide ongoing assistance to victims of
9 domestic violence in assessing safety needs, documenting the incidents
10 and the extent of violence for possible use in the legal system, making
11 appropriate social service referrals, and developing protocols and
12 maintaining ongoing contacts necessary for local systems coordination.

13 (7) "Domestic violence program" means an agency that provides
14 shelter, advocacy, and counseling for domestic violence victims in a
15 supportive environment.

16 (8) "Legal advocate" means a person employed by a domestic violence
17 program or court system to advocate for victims of domestic violence,
18 within the criminal and civil justice systems, by attending court
19 proceedings, assisting in document and case preparation, and ensuring
20 linkage with the community advocate.

21 (9) "Secretary" means the secretary of the department of social and
22 health services or the secretary's designee."

23 "NEW SECTION. Sec. 10. Client records maintained by domestic
24 violence programs shall not be subject to discovery in any judicial
25 proceeding unless:

26 (1) A written pretrial motion is made to a court stating that
27 discovery is requested of the client's domestic violence records;

1 (2) The written motion is accompanied by an affidavit or affidavits
2 setting forth specifically the reasons why discovery is requested of
3 the domestic violence program's records;

4 (3) The court reviews the domestic violence program's records in
5 camera to determine whether the domestic violence program's records are
6 relevant and whether the probative value of the records is outweighed
7 by the victim's privacy interest in the confidentiality of such
8 records, taking into account the further trauma that may be inflicted
9 upon the victim by the disclosure of the records; and

10 (4) The court enters an order stating whether the records or any
11 part of the records are discoverable and setting forth the basis for
12 the court's findings."

13 "NEW SECTION. Sec. 11. The department of social and health
14 services shall establish a technical assistance grant program to assist
15 local communities in determining how to respond to domestic violence.
16 The goals of the program shall be to coordinate and expand existing
17 services to:

18 (1) Serve any individual affected by domestic violence with the
19 primary focus being the safety of the victim;

20 (2) Assure an integrated, comprehensive, accountable community
21 response that is adequately funded and sensitive to the diverse needs
22 of the community;

23 (3) Create a continuum of services that range from prevention,
24 crisis intervention, and counseling through shelter, advocacy, legal
25 intervention, and representation to longer term support, counseling,
26 and training; and

27 (4) Coordinate the efforts of government, the legal system, the
28 private sector, and a range of service providers, such as doctors,
29 nurses, social workers, teachers, and child care workers."

1 "NEW SECTION. Sec. 12. (1) A county or group of counties may
2 apply to the department for a technical assistance grant to develop a
3 comprehensive county plan for dealing with domestic violence. The
4 county authority may contract with a local nonprofit entity to develop
5 the plan.

6 (2) County comprehensive plans shall be developed in consultation
7 with the department, domestic violence programs, schools, law
8 enforcement, and health care, legal, and social service providers that
9 provide services to persons affected by domestic violence.

10 (3) County comprehensive plans shall be based on the following
11 principles:

12 (a) The safety of the victim is primary;

13 (b) The community needs to be well-educated about domestic
14 violence;

15 (c) Those who want to and who should intervene need to know how to
16 do so effectively;

17 (d) Adequate services, both crisis and long-term support, should
18 exist throughout all parts of the county;

19 (e) Police and courts should hold the batterer accountable for his
20 or her crimes;

21 (f) Treatment for batterers should be provided by qualified
22 counselors; and

23 (g) Coordination teams are needed to ensure that the system
24 continues to work over the coming decades.

25 (4) County comprehensive plans shall provide for the following:

26 (a) Public education about domestic violence;

27 (b) Training for professionals on how to recognize domestic
28 violence and assist those affected by it;

29 (c) Development of protocols among agencies so that professionals
30 respond to domestic violence in an effective, consistent manner;

1 (d) Development of services to victims of domestic violence and
2 their families, including shelters, safe homes, transitional housing,
3 community and legal advocates, and children's services; and

4 (e) Local and regional teams to oversee implementation of the
5 system, ensure that efforts continue over the years, and assist with
6 day-to-day and system-wide coordination."

