

SHB 1383 - H AMD 199

By Representative Goodman

ADOPTED 03/11/2013

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** Stalking is a crime that affects 3.4
4 million people over the age of eighteen each year in the United States.
5 Almost half of those victims experience at least one unwanted contact
6 per week. Twenty-nine percent of stalking victims fear that the
7 stalking will never stop. The prevalence of anxiety, insomnia, social
8 dysfunction, and severe depression is much higher among stalking
9 victims than the general population. Three in four stalking victims
10 are stalked by someone they know, and at least thirty percent of
11 stalking victims are stalked by a current or former intimate partner.
12 For many of those victims, the domestic violence protection order is a
13 tool they can access to help them stay safer. For those who have not
14 had an intimate relationship with the person stalking them, there are
15 few remedies for them under the law. Victims who do not report the
16 crime still desire safety and protection from future interactions with
17 the offender. Some cases in which the stalking is reported are not
18 prosecuted. In these situations, the victim should be able to seek a
19 civil remedy requiring that the offender stay away from the victim. It
20 is the intent of the legislature that the stalking protection order
21 created by this chapter be a remedy for victims who do not qualify for
22 a domestic violence order of protection. Moreover, it is the intent of
23 the legislature that courts specifically distinguish stalking conduct
24 covered by the stalking protection order from common acts of harassment
25 or nuisance covered by antiharassment orders. Law enforcement agencies
26 need to be able to rely on orders that distinguish stalking conduct
27 from common acts of harassment or nuisance. Victims of stalking
28 conduct deserve the same protection and access to the court system as
29 victims of domestic violence and sexual assault, and this protection
30 can be accomplished without infringing on constitutionally protected

1 speech or activity. The legislature finds that preventing the issuance
2 of conflicting orders is in the interest of both petitioners and
3 respondents.

4 NEW SECTION. **Sec. 2.** The definitions in this section apply
5 throughout this chapter unless the context clearly requires otherwise.

6 (1) "Minor" means a person who is under eighteen years of age.

7 (2) "Petitioner" means any named petitioner for the stalking
8 protection order or any named victim of stalking conduct on whose
9 behalf the petition is brought.

10 (3) "Stalking conduct" means any of the following:

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

12 (b) Any act of cyberstalking as defined under RCW 9.61.260;

13 (c) Any course of conduct involving repeated or continuing
14 contacts, attempts to contact, monitoring, tracking, keeping under
15 observation, or following of another that:

16 (i) Would cause a reasonable person to feel intimidated,
17 frightened, or threatened and that actually causes such a feeling;

18 (ii) Serves no lawful purpose; and

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

22 (4) "Stalking no-contact order" means a temporary order or a final
23 order granted under this chapter against a person charged with or
24 arrested for stalking, which includes a remedy authorized under section
25 16 of this act.

26 (5) "Stalking protection order" means an ex parte temporary order
27 or a final order granted under this chapter, which includes a remedy
28 authorized in section 10 of this act.

29 NEW SECTION. **Sec. 3.** There shall exist an action known as a
30 petition for a stalking protection order.

31 (1) A petition for relief shall allege the existence of stalking
32 conduct and shall be accompanied by an affidavit made under oath
33 stating the specific reasons that have caused the petitioner to become
34 reasonably fearful that the respondent intends to injure the petitioner
35 or another person, or the petitioner's property or the property of

1 another. The petition shall disclose the existence of any other
2 litigation or of any other restraining, protection, or no-contact
3 orders between the parties.

4 (2) A petition for relief shall be filed as a separate, stand-alone
5 civil case and a petition for relief may be made regardless of whether
6 or not there is a pending lawsuit, complaint, petition, or other action
7 between the parties.

8 (3) Forms and instructional brochures and the necessary number of
9 certified copies shall be provided to the petitioner free of charge.

10 (4) A person is not required to post a bond to obtain relief in any
11 proceeding under this section.

12 (5) If the petition states that disclosure of the petitioner's
13 address would risk abuse of the petitioner or any member of the
14 petitioner's family or household, that address may be omitted from all
15 documents filed with the court. If the petitioner has not disclosed an
16 address under this subsection, the petitioner shall designate an
17 alternative address at which the respondent may serve notice of any
18 motions.

19 NEW SECTION. **Sec. 4.** A petition for a stalking protection order
20 may be filed by a person:

21 (1) Who does not qualify for a protection order under chapter 26.50
22 RCW and who is a victim of stalking conduct; or

23 (2) On behalf of any of the following persons who is a victim of
24 stalking conduct and who does not qualify for a protection order under
25 chapter 26.50 RCW:

26 (a) A minor child, where the petitioner is a parent, a legal
27 custodian, or, where the respondent is not a parent, an adult with whom
28 the child is currently residing; or

29 (b) A vulnerable adult as defined in RCW 74.34.020 and where the
30 petitioner is an interested person as defined in RCW 74.34.020(10).

31 NEW SECTION. **Sec. 5.** (1) Any person may seek relief under this
32 chapter by filing a petition with a court alleging that the person has
33 been the victim of stalking conduct committed by the respondent.

34 (2) A minor sixteen years of age or older may seek relief under
35 this chapter and is not required to seek relief through a guardian or

1 next friend. This does not preclude a parent or legal custodian of a
2 victim sixteen or seventeen years of age from seeking relief on behalf
3 of the minor.

4 (3) The district courts shall have original jurisdiction and
5 cognizance of any civil actions and proceedings brought under this
6 chapter, except a district court shall transfer such actions and
7 proceedings to the superior court when it is shown that (a) the
8 petitioner, victim, or respondent to the petition is under eighteen
9 years of age; (b) the action involves title or possession of real
10 property; (c) a superior court has exercised or is exercising
11 jurisdiction over a proceeding involving the parties; or (d) the action
12 would have the effect of interfering with a respondent's care, control,
13 or custody of the respondent's minor child.

14 (4) Municipal courts may exercise jurisdiction and cognizance of
15 any civil actions and proceedings brought under this chapter by
16 adoption of local court rule, except a municipal court shall transfer
17 such actions and proceedings to the superior court when it is shown
18 that (a) the petitioner, victim, or respondent to the petition is under
19 eighteen years of age; (b) the action involves title or possession of
20 real property; (c) a superior court has exercised or is exercising
21 jurisdiction over a proceeding involving the parties; or (d) the action
22 would have the effect of interfering with a respondent's care, control,
23 or custody of the respondent's minor child.

24 (5) Superior courts shall have concurrent jurisdiction to receive
25 transfer of stalking petitions in cases where a district or municipal
26 court judge makes findings of fact and conclusions of law showing that
27 meritorious reasons exist for the transfer. The jurisdiction of
28 district and municipal courts is limited to enforcement of RCW
29 26.50.110(1), or the equivalent municipal ordinance, and the issuance
30 and enforcement of temporary orders provided for in section 12 of this
31 act if the superior court is exercising jurisdiction over a proceeding
32 under this chapter involving the parties.

33 (6) No guardian or guardian ad litem need be appointed on behalf of
34 a respondent to an action under this chapter if such respondent is
35 sixteen years of age or older.

36 (7) If a guardian ad litem is appointed for the petitioner or
37 respondent, the petitioner shall not be required to pay any fee
38 associated with such appointment.

1 (8) An action under this chapter shall be filed in the county or
2 the municipality where the petitioner resides, unless the petitioner
3 has left the residence or household to avoid stalking conduct. In that
4 case, the petitioner may bring an action in the county or municipality
5 of the previous or the new residence or household.

6 NEW SECTION. **Sec. 6.** Upon receipt of the petition, the court
7 shall order a hearing which shall be held not later than fourteen days
8 from the date of the order. The court may schedule a hearing by
9 telephone, to reasonably accommodate a disability, or in exceptional
10 circumstances to protect a petitioner from further stalking behavior.
11 The court shall require assurances of the petitioner's identity before
12 conducting a telephonic hearing. Except as provided in section 15 of
13 this act, personal service shall be made upon the respondent not less
14 than five court days prior to the hearing. If timely personal service
15 cannot be made, the court shall set a new hearing date and shall
16 require additional attempts at obtaining personal service or other
17 service as permitted under section 15 of this act. The court may issue
18 an ex parte temporary stalking order pending the hearing as provided in
19 section 12 of this act.

20 NEW SECTION. **Sec. 7.** Before granting an order under this chapter,
21 the court may consult the judicial information system, if available, to
22 determine criminal history or the pendency of other proceedings
23 involving the parties.

24 NEW SECTION. **Sec. 8.** No fees for filing or service of process may
25 be charged by a public agency to petitioners seeking relief under this
26 chapter.

27 NEW SECTION. **Sec. 9.** Victim advocates shall be allowed to
28 accompany the victim and confer with the victim, unless otherwise
29 directed by the court. Court administrators shall allow advocates to
30 assist victims of stalking conduct in the preparation of petitions for
31 stalking protection orders. Advocates are not engaged in the
32 unauthorized practice of law when providing assistance of the types
33 specified in this section.

1 NEW SECTION. **Sec. 10.** (1)(a) If the court finds by a
2 preponderance of the evidence that the petitioner has been a victim of
3 stalking conduct by the respondent, the court shall issue a stalking
4 protection order.

5 (b) The petitioner shall not be denied a stalking protection order
6 because the petitioner or the respondent is a minor or because the
7 petitioner did not report the stalking conduct to law enforcement. The
8 court, when determining whether or not to issue a stalking protection
9 order, may not require proof of the respondent's intentions regarding
10 the acts alleged by the petitioner. Modification and extension of
11 prior stalking protection orders shall be in accordance with this
12 chapter.

13 (2) The court may provide relief as follows:

14 (a) Restrain the respondent from having any contact, including
15 nonphysical contact, with the petitioner directly, indirectly, or
16 through third parties regardless of whether those third parties know of
17 the order;

18 (b) Exclude the respondent from the petitioner's residence,
19 workplace, or school, or from the day care, workplace, or school of the
20 petitioner's minor children;

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

24 (d) Prohibit the respondent from keeping the petitioner and/or the
25 petitioner's minor children under surveillance, to include electronic
26 surveillance;

27 (e) Order any other injunctive relief as necessary or appropriate
28 for the protection of the petitioner, to include a mental health and/or
29 chemical dependency evaluation; and

30 (f) Require the respondent to pay the administrative court costs
31 and service fees, as established by the county or municipality
32 incurring the expense and to reimburse the petitioner for costs
33 incurred in bringing the action, including reasonable attorneys' fees.

34 (3) Unless otherwise stated in the order, when a person is
35 petitioning on behalf of a minor child or vulnerable adult, the relief
36 authorized in this section shall apply only for the protection of the
37 victim, and not the petitioner.

1 (4) In cases where the petitioner and the respondent attend the
2 same public or private elementary, middle, or high school, the court,
3 when issuing a protection order and providing relief, shall consider,
4 among the other facts of the case, the severity of the act, any
5 continuing physical danger or emotional distress to the petitioner, and
6 the expense difficulty, and educational disruption that would be caused
7 by a transfer of the respondent to another school. The court may order
8 that the person restrained in the order not attend the public or
9 approved private elementary, middle, or high school attended by the
10 person protected by the order. In the event the court orders a
11 transfer of the restrained person to another school, the parents or
12 legal guardians of the person restrained in the order are responsible
13 for transportation and other costs associated with the change of school
14 by the person restrained in the order. The court shall send notice of
15 the restriction on attending the same school as the person protected by
16 the order to the public or approved private school the person
17 restrained by the order will attend and to the school the person
18 protected by the order attends.

19 NEW SECTION. **Sec. 11.** For the purposes of issuing a stalking
20 protection order, deciding what relief should be included in the order,
21 and enforcing the order, RCW 9A.08.020 shall govern whether the
22 respondent is legally accountable for the conduct of another person.

23 NEW SECTION. **Sec. 12.** (1) Where it appears from the petition and
24 any additional evidence that the respondent has engaged in stalking
25 conduct and that irreparable injury could result if an order is not
26 issued immediately without prior notice, the court may grant an ex
27 parte temporary order for protection, pending a full hearing and grant
28 such injunctive relief as it deems proper, including the relief as
29 specified under section 10 (2)(a) through (d) and (4) of this act.

30 (2) Irreparable injury under this section includes, but is not
31 limited to, situations in which the respondent has recently threatened
32 the petitioner with bodily injury or has engaged in acts of stalking
33 conduct against the petitioner.

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

1 (4) An ex parte temporary stalking protection order shall be
2 effective for a fixed period not to exceed fourteen days or twenty-four
3 days if the court has permitted service by publication or mail. The ex
4 parte order may be reissued. A full hearing, as provided in this
5 chapter, shall be set for not later than fourteen days from the
6 issuance of the temporary order or not later than twenty-four days if
7 service by publication or by mail is permitted. Unless the court has
8 permitted service by publication or mail, the respondent shall be
9 personally served with a copy of the ex parte order along with a copy
10 of the petition and notice of the date set for the hearing.

11 (5) Any order issued under this section shall contain the date and
12 time of issuance and the expiration date and shall be entered into a
13 statewide judicial information system by the clerk of the court within
14 one judicial day after issuance.

15 (6) If the court declines to issue an ex parte temporary stalking
16 protection order, the court shall state the particular reasons for the
17 court's denial. The court's denial of a motion for an ex parte
18 temporary order shall be filed with the court.

19 (7) A knowing violation of a court order issued under this section
20 is punishable under RCW 26.50.110.

21 NEW SECTION. **Sec. 13.** (1) Except as otherwise provided in this
22 section or section 16 of this act, a final stalking protection order
23 shall be effective for a fixed period of time or be permanent.

24 (2) Any ex parte temporary or final stalking protection order may
25 be renewed one or more times. The petitioner may apply for renewal of
26 the order by filing a petition for renewal at any time within the three
27 months before the order expires. If the motion for renewal is
28 uncontested and the petitioner seeks no modification of the order, the
29 order may be renewed on the basis of the petitioner's motion or
30 affidavit stating that there has been no material change in relevant
31 circumstances since entry of the order and stating the reason for the
32 requested renewal. The court shall grant the petition for renewal
33 unless the respondent proves by a preponderance of the evidence that
34 the respondent will not resume acts of stalking conduct against the
35 petitioner or the petitioner's children or family or household members
36 when the order expires. The court may renew the stalking protection
37 order for another fixed time period or may enter a permanent order as

1 provided in this section. The court may award court costs, service
2 fees, and reasonable attorneys' fees as provided in section 10 of this
3 act.

4 (3) Any stalking protection order which would expire on a court
5 holiday shall instead expire at the close of the next court business
6 day.

7 (4) The practice of dismissing or suspending a criminal prosecution
8 in exchange for the issuance of a stalking protection order undermines
9 the purposes of this chapter. This section shall not be construed as
10 encouraging that practice.

11 (5) If the court declines to issue an order for protection or
12 declines to renew an order for protection, the court shall state in
13 writing on the order the particular reasons for the court's denial.

14 NEW SECTION. **Sec. 14.** (1) Any stalking protection order shall
15 describe each remedy granted by the court, in reasonable detail and not
16 by reference to any other document, so that the respondent may clearly
17 understand what he or she must do or refrain from doing.