7 "Sec. 13. RCW 42.17.310 and 1990 2nd ex.s. c 1 s 1103 are each
8 amended to read as follows:

9 (1) The following are exempt from public inspection and copying:

10 (a) Personal information in any files maintained for students in
11 public schools, patients or clients of public institutions or public
12 health agencies, or welfare recipients.

13 (b) Personal information in files maintained for employees,
14 appointees, or elected officials of any public agency to the extent
15 that disclosure would violate their right to privacy.

16 (c) Information required of any taxpayer in connection with the
17 assessment or collection of any tax if the disclosure of the
18 information to other persons would (i) be prohibited to such persons by
19 RCW 82.32.330 or (ii) violate the taxpayer's right to privacy or result
20 in unfair competitive disadvantage to the taxpayer.

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

27 (e) Information revealing the identity of persons who file
28 complaints with investigative, law enforcement, or penology agencies,
29 other than the public disclosure commission, if disclosure would

1 endanger any person's life, physical safety, or property. If at the
2 time the complaint is filed the complainant indicates a desire for
3 disclosure or nondisclosure, such desire shall govern. However, all
4 complaints filed with the public disclosure commission about any
5 elected official or candidate for public office must be made in writing
6 and signed by the complainant under oath.

7 (f) Test questions, scoring keys, and other examination data used
8 to administer a license, employment, or academic examination.

9 (g) Except as provided by chapter 8.26 RCW, the contents of real
10 estate appraisals, made for or by any agency relative to the
11 acquisition or sale of property, until the project or prospective sale
12 is abandoned or until such time as all of the property has been
13 acquired or the property to which the sale appraisal relates is sold,
14 but in no event shall disclosure be denied for more than three years
15 after the appraisal.

16 (h) Valuable formulae, designs, drawings, and research data
17 obtained by any agency within five years of the request for disclosure
18 when disclosure would produce private gain and public loss.

19 (i) Preliminary drafts, notes, recommendations, and intra-agency
20 memorandums in which opinions are expressed or policies formulated or
21 recommended except that a specific record shall not be exempt when
22 publicly cited by an agency in connection with any agency action.

23 (j) Records which are relevant to a controversy to which an agency
24 is a party but which records would not be available to another party
25 under the rules of pretrial discovery for causes pending in the
26 superior courts.

27 (k) Records, maps, or other information identifying the location of
28 archaeological sites in order to avoid the looting or depredation of
29 such sites.

1 (l) Any library record, the primary purpose of which is to maintain
2 control of library materials, or to gain access to information, which
3 discloses or could be used to disclose the identity of a library user.

4 (m) Financial information supplied by or on behalf of a person,
5 firm, or corporation for the purpose of qualifying to submit a bid or
6 proposal for (a) a ferry system construction or repair contract as
7 required by RCW 47.60.680 through 47.60.750 or (b) highway construction
8 or improvement as required by RCW 47.28.070.

9 (n) Railroad company contracts filed with the utilities and
10 transportation commission under RCW 81.34.070, except that the
11 summaries of the contracts are open to public inspection and copying as
12 otherwise provided by this chapter.

13 (o) Financial and commercial information and records supplied by
14 private persons pertaining to export services provided pursuant to
15 chapter 43.163 RCW and chapter 53.31 RCW.

16 (p) Financial disclosures filed by private vocational schools under
17 chapter 28C.10 RCW.

18 (q) Records filed with the utilities and transportation commission
19 or attorney general under RCW 80.04.095 that a court has determined are
20 confidential under RCW 80.04.095.

21 (r) Financial and commercial information and records supplied by
22 businesses during application for loans or program services provided by
23 chapter 43.163 RCW and chapters 43.31, 43.63A, and 43.168 RCW.

24 (s) Membership lists or lists of members or owners of interests of
25 units in timeshare projects, subdivisions, camping resorts,
26 condominiums, land developments, or common-interest communities
27 affiliated with such projects, regulated by the department of
28 licensing, in the files or possession of the department.

1 (t) All applications for public employment, including the names of
2 applicants, resumes, and other related materials submitted with respect
3 to an applicant.