18 (2) A stalking protection order shall further state the following:

19 (a) The name of the petitioner that the court finds was the victim
20 of stalking by the respondent;

21 (b) The date and time the stalking protection order was issued,
22 whether it is an ex parte temporary or final order, and the duration of
23 the order;

24 (c) The date, time, and place for any scheduled hearing for renewal
25 of that stalking protection order or for another order of greater
26 duration or scope;

27 (d) For each remedy in an ex parte temporary stalking protection
28 order, the reason for entering that remedy without prior notice to the
29 respondent or greater notice than was actually given;

30 (e) For ex parte temporary stalking protection orders, that the
31 respondent may petition the court, to modify or terminate the order if
32 he or she did not receive actual prior notice of the hearing and if the
33 respondent alleges that he or she had a meritorious defense to the
34 order or that the order or its remedy is not authorized by this
35 chapter.

36 (3) A stalking protection order shall include the following notice,
37 printed in conspicuous type: "A knowing violation of this stalking

1 protection order is a criminal offense under chapter 26.50 RCW and will
2 subject a violator to arrest. You can be arrested even if any person
3 protected by the order invites or allows you to violate the order's
4 prohibitions. You have the sole responsibility to avoid or refrain
5 from violating the order's provisions. Only the court can change the
6 order."

7 NEW SECTION. **Sec. 15.** (1) An order issued under this chapter
8 shall be personally served upon the respondent, except as provided in
9 subsection (6), (7), or (8) of this section. If the respondent is a
10 minor, the respondent's parent or legal custodian shall also be
11 personally served.

12 (2) The sheriff of the county or the peace officers of the
13 municipality in which the respondent resides shall serve the respondent
14 personally unless the petitioner elects to have the respondent served
15 by a private party.

16 (3) If service by a sheriff or municipal peace officer is to be
17 used, the clerk of the court shall have a copy of any order issued
18 under this chapter forwarded on or before the next judicial day to the
19 appropriate law enforcement agency specified in the order for service
20 upon the respondent. Service of an order issued under this chapter
21 shall take precedence over the service of other documents unless they
22 are of a similar emergency nature.

23 (4) If the sheriff or municipal peace officer cannot complete
24 service upon the respondent within ten days, the sheriff or municipal
25 peace officer shall notify the petitioner. The petitioner shall
26 provide information sufficient to permit notification.

27 (5) Returns of service under this chapter shall be made in
28 accordance with the applicable court rules.

29 (6) If an order entered by the court recites that the respondent
30 appeared in person before the court, the necessity for further service
31 is waived and proof of service of that order is not necessary.

32 (7) If the respondent was not personally served with the petition,
33 notice of hearing, and ex parte order before the hearing, the court
34 shall reset the hearing for twenty-four days from the date of entry of
35 the order and may order service by publication instead of personal
36 service under the following circumstances:

1 (a) The sheriff or municipal officer or private process server
2 files an affidavit stating that the officer or private process server
3 was unable to complete personal service upon the respondent. The
4 affidavit must describe the number and types of attempts the officer or
5 private process server made to complete service;

6 (b) The petitioner files an affidavit stating that the petitioner
7 believes that the respondent is hiding from the server to avoid
8 service. The petitioner's affidavit must state the reasons for the
9 belief that the respondent is avoiding service;

10 (c) The server has deposited a copy of the petition, notice of
11 hearing, and the ex parte order of protection in the post office,
12 directed to the respondent at the respondent's last known address,
13 unless the server states that the server does not know the respondent's
14 address;

15 (d) The court finds reasonable grounds exist to believe that the
16 respondent is concealing himself or herself to avoid service, and that
17 further attempts to personally serve the respondent would be futile or
18 unduly burdensome;

19 (e) The court shall reissue the temporary order of protection not
20 to exceed another twenty-four days from the date of reissuing the ex
21 parte protection order and order to provide service by publication; and

22 (f) The publication shall be made in a newspaper of general
23 circulation in the county where the petition was brought and in the
24 county of the last known address of the respondent once a week for
25 three consecutive weeks. The newspaper selected must be one of the
26 three most widely circulated papers in the county. The publication of
27 summons shall not be made until the court orders service by publication
28 under this section. Service of the summons shall be considered
29 complete when the publication has been made for three consecutive
30 weeks. The summons must be signed by the petitioner. The summons
31 shall contain the date of the first publication, and shall require the
32 respondent upon whom service by publication is desired, to appear and
33 answer the petition on the date set for the hearing. The summons shall
34 also contain a brief statement of the reason for the petition and a
35 summary of the provisions under the ex parte order. The summons shall

1 be essentially in the following form:

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

In the court of the state of Washington for
the county of
....., Petitioner
vs. No.
....., Respondent
The state of Washington to (respondent):
You are hereby summoned to appear on the ... day
of, 20..., at ... a.m./p.m., and respond to the
petition. If you fail to respond, an order of protection will
be issued against you pursuant to the provisions of the
stalking protection order act, chapter 7.-- RCW (the new
chapter created in section 33 of this act), for a minimum of
one year from the date you are required to appear. A
temporary order of protection has been issued against you,
restraining you from the following: (Insert a brief statement
of the provisions of the ex parte order.) A copy of the
petition, notice of hearing, and ex parte order has been filed
with the clerk of this court.
.....
Petitioner

23 (8) In circumstances justifying service by publication under
24 subsection (7) of this section, if the serving party files an affidavit
25 stating facts from which the court determines that service by mail is
26 just as likely to give actual notice as service by publication and that
27 the serving party is unable to afford the cost of service by
28 publication, the court may order that service be made by mail. Such
29 service shall be made by any person over eighteen years of age, who is
30 competent to be a witness, other than a party, by mailing copies of the
31 order and other process to the party to be served at his or her last
32 known address or any other address determined by the court to be
33 appropriate. Two copies shall be mailed, postage prepaid, one by
34 ordinary first-class mail and the other by a form of mail requiring a
35 signed receipt showing when and to whom it was delivered. The
36 envelopes must bear the return address of the sender.

1 (a) Proof of service under this section shall be consistent with
2 court rules for civil proceedings.

3 (b) Service under this section may be used in the same manner and
4 shall have the same jurisdictional effect as service by publication for
5 purposes of this chapter. Service shall be deemed complete upon the
6 mailing of two copies as prescribed in this section.

7 NEW SECTION. **Sec. 16.** (1)(a) When any person charged with or
8 arrested for stalking as defined in RCW 9A.46.110 or any other stalking
9 related offense under RCW 9A.46.060 is released from custody before
10 arraignment or trial on bail or personal recognizance, the court
11 authorizing the release may prohibit that person from having any
12 contact with the victim. The jurisdiction authorizing the release
13 shall determine whether that person should be prohibited from having
14 any contact with the victim. If there is no outstanding restraining or
15 protective order prohibiting that person from having contact with the
16 victim, and the victim does not qualify for a domestic violence
17 protection order under chapter 26.50 RCW, the court authorizing release
18 may issue, by telephone, a stalking no-contact order prohibiting the
19 person charged or arrested from having contact with the victim or from
20 knowingly coming within, or knowingly remaining within, a specified
21 distance of a location.

22 (b) In issuing the order, the court shall consider the provisions
23 of RCW 9.41.800.

24 (c) The stalking no-contact order shall also be issued in writing
25 as soon as possible.

26 (2)(a) At the time of arraignment or whenever a motion is brought
27 to modify the conditions of the defendant's release, the court shall
28 determine whether a stalking no-contact order shall be issued or
29 extended. If a stalking no-contact order is issued or extended, the
30 court may also include in the conditions of release a requirement that
31 the defendant submit to electronic monitoring, including real-time
32 global position satellite monitoring with victim notification. If
33 electronic monitoring is ordered, the court shall specify who shall
34 provide the monitoring services, and the terms under which the
35 monitoring shall be performed. Upon conviction, the court may require
36 as a condition of the sentence that the defendant reimburse the

1 providing agency for the costs of the electronic monitoring, including
2 costs relating to real-time global position satellite monitoring with
3 victim notification.

4 (b) A stalking no-contact order issued by the court in conjunction
5 with criminal charges shall terminate if the defendant is acquitted or
6 the charges are dismissed, unless the victim files an independent
7 action for a stalking protection order. If the victim files an
8 independent action for a civil stalking protection order, the order may
9 be continued by the court until a full hearing is conducted pursuant to
10 section 6 of this act.

11 (3)(a) The written order releasing the person charged or arrested
12 shall contain the court's directives and shall bear the legend:
13 "Violation of this order is a criminal offense under chapter 26.50 RCW
14 and will subject a violator to arrest. You can be arrested even if any
15 person protected by the order invites or allows you to violate the
16 order's prohibitions. You have the sole responsibility to avoid or
17 refrain from violating the order's provisions. Only the court can
18 change the order."

19 (b) A certified copy of the order shall be provided to the victim
20 at no charge.

21 (4) If a stalking no-contact order has been issued prior to
22 charging, that order shall expire at arraignment or within seventy-two
23 hours if charges are not filed.

24 (5) Whenever an order prohibiting contact is issued pursuant to
25 subsection (2) of this section, the clerk of the court shall forward a
26 copy of the order on or before the next judicial day to the appropriate
27 law enforcement agency specified in the order. Upon receipt of the
28 copy of the order, the law enforcement agency shall enter the order for
29 one year unless a different expiration date is specified on the order
30 into any computer-based criminal intelligence information system
31 available in this state used by law enforcement agencies to list
32 outstanding warrants. Entry into the computer-based criminal
33 intelligence information system constitutes notice to all law
34 enforcement agencies of the existence of the order. The order is fully
35 enforceable in any jurisdiction in the state.

36 (6)(a) When a defendant is found guilty of stalking as defined in
37 RCW 9A.46.110 or any other stalking related offense under RCW 9A.46.060
38 and a condition of the sentence restricts the defendant's ability to

1 have contact with the victim, and the victim does not qualify for a
2 domestic violence protection order under chapter 26.50 RCW, the
3 condition shall be recorded as a stalking no-contact order.

4 (b) The written order entered as a condition of sentencing shall
5 contain the court's directives and shall bear the legend: "Violation
6 of this order is a criminal offense under chapter 26.50 RCW and will
7 subject a violator to arrest. You can be arrested even if any person
8 protected by the order invites or allows you to violate the order's
9 prohibitions. You have the sole responsibility to avoid or refrain
10 from violating the order's provisions. Only the court can change the
11 order."

12 (c) A final stalking no-contact order entered in conjunction with
13 a criminal prosecution shall remain in effect for a period of five
14 years from the date of entry.

15 (d) A certified copy of the order shall be provided to the victim
16 at no charge.

17 (7) A knowing violation of a court order issued under subsection
18 (1), (2), or (6) of this section is punishable under RCW 26.50.110.

19 (8) Whenever a stalking no-contact order is issued, modified, or
20 terminated under subsection (1), (2), or (6) of this section, the clerk
21 of the court shall forward a copy of the order on or before the next
22 judicial day to the appropriate law enforcement agency specified in the
23 order. Upon receipt of the copy of the order, the law enforcement
24 agency shall enter the order for one year unless a different expiration
25 date is specified on the order into any computer-based criminal
26 intelligence information system available in this state used by law
27 enforcement agencies to list outstanding warrants. Entry into the
28 computer-based criminal intelligence information system constitutes
29 notice to all law enforcement agencies of the existence of the order.
30 The order is fully enforceable in any jurisdiction in the state. Upon
31 receipt of notice that an order has been terminated under subsection
32 (2) of this section, the law enforcement agency shall remove the order
33 from the computer-based criminal intelligence information system.

34 NEW SECTION. **Sec. 17.** (1) In a proceeding in which a petition for
35 a stalking protection order is sought under this chapter, a court of
36 this state may exercise personal jurisdiction over a nonresident
37 individual if:

1 (a) The individual is personally served with a petition within this
2 state;

3 (b) The individual submits to the jurisdiction of this state by
4 consent, entering a general appearance, or filing a responsive document
5 having the effect of waiving any objection to consent to personal
6 jurisdiction;

7 (c) The act or acts of the individual or the individual's agent
8 giving rise to the petition or enforcement of a stalking protection
9 order occurred within this state;

10 (d)(i) The act or acts of the individual or the individual's agent
11 giving rise to the petition or enforcement of a stalking protection
12 order occurred outside this state and are part of an ongoing pattern of
13 stalking behavior that has an adverse effect on the petitioner or a
14 member of the petitioner's family or household and the petitioner
15 resides in this state; or

16 (ii) As a result of acts of stalking behavior, the petitioner or a
17 member of the petitioner's family or household has sought safety or
18 protection in this state and currently resides in this state; or

19 (e) There is any other basis consistent with RCW 4.28.185 or with
20 the Constitution of this state and the Constitution of the United
21 States.

22 (2) For jurisdiction to be exercised under subsection (1)(d)(i) or
23 (ii) of this section, the individual must have communicated with the
24 petitioner or a member of the petitioner's family, directly or
25 indirectly, or made known a threat to the safety of the petitioner or
26 member of the petitioner's family while the petitioner or family member
27 resides in this state. For the purposes of subsection (1)(d)(i) or
28 (ii) of this section, "communicated or made known" includes, but is not
29 limited to, through the mail, telephonically, or a posting on an
30 electronic communication site or medium. Communication on any
31 electronic medium that is generally available to any individual
32 residing in the state shall be sufficient to exercise jurisdiction
33 under subsection (1)(d)(i) or (ii) of this section.

34 (3) For the purposes of this section, an act or acts that "occurred
35 within this state" includes, but is not limited to, an oral or written
36 statement made or published by a person outside of this state to any
37 person in this state by means of the mail, interstate commerce, or

1 foreign commerce. Oral or written statements sent by electronic mail
2 or the internet are deemed to have "occurred within this state."

3 NEW SECTION. **Sec. 18.** (1) A copy of a stalking protection order
4 or stalking no-contact order granted under this chapter shall be
5 forwarded by the clerk of the court on or before the next judicial day
6 to the appropriate law enforcement agency specified in the order. Upon
7 receipt of the order, the law enforcement agency shall immediately
8 enter the order into any computer-based criminal intelligence
9 information system available in this state used by law enforcement
10 agencies to list outstanding warrants. The order shall remain in the
11 computer for one year unless a different expiration date is specified
12 on the order. Upon receipt of notice that an order has been
13 terminated, the law enforcement agency shall remove the order from the
14 computer-based criminal intelligence information system. The law
15 enforcement agency shall only expunge from the computer-based criminal
16 intelligence information system orders that are expired, vacated,
17 terminated, or superseded. Entry into the law enforcement information
18 system constitutes notice to all law enforcement agencies of the
19 existence of the order. The order is fully enforceable in any county
20 in the state.

21 (2) The information entered into the computer-based criminal
22 intelligence information system shall include notice to law enforcement
23 whether the order was personally served, served by publication, or
24 served by mail.

25 NEW SECTION. **Sec. 19.** (1) Upon application with notice to all
26 parties and after a hearing, the court may modify the terms of an
27 existing stalking protection order.

28 (2) A respondent's motion to modify or terminate an existing
29 stalking protection order must include a declaration setting forth
30 facts supporting the requested order for termination or modification.
31 The nonmoving parties to the proceeding may file opposing declarations.
32 The court shall deny the motion unless it finds that adequate cause for
33 hearing the motion is established by the declarations. If the court
34 finds that the respondent established adequate cause, the court shall
35 set a date for hearing the respondent's motion.