4 (u) The residential addresses and residential telephone numbers of
5 employees or volunteers of a public agency which are held by the agency
6 in personnel records, employment or volunteer rosters, or mailing lists
7 of employees or volunteers.

8 (v) The residential addresses and residential telephone numbers of
9 the customers of a public utility contained in the records or lists
10 held by the public utility of which they are customers.

11 (w) Information obtained by the board of pharmacy as provided in
12 RCW 69.45.090.

13 (x) Information obtained by the board of pharmacy and its
14 representatives as provided in RCW 69.41.044 and 69.41.280.

15 (y) Financial information, business plans, examination reports, and
16 any information produced or obtained in evaluating or examining a
17 business and industrial development corporation organized or seeking
18 certification under chapter 31.24 RCW.

19 (z) Financial and commercial information supplied to the state
20 investment board by any person when the information relates to the
21 investment of public trust or retirement funds and when disclosure
22 would result in loss to such funds or in private loss to the providers
23 of this information.

24 (aa) Financial and valuable trade information under RCW 51.36.120.

25 (bb) Effective March 1, 1991, the work and home addresses, other
26 than the city of residence, of a person shall remain undisclosed or be
27 omitted from all documents made available for public review if that
28 person requests in writing, under oath, that these addresses be kept
29 private because disclosure would endanger his or her life, physical
30 safety, or property. This provision does not in any way restrict the

1 sharing or collection of information by state and local governmental
2 agencies required for the daily administration of their duties. The
3 secretary of state shall administer this provision and establish the
4 procedures and rules that are necessary for its operation. An agency
5 that has not been furnished with a request for confidentiality of
6 address information is not liable for damages resulting from its
7 disclosure of the information. For purpose of service of process, the
8 secretary of state shall serve as agent for each person who submits a
9 request under this subsection. A request shall be of no force or
10 effect if the requester does not include a statement, along with or
11 part of the request, designating the secretary of state as agent of the
12 requester for purposes of service of process.

13 (cc) Client records maintained by an agency that is a domestic
14 violence program as defined in section 9 of this act or a rape crisis
15 center as defined in RCW 70.125.030.

16 (2) Except for information described in subsection (1)(c)(i) of
17 this section and confidential income data exempted from public
18 inspection pursuant to RCW 84.40.020, the exemptions of this section
19 are inapplicable to the extent that information, the disclosure of
20 which would violate personal privacy or vital governmental interests,
21 can be deleted from the specific records sought. No exemption may be
22 construed to permit the nondisclosure of statistical information not
23 descriptive of any readily identifiable person or persons.

24 (3) Inspection or copying of any specific records exempt under the
25 provisions of this section may be permitted if the superior court in
26 the county in which the record is maintained finds, after a hearing
27 with notice thereof to every person in interest and the agency, that
28 the exemption of such records is clearly unnecessary to protect any
29 individual's right of privacy or any vital governmental function.

1 (4) Agency responses refusing, in whole or in part, inspection of
2 any public record shall include a statement of the specific exemption
3 authorizing the withholding of the record (or part) and a brief
4 explanation of how the exemption applies to the record withheld."

5 "NEW SECTION. **Sec. 14.** The department of health shall conduct
6 a study to determine whether domestic violence perpetrator counselors
7 should be certified to examine and treat domestic violence
8 perpetrators. The department shall conduct the study according to the
9 criteria set forth in RCW 18.120.110. The department shall report to
10 the house of representatives judiciary committee and the senate law and
11 justice committee regarding its findings and recommendations by
12 September 1, 1992."

13 "**Sec. 15.** RCW 26.44.140 and 1990 c 3 s 1301 are each amended to
14 read as follows:

15 The court shall require that an individual who, while acting in a
16 parental role, has physically or sexually abused a child and has been
17 removed from the home pursuant to a court order issued in a proceeding
18 under chapter 13.34 RCW, prior to being permitted to reside in the home
19 where the child resides, complete the treatment and education
20 requirements necessary to protect the child from future abuse. The
21 court may require the individual to continue treatment as a condition
22 for remaining in the home where the child resides.