1 (3) The court may not terminate or modify an existing stalking
2 protection order unless the respondent proves by a preponderance of the
3 evidence that there has been a substantial change in circumstances such
4 that the respondent will not resume acts of stalking conduct against
5 the petitioner or those persons protected by the protection order if
6 the order is terminated or modified. The petitioner bears no burden of
7 proving that he or she has a current reasonable fear of harm by the
8 respondent.

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

12 (5) In any situation where an order is terminated or modified
13 before its expiration date, the clerk of the court shall forward on or
14 before the next judicial day a true copy of the modified order or the
15 termination order to the appropriate law enforcement agency specified
16 in the modified or termination order. Upon receipt of the order, the
17 law enforcement agency shall promptly enter it in the computer-based
18 criminal intelligence information system, or if the order is
19 terminated, remove the order from the computer-based criminal
20 intelligence information system.

21 NEW SECTION. **Sec. 20.** A new section is added to chapter 10.14 RCW
22 to read as follows:

23 In each county, the superior court may appoint one or more
24 attorneys to act as protection order commissioners pursuant to this
25 chapter to exercise all powers and perform all duties of a court
26 commissioner appointed pursuant to RCW 2.24.010 provided that such
27 positions may not be created without prior consent of the county
28 legislative authority. A person appointed as a protection order
29 commissioner under this chapter may also be appointed to any other
30 commissioner position authorized by law.

31 NEW SECTION. **Sec. 21.** A new section is added to chapter 10.14 RCW
32 to read as follows:

33 (1) By January 1, 2014, the administrative office of the courts
34 shall develop a single master petition pattern form for all
35 antiharassment and stalking protection orders issued under chapter 7.--
36 RCW (the new chapter created in section 33 of this act) and this

1 chapter. The master petition must prompt petitioners to disclose on
2 the form whether the petitioner who is seeking an ex parte order has
3 experienced stalking conduct as defined in section 2 of this act. An
4 antiharassment order and stalking protection order issued under chapter
5 7.-- RCW (the new chapter created in section 33 of this act) and this
6 chapter must substantially comply with the pattern form developed by
7 the administrative office of the courts.

8 (2) The legislature respectfully requests that the Washington state
9 supreme court gender and justice commission, in consultation with
10 Washington coalition of sexual assault programs, Washington state
11 coalition against domestic violence, Washington association of
12 prosecuting attorneys, Washington association of criminal defense
13 lawyers, and Washington association of sheriffs and police chiefs,
14 consider other potential solutions to reduce confusion about which type
15 of protection order a petitioner should seek and to provide any
16 recommendations to the legislature by January 1, 2014.

17 NEW SECTION. **Sec. 22.** An ex parte temporary order issued under
18 this chapter shall not be admissible as evidence in any subsequent
19 civil action for damages arising from the conduct alleged in the
20 petition or the order.

21 NEW SECTION. **Sec. 23.** Nothing in this chapter shall be construed
22 as requiring criminal charges to be filed as a condition of a stalking
23 protection order being issued.

24 NEW SECTION. **Sec. 24.** This act may be known and cited as the
25 stalking protection order act.

26 **Sec. 25.** RCW 9.41.800 and 2002 c 302 s 704 are each amended to
27 read as follows:

28 (1) Any court when entering an order authorized under chapter 7.--
29 RCW (the new chapter created in section 33 of this act), RCW 9A.46.080,
30 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040,
31 26.10.115, 26.26.130, 26.50.060, 26.50.070, or 26.26.590 shall, upon a
32 showing by clear and convincing evidence, that a party has: Used,
33 displayed, or threatened to use a firearm or other dangerous weapon in

1 a felony, or previously committed any offense that makes him or her
2 ineligible to possess a firearm under the provisions of RCW 9.41.040:

3 (a) Require the party to surrender any firearm or other dangerous
4 weapon;

5 (b) Require the party to surrender any concealed pistol license
6 issued under RCW 9.41.070;

7 (c) Prohibit the party from obtaining or possessing a firearm or
8 other dangerous weapon;

9 (d) Prohibit the party from obtaining or possessing a concealed
10 pistol license.

11 (2) Any court when entering an order authorized under chapter 7.--
12 RCW (the new chapter created in section 33 of this act), RCW 9A.46.080,
13 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040,
14 26.10.115, 26.26.130, 26.50.060, 26.50.070, or 26.26.590 may, upon a
15 showing by a preponderance of the evidence but not by clear and
16 convincing evidence, that a party has: Used, displayed, or threatened
17 to use a firearm or other dangerous weapon in a felony, or previously
18 committed any offense that makes him or her ineligible to possess a
19 pistol under the provisions of RCW 9.41.040:

20 (a) Require the party to surrender any firearm or other dangerous
21 weapon;

22 (b) Require the party to surrender a concealed pistol license
23 issued under RCW 9.41.070;

24 (c) Prohibit the party from obtaining or possessing a firearm or
25 other dangerous weapon;

26 (d) Prohibit the party from obtaining or possessing a concealed
27 pistol license.

28 (3) The court may order temporary surrender of a firearm or other
29 dangerous weapon without notice to the other party if it finds, on the
30 basis of the moving affidavit or other evidence, that irreparable
31 injury could result if an order is not issued until the time for
32 response has elapsed.

33 (4) In addition to the provisions of subsections (1), (2), and (3)
34 of this section, the court may enter an order requiring a party to
35 comply with the provisions in subsection (1) of this section if it
36 finds that the possession of a firearm or other dangerous weapon by any
37 party presents a serious and imminent threat to public health or
38 safety, or to the health or safety of any individual.

1 (5) The requirements of subsections (1), (2), and (4) of this
2 section may be for a period of time less than the duration of the
3 order.

4 (6) The court may require the party to surrender any firearm or
5 other dangerous weapon in his or her immediate possession or control or
6 subject to his or her immediate possession or control to the sheriff of
7 the county having jurisdiction of the proceeding, the chief of police
8 of the municipality having jurisdiction, or to the restrained or
9 enjoined party's counsel or to any person designated by the court.

10 **Sec. 26.** RCW 9.94A.535 and 2011 c 87 s 1 are each amended to read
11 as follows:

12 The court may impose a sentence outside the standard sentence range
13 for an offense if it finds, considering the purpose of this chapter,
14 that there are substantial and compelling reasons justifying an
15 exceptional sentence. Facts supporting aggravated sentences, other
16 than the fact of a prior conviction, shall be determined pursuant to
17 the provisions of RCW 9.94A.537.

18 Whenever a sentence outside the standard sentence range is imposed,
19 the court shall set forth the reasons for its decision in written
20 findings of fact and conclusions of law. A sentence outside the
21 standard sentence range shall be a determinate sentence.

22 If the sentencing court finds that an exceptional sentence outside
23 the standard sentence range should be imposed, the sentence is subject
24 to review only as provided for in RCW 9.94A.585(4).

25 A departure from the standards in RCW 9.94A.589 (1) and (2)
26 governing whether sentences are to be served consecutively or
27 concurrently is an exceptional sentence subject to the limitations in
28 this section, and may be appealed by the offender or the state as set
29 forth in RCW 9.94A.585 (2) through (6).

30 (1) Mitigating Circumstances - Court to Consider

31 The court may impose an exceptional sentence below the standard
32 range if it finds that mitigating circumstances are established by a
33 preponderance of the evidence. The following are illustrative only and
34 are not intended to be exclusive reasons for exceptional sentences.

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

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

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

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

9 (e) The defendant's capacity to appreciate the wrongfulness of his
10 or her conduct, or to conform his or her conduct to the requirements of
11 the law, was significantly impaired. Voluntary use of drugs or alcohol
12 is excluded.

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

16 (g) The operation of the multiple offense policy of RCW 9.94A.589
17 results in a presumptive sentence that is clearly excessive in light of
18 the purpose of this chapter, as expressed in RCW 9.94A.010.

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

22 (i) The defendant was making a good faith effort to obtain or
23 provide medical assistance for someone who is experiencing a drug-
24 related overdose.

25 (j) The current offense involved domestic violence, as defined in
26 RCW 10.99.020, and the defendant suffered a continuing pattern of
27 coercion, control, or abuse by the victim of the offense and the
28 offense is a response to that coercion, control, or abuse.

29 (2) Aggravating Circumstances - Considered and Imposed by the Court
30 The trial court may impose an aggravated exceptional sentence
31 without a finding of fact by a jury under the following circumstances:

32 (a) The defendant and the state both stipulate that justice is best
33 served by the imposition of an exceptional sentence outside the
34 standard range, and the court finds the exceptional sentence to be
35 consistent with and in furtherance of the interests of justice and the
36 purposes of the sentencing reform act.

37 (b) The defendant's prior unscored misdemeanor or prior unscored

1 foreign criminal history results in a presumptive sentence that is
2 clearly too lenient in light of the purpose of this chapter, as
3 expressed in RCW 9.94A.010.

4 (c) The defendant has committed multiple current offenses and the
5 defendant's high offender score results in some of the current offenses
6 going unpunished.

7 (d) The failure to consider the defendant's prior criminal history
8 which was omitted from the offender score calculation pursuant to RCW
9 9.94A.525 results in a presumptive sentence that is clearly too
10 lenient.

11 (3) Aggravating Circumstances - Considered by a Jury -Imposed by
12 the Court

13 Except for circumstances listed in subsection (2) of this section,
14 the following circumstances are an exclusive list of factors that can
15 support a sentence above the standard range. Such facts should be
16 determined by procedures specified in RCW 9.94A.537.

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

19 (b) The defendant knew or should have known that the victim of the
20 current offense was particularly vulnerable or incapable of resistance.

21 (c) The current offense was a violent offense, and the defendant
22 knew that the victim of the current offense was pregnant.

23 (d) The current offense was a major economic offense or series of
24 offenses, so identified by a consideration of any of the following
25 factors:

26 (i) The current offense involved multiple victims or multiple
27 incidents per victim;

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

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

32 (iv) The defendant used his or her position of trust, confidence,
33 or fiduciary responsibility to facilitate the commission of the current
34 offense.

35 (e) The current offense was a major violation of the Uniform
36 Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to
37 trafficking in controlled substances, which was more onerous than the

1 typical offense of its statutory definition: The presence of ANY of
2 the following may identify a current offense as a major VUCSA:

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

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

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

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

13 (v) The current offense involved a high degree of sophistication or
14 planning, occurred over a lengthy period of time, or involved a broad
15 geographic area of disbursement; or

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

20 (f) The current offense included a finding of sexual motivation
21 pursuant to RCW 9.94A.835.

22 (g) The offense was part of an ongoing pattern of sexual abuse of
23 the same victim under the age of eighteen years manifested by multiple
24 incidents over a prolonged period of time.

25 (h) The current offense involved domestic violence, as defined in
26 RCW 10.99.020, or stalking, as defined in RCW 9A.46.110, and one or
27 more of the following was present:

28 (i) The offense was part of an ongoing pattern of psychological,
29 physical, or sexual abuse of a victim or multiple victims manifested by
30 multiple incidents over a prolonged period of time;

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

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

35 (i) The offense resulted in the pregnancy of a child victim of
36 rape.

37 (j) The defendant knew that the victim of the current offense was

1 a youth who was not residing with a legal custodian and the defendant
2 established or promoted the relationship for the primary purpose of
3 victimization.

4 (k) The offense was committed with the intent to obstruct or impair
5 human or animal health care or agricultural or forestry research or
6 commercial production.

7 (l) The current offense is trafficking in the first degree or
8 trafficking in the second degree and any victim was a minor at the time
9 of the offense.

10 (m) The offense involved a high degree of sophistication or
11 planning.

12 (n) The defendant used his or her position of trust, confidence, or
13 fiduciary responsibility to facilitate the commission of the current
14 offense.

15 (o) The defendant committed a current sex offense, has a history of
16 sex offenses, and is not amenable to treatment.

17 (p) The offense involved an invasion of the victim's privacy.

18 (q) The defendant demonstrated or displayed an egregious lack of
19 remorse.

20 (r) The offense involved a destructive and foreseeable impact on
21 persons other than the victim.

22 (s) The defendant committed the offense to obtain or maintain his
23 or her membership or to advance his or her position in the hierarchy of
24 an organization, association, or identifiable group.

25 (t) The defendant committed the current offense shortly after being
26 released from incarceration.

27 (u) The current offense is a burglary and the victim of the
28 burglary was present in the building or residence when the crime was
29 committed.

30 (v) The offense was committed against a law enforcement officer who
31 was performing his or her official duties at the time of the offense,
32 the offender knew that the victim was a law enforcement officer, and
33 the victim's status as a law enforcement officer is not an element of
34 the offense.

35 (w) The defendant committed the offense against a victim who was
36 acting as a good samaritan.

37 (x) The defendant committed the offense against a public official

1 or officer of the court in retaliation of the public official's
2 performance of his or her duty to the criminal justice system.

3 (y) The victim's injuries substantially exceed the level of bodily
4 harm necessary to satisfy the elements of the offense. This aggravator
5 is not an exception to RCW 9.94A.530(2).

6 (z)(i)(A) The current offense is theft in the first degree, theft
7 in the second degree, possession of stolen property in the first
8 degree, or possession of stolen property in the second degree; (B) the
9 stolen property involved is metal property; and (C) the property damage
10 to the victim caused in the course of the theft of metal property is
11 more than three times the value of the stolen metal property, or the
12 theft of the metal property creates a public hazard.

13 (ii) For purposes of this subsection, "metal property" means
14 commercial metal property, private metal property, or nonferrous metal
15 property, as defined in RCW 19.290.010.

16 (aa) The defendant committed the offense with the intent to
17 directly or indirectly cause any benefit, aggrandizement, gain, profit,
18 or other advantage to or for a criminal street gang as defined in RCW
19 9.94A.030, its reputation, influence, or membership.

20 (bb) The current offense involved paying to view, over the internet
21 in violation of RCW 9.68A.075, depictions of a minor engaged in an act
22 of sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through
23 (g).

24 (cc) The offense was intentionally committed because the defendant
25 perceived the victim to be homeless, as defined in RCW 9.94A.030.

26 **Sec. 27.** RCW 9A.46.040 and 2012 c 223 s 1 are each amended to read
27 as follows:

28 (1) Because of the likelihood of repeated harassment directed at
29 those who have been victims of harassment in the past, when any
30 defendant charged with a crime involving harassment is released from
31 custody before trial on bail or personal recognizance, the court
32 authorizing the release may issue an order pursuant to this chapter and
33 require that the defendant:

34 (a) Stay away from the home, school, business, or place of
35 employment of the victim or victims of the alleged offense or other
36 location, as shall be specifically named by the court in the order;

1 (b) Refrain from contacting, intimidating, threatening, or
2 otherwise interfering with the victim or victims of the alleged offense
3 and such other persons, including but not limited to members of the
4 family or household of the victim, as shall be specifically named by
5 the court in the order.

6 (2) Willful violation of a court order issued under this section or
7 an equivalent local ordinance is a gross misdemeanor. The written
8 order releasing the defendant shall contain the court's directives and
9 shall bear the legend: Violation of this order is a criminal offense
10 under chapter 9A.46 RCW. A certified copy of the order shall be
11 provided to the victim by the clerk of the court.