23 The department of social and health services or supervising agency
24 shall be responsible for advising the court as to appropriate treatment
25 and education requirements, providing referrals to the individual,
26 monitoring and assessing the individual's progress, informing the court
27 of such progress, and providing recommendations to the court.

1 The person removed from the home shall pay for these services
2 (~~according to a schedule established by the department of social and~~
3 ~~health services. This schedule shall be based on the individual's~~
4 ~~ability to pay~~) unless the person is otherwise eligible to receive
5 financial assistance in paying for such services. Nothing in this
6 section shall be construed to create in any person an entitlement to
7 services or financial assistance in paying for services."

8 **"Sec. 16.** RCW 82.14.340 and 1990 2nd ex.s. c 1 s 901 are each
9 amended to read as follows:

10 The legislative authority of any county with a population of two
11 hundred thousand or more, and any other county with a population of one
12 hundred fifty thousand or more that has had its population increase by
13 at least twenty-four percent during the preceding nine years, as
14 certified by the office of financial management for the first day of
15 April of each year, may and, if requested by resolution of the
16 governing bodies of cities in the county with an aggregate population
17 equal to or greater than fifty percent of the total population of the
18 county, as last determined by the office of financial management, shall
19 submit an authorizing proposition to the voters of the county and if
20 approved by a majority of persons voting, fix and impose a sales and
21 use tax in accordance with the terms of this chapter.

22 The tax authorized in this section shall be in addition to any
23 other taxes authorized by law and shall be collected from those persons
24 who are taxable by the state pursuant to chapters 82.08 and 82.12 RCW
25 upon the occurrence of any taxable event within such county. The rate
26 of tax shall equal one-tenth of one percent of the selling price (in
27 the case of a sales tax) or value of the article used (in the case of
28 a use tax).

1 When distributing moneys collected under this section, the state
2 treasurer shall distribute ten percent of the moneys to the county in
3 which the tax was collected. The remainder of the moneys collected
4 under this section shall be distributed to the county and the cities
5 within the county ratably based on population as last determined by the
6 office of financial management. In making the distribution based on
7 population, the county shall receive that proportion that the
8 unincorporated population of the county bears to the total population
9 of the county and each city shall receive that proportion that the city
10 incorporated population bears to the total county population.

11 Moneys received from any tax imposed under this section shall be
12 expended exclusively for criminal justice purposes and shall not be
13 used to replace or supplant existing funding. Moneys received by the
14 county and the cities within the county from any tax imposed under this
15 section may be expended for domestic violence community advocates, as
16 defined in RCW 70.123.020, if, prior to the effective date of this
17 section and prior to approval of the voters, the legislative authority
18 of the county, which submitted an authorizing proposition to the voters
19 of the county, adopted by ordinance a financial plan that included
20 expenditure of a portion of the moneys received for domestic violence
21 community advocates.

22 This section expires January 1, 1994."

23 "NEW SECTION. Sec. 17. Section 7 of this act is added to
24 chapter 26.50 RCW."

25 "NEW SECTION. Sec. 18. Sections 10 through 12 of this act are
26 each added to chapter 70.123 RCW."

1 "NEW SECTION. Sec. 19. Section 14 of this act is necessary for
2 the immediate preservation of the public peace, health, or safety, or
3 support of the state government and its existing public institutions,
4 and shall take effect immediately."

5 "NEW SECTION. Sec. 20. If by June 30, 1991, the omnibus
6 operating budget appropriations act for the 1991-93 biennium does not
7 provide specific funding for sections 2, 7, 11, and 12 of this act,
8 referencing the sections by bill and section number, any such section
9 not referenced is null and void."

10 **ESHB 1884** - S COMM AMD
11 By Committee on Law & Justice

12 ADOPTED AS AMENDED 4/19/91 - Voice Vote
13 On page 1, line 1 of the title, after "violence;" strike the
14 remainder of the title and insert "amending RCW 7.68.070, 10.99.020,
15 10.99.040, 10.99.050, 26.50.110, 26.50.010, 70.123.020, 42.17.310,
16 26.44.140, and 82.14.340; adding a new section to chapter 26.50 RCW;
17 adding new sections to chapter 70.123 RCW; creating new sections;
18 prescribing penalties; and declaring an emergency."