12 (3) If the defendant is charged with the crime of stalking or any
13 other stalking related offense under RCW 9A.46.060, and the court
14 issues an order protecting the victim, the court shall issue a stalking
15 no-contact order pursuant to chapter 7.-- RCW (the new chapter created
16 in section 33 of this act).

17 NEW SECTION. Sec. 28. A new section is added to chapter 9A.46 RCW
18 to read as follows:

19 (1) A defendant arrested for stalking as defined by RCW 9A.46.110
20 shall be required to appear in person before a magistrate within one
21 judicial day after the arrest.

22 (2) At the time of appearance provided in subsection (1) of this
23 section the court shall determine the necessity of imposing a stalking
24 no-contact order under chapter 7.-- RCW (the new chapter created in
25 section 33 of this act).

26 (3) Appearances required pursuant to this section are mandatory and
27 cannot be waived.

28 (4) The stalking no-contact order shall be issued and entered with
29 the appropriate law enforcement agency pursuant to the procedures
30 outlined in chapter 7.-- RCW (the new chapter created in section 33 of
31 this act).

32 **Sec. 29.** RCW 9A.46.110 and 2007 c 201 s 1 are each amended to read
33 as follows:

34 (1) A person commits the crime of stalking if, without lawful
35 authority and under circumstances not amounting to a felony attempt of
36 another crime:

1 (a) He or she intentionally and repeatedly harasses or repeatedly
2 follows another person; and

3 (b) The person being harassed or followed is placed in fear that
4 the stalker intends to injure the person, another person, or property
5 of the person or of another person. The feeling of fear must be one
6 that a reasonable person in the same situation would experience under
7 all the circumstances; and

8 (c) The stalker either:

9 (i) Intends to frighten, intimidate, or harass the person; or

10 (ii) Knows or reasonably should know that the person is afraid,
11 intimidated, or harassed even if the stalker did not intend to place
12 the person in fear or intimidate or harass the person.

13 (2)(a) It is not a defense to the crime of stalking under
14 subsection (1)(c)(i) of this section that the stalker was not given
15 actual notice that the person did not want the stalker to contact or
16 follow the person; and

17 (b) It is not a defense to the crime of stalking under subsection
18 (1)(c)(ii) of this section that the stalker did not intend to frighten,
19 intimidate, or harass the person.

20 (3) It shall be a defense to the crime of stalking that the
21 defendant is a licensed private investigator acting within the capacity
22 of his or her license as provided by chapter 18.165 RCW.

23 (4) Attempts to contact or follow the person after being given
24 actual notice that the person does not want to be contacted or followed
25 constitutes prima facie evidence that the stalker intends to intimidate
26 or harass the person. "Contact" includes, in addition to any other
27 form of contact or communication, the sending of an electronic
28 communication to the person.

29 (5)(a) Except as provided in (b) of this subsection, a person who
30 stalks another person is guilty of a gross misdemeanor.

31 (b) A person who stalks another is guilty of a class ((C)) B felony
32 if any of the following applies: (i) The stalker has previously been
33 convicted in this state or any other state of any crime of harassment,
34 as defined in RCW 9A.46.060, of the same victim or members of the
35 victim's family or household or any person specifically named in a
36 protective order; (ii) the stalking violates any protective order
37 protecting the person being stalked; (iii) the stalker has previously
38 been convicted of a gross misdemeanor or felony stalking offense under

1 this section for stalking another person; (iv) the stalker was armed
2 with a deadly weapon, as defined in RCW ((9.94A.602)) 9.94A.825, while
3 stalking the person; (v)(A) the stalker's victim is or was a law
4 enforcement officer; judge; juror; attorney; victim advocate;
5 legislator; community corrections' officer; an employee, contract staff
6 person, or volunteer of a correctional agency; court employee, court
7 clerk, or courthouse facilitator; or an employee of the child
8 protective, child welfare, or adult protective services division within
9 the department of social and health services; and (B) the stalker
10 stalked the victim to retaliate against the victim for an act the
11 victim performed during the course of official duties or to influence
12 the victim's performance of official duties; or (vi) the stalker's
13 victim is a current, former, or prospective witness in an adjudicative
14 proceeding, and the stalker stalked the victim to retaliate against the
15 victim as a result of the victim's testimony or potential testimony.

16 (6) As used in this section:

17 (a) "Correctional agency" means a person working for the department
18 of natural resources in a correctional setting or any state, county, or
19 municipally operated agency with the authority to direct the release of
20 a person serving a sentence or term of confinement and includes but is
21 not limited to the department of corrections, the indeterminate
22 sentence review board, and the department of social and health
23 services.

24 (b) "Follows" means deliberately maintaining visual or physical
25 proximity to a specific person over a period of time. A finding that
26 the alleged stalker repeatedly and deliberately appears at the person's
27 home, school, place of employment, business, or any other location to
28 maintain visual or physical proximity to the person is sufficient to
29 find that the alleged stalker follows the person. It is not necessary
30 to establish that the alleged stalker follows the person while in
31 transit from one location to another.

32 (c) "Harasses" means unlawful harassment as defined in RCW
33 10.14.020.

34 (d) "Protective order" means any temporary or permanent court order
35 prohibiting or limiting violence against, harassment of, contact or
36 communication with, or physical proximity to another person.

37 (e) "Repeatedly" means on two or more separate occasions.

1 **Sec. 30.** RCW 10.14.070 and 2005 c 144 s 1 are each amended to read
2 as follows:

3 Upon receipt of the petition alleging a prima facie case of
4 harassment, other than a petition alleging a sex offense as defined in
5 chapter 9A.44 RCW or a petition for a stalking protection order under
6 chapter 7.-- RCW (the new chapter created in section 33 of this act),
7 the court shall order a hearing which shall be held not later than
8 fourteen days from the date of the order. If the petition alleges a
9 sex offense as defined in chapter 9A.44 RCW, the court shall order a
10 hearing which shall be held not later than fourteen days from the date
11 of the order. Except as provided in RCW 10.14.085, personal service
12 shall be made upon the respondent not less than five court days before
13 the hearing. If timely personal service cannot be made, the court
14 shall set a new hearing date and shall either require additional
15 attempts at obtaining personal service or permit service by publication
16 as provided by RCW 10.14.085. If the court permits service by
17 publication, the court shall set the hearing date not later than
18 twenty-four days from the date of the order. The court may issue an ex
19 parte order for protection pending the hearing as provided in RCW
20 10.14.080 and 10.14.085.

21 **Sec. 31.** RCW 26.50.110 and 2009 c 439 s 3 and 2009 c 288 s 3 are
22 each reenacted and amended to read as follows:

23 (1)(a) Whenever an order is granted under this chapter, chapter
24 7.-- (the new chapter created in section 33 of this act), 7.90, 9A.46,
25 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or there is a valid
26 foreign protection order as defined in RCW 26.52.020, and the
27 respondent or person to be restrained knows of the order, a violation
28 of any of the following provisions of the order is a gross misdemeanor,
29 except as provided in subsections (4) and (5) of this section:

30 (i) The restraint provisions prohibiting acts or threats of
31 violence against, or stalking of, a protected party, or restraint
32 provisions prohibiting contact with a protected party;

33 (ii) A provision excluding the person from a residence, workplace,
34 school, or day care;

35 (iii) A provision prohibiting a person from knowingly coming
36 within, or knowingly remaining within, a specified distance of a
37 location;

1 (iv) A provision prohibiting interfering with the protected party's
2 efforts to remove a pet owned, possessed, leased, kept, or held by the
3 petitioner, respondent, or a minor child residing with either the
4 petitioner or the respondent; or

5 (v) A provision of a foreign protection order specifically
6 indicating that a violation will be a crime.

7 (b) Upon conviction, and in addition to any other penalties
8 provided by law, the court may require that the respondent submit to
9 electronic monitoring. The court shall specify who shall provide the
10 electronic monitoring services, and the terms under which the
11 monitoring shall be performed. The order also may include a
12 requirement that the respondent pay the costs of the monitoring. The
13 court shall consider the ability of the convicted person to pay for
14 electronic monitoring.

15 (2) A peace officer shall arrest without a warrant and take into
16 custody a person whom the peace officer has probable cause to believe
17 has violated an order issued under this chapter, chapter 7.-- (the new
18 chapter created in section 33 of this act), 7.90, 9A.46 9.94A, 10.99,
19 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order
20 as defined in RCW 26.52.020, that restrains the person or excludes the
21 person from a residence, workplace, school, or day care, or prohibits
22 the person from knowingly coming within, or knowingly remaining within,
23 a specified distance of a location, if the person restrained knows of
24 the order. Presence of the order in the law enforcement computer-based
25 criminal intelligence information system is not the only means of
26 establishing knowledge of the order.

27 (3) A violation of an order issued under this chapter, chapter 7.--
28 (the new chapter created in section 33 of this act), 7.90, 9A.46,
29 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign
30 protection order as defined in RCW 26.52.020, shall also constitute
31 contempt of court, and is subject to the penalties prescribed by law.

32 (4) Any assault that is a violation of an order issued under this
33 chapter, chapter 7.-- (the new chapter created in section 33 of this
34 act), 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or
35 of a valid foreign protection order as defined in RCW 26.52.020, and
36 that does not amount to assault in the first or second degree under RCW
37 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in

1 violation of such an order that is reckless and creates a substantial
2 risk of death or serious physical injury to another person is a class
3 C felony.

4 (5) A violation of a court order issued under this chapter, chapter
5 7.-- (the new chapter created in section 33 of this act), 7.90, 9A.46,
6 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign
7 protection order as defined in RCW 26.52.020, is a class C felony if
8 the offender has at least two previous convictions for violating the
9 provisions of an order issued under this chapter, chapter 7.90, 9A.46,
10 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign
11 protection order as defined in RCW 26.52.020. The previous convictions
12 may involve the same victim or other victims specifically protected by
13 the orders the offender violated.

14 (6) Upon the filing of an affidavit by the petitioner or any peace
15 officer alleging that the respondent has violated an order granted
16 under this chapter, chapter 7.-- (the new chapter created in section 33
17 of this act), 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34
18 RCW, or a valid foreign protection order as defined in RCW 26.52.020,
19 the court may issue an order to the respondent, requiring the
20 respondent to appear and show cause within fourteen days why the
21 respondent should not be found in contempt of court and punished
22 accordingly. The hearing may be held in the court of any county or
23 municipality in which the petitioner or respondent temporarily or
24 permanently resides at the time of the alleged violation.

25 **Sec. 32.** RCW 10.31.100 and 2010 c 274 s 201 are each amended to
26 read as follows:

27 A police officer having probable cause to believe that a person has
28 committed or is committing a felony shall have the authority to arrest
29 the person without a warrant. A police officer may arrest a person
30 without a warrant for committing a misdemeanor or gross misdemeanor
31 only when the offense is committed in the presence of the officer,
32 except as provided in subsections (1) through (10) of this section.

33 (1) Any police officer having probable cause to believe that a
34 person has committed or is committing a misdemeanor or gross
35 misdemeanor, involving physical harm or threats of harm to any person
36 or property or the unlawful taking of property or involving the use or
37 possession of cannabis, or involving the acquisition, possession, or

1 consumption of alcohol by a person under the age of twenty-one years
2 under RCW 66.44.270, or involving criminal trespass under RCW 9A.52.070
3 or 9A.52.080, shall have the authority to arrest the person.

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

7 (a) An order has been issued of which the person has knowledge
8 under RCW 26.44.063, or chapter 7.-- (the new chapter created in
9 section 33 of this act), 7.90, 9A.46, 10.99, 26.09, 26.10, 26.26,
10 26.50, or 74.34 RCW restraining the person and the person has violated
11 the terms of the order restraining the person from acts or threats of
12 violence, or restraining the person from going onto the grounds of or
13 entering a residence, workplace, school, or day care, or prohibiting
14 the person from knowingly coming within, or knowingly remaining within,
15 a specified distance of a location or, in the case of an order issued
16 under RCW 26.44.063, imposing any other restrictions or conditions upon
17 the person; or

18 (b) A foreign protection order, as defined in RCW 26.52.010, has
19 been issued of which the person under restraint has knowledge and the
20 person under restraint has violated a provision of the foreign
21 protection order prohibiting the person under restraint from contacting
22 or communicating with another person, or excluding the person under
23 restraint from a residence, workplace, school, or day care, or
24 prohibiting the person from knowingly coming within, or knowingly
25 remaining within, a specified distance of a location, or a violation of
26 any provision for which the foreign protection order specifically
27 indicates that a violation will be a crime; or

28 (c) The person is sixteen years or older and within the preceding
29 four hours has assaulted a family or household member as defined in RCW
30 10.99.020 and the officer believes: (i) A felonious assault has
31 occurred; (ii) an assault has occurred which has resulted in bodily
32 injury to the victim, whether the injury is observable by the
33 responding officer or not; or (iii) that any physical action has
34 occurred which was intended to cause another person reasonably to fear
35 imminent serious bodily injury or death. Bodily injury means physical
36 pain, illness, or an impairment of physical condition. When the
37 officer has probable cause to believe that family or household members
38 have assaulted each other, the officer is not required to arrest both

1 persons. The officer shall arrest the person whom the officer believes
2 to be the primary physical aggressor. In making this determination,
3 the officer shall make every reasonable effort to consider: (i) The
4 intent to protect victims of domestic violence under RCW 10.99.010;
5 (ii) the comparative extent of injuries inflicted or serious threats
6 creating fear of physical injury; and (iii) the history of domestic
7 violence of each person involved, including whether the conduct was
8 part of an ongoing pattern of abuse.

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

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

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

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

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

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

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

24 (4) A law enforcement officer investigating at the scene of a motor
25 vehicle accident may arrest the driver of a motor vehicle involved in
26 the accident if the officer has probable cause to believe that the
27 driver has committed in connection with the accident a violation of any
28 traffic law or regulation.

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

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

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

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

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

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

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

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

22 (12) No police officer may be held criminally or civilly liable for
23 making an arrest pursuant to subsection (2) or (8) of this section if
24 the police officer acts in good faith and without malice.

25 NEW SECTION. **Sec. 33.** Sections 1 through 19 and 22 through 24 of
26 this act constitute a new chapter in Title 7 RCW."

27 Correct the title.

EFFECT: The amendment makes the following changes:

(1) Changes the definition of "stalking conduct" to add a requirement that, if the stalking conduct is based on a course of conduct serving no lawful purpose, the course of conduct must be one that the stalker knows or reasonably should know threatens, frightens, or intimidates the person, even if such result was not the stalker's intent.

(2) Renames stalking orders entered in conjunction with criminal proceedings "stalking no-contact orders."

(3) Adds a requirement that stalking protection order petitions must be filed as stand-alone civil cases.

(4) Specifies that forms, instructional brochures, and certified copies are provided free of charge when provided to the petitioner, rather than provided free of charge, in general.

(5) Requires transfer of stalking order actions from a district or municipal court to a superior court if the petitioner, victim, or respondent is a minor, rather than only when the respondent is a minor.

(6) Specifies that, unless otherwise stated, the relief provided is only to protect the victim and not the petitioner, if the petitioner is not the victim.

(7) Adds a requirement of service on a respondent's parent or legal custodian when the respondent is a minor.

(8) Lists certain groups for the Gender and Justice Commission to consult with in producing recommendations for the legislature.

(9) Makes other clarifying and nonsubstantive wording changes.

--- END ---