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**SUBSTITUTE SENATE BILL 5333**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senate Law & Justice (originally sponsored by Senators Pedersen and Rivers)

READ FIRST TIME 01/25/19.

1 AN ACT Relating to making changes related to the uniform  
2 parentage act for access to court records, entry of protective orders  
3 by the court, use of mandatory forms, criteria for notice of a  
4 proceeding to adjudicate parentage, compliance with regulations of  
5 the food and drug administration, enacting a repealed section of  
6 chapter 26.26 RCW, clarifying the crimes included in sexual assault  
7 for purposes of preclusion of parentage, and correcting citations and  
8 terminology; amending RCW 26.26A.500, 26.26A.470, 26.26A.410,  
9 26.26A.810, 26.26A.820, 26.26A.825, 26.26A.465, 4.16.360, 5.44.140,  
10 9.41.040, 9.41.173, 9.41.800, 9.94A.030, 10.14.080, 10.14.200,  
11 10.99.020, 13.04.030, 13.34.155, 13.38.040, 26.09.030, 26.09.191,  
12 26.09.405, 26.09.510, 26.12.802, 26.18.010, 26.18.220, 26.23.050,  
13 26.26B.010, 26.26B.020, 26.26B.040, 26.26B.050, 26.26B.070,  
14 26.26B.080, 26.26B.100, 26.33.110, 26.50.025, 26.50.035, 26.50.060,  
15 26.50.110, 26.50.160, 36.28A.410, 59.18.575, 74.20.040, 74.20.225,  
16 74.20.310, 74.20.350, 74.20.360, 74.20A.030, 74.20A.055, and  
17 74.20A.056; reenacting and amending RCW 9.41.070, 9.94A.411,  
18 9.94A.515, 9.96.060, 10.31.100, 13.34.030, 26.33.020, 72.09.712,  
19 72.09.714, and 74.13.031; adding a new section to chapter 26.26A RCW;  
20 and adding a new section to chapter 26.26B RCW.

21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:



1 (c) Knowingly coming within, or knowingly remaining within, a  
2 specified distance from a specified location; and

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

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

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

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

33 (7) If a restraining order issued pursuant to this section is  
34 modified or terminated, the clerk of the court shall notify the law  
35 enforcement agency specified in the order on or before the next  
36 judicial day. Upon receipt of notice that an order has been  
37 terminated, the law enforcement agency shall remove the order from  
38 any computer-based criminal intelligence information system.

39 (8) The court may issue a temporary restraining order without  
40 requiring notice to the other party only if it finds on the basis of

1 the moving affidavit or other evidence that irreparable injury could  
2 result if an order is not issued until the time for responding has  
3 elapsed.

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

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

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

13 (b) May be revoked or modified;

14 (c) Terminates when the final order is entered or when the  
15 petition is dismissed; and

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

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

34 (12) Any party may request the court to issue any order  
35 referenced by RCW 9.41.800.

36 NEW SECTION. Sec. 1003. A new section is added to chapter  
37 26.26A RCW to read as follows:

38 (1) Effective January 1, 2020, a party shall not file any  
39 pleading with the clerk of the court in an action commenced under

1 this chapter unless on forms approved by the administrator for the  
2 courts.

3 (2) The administrative office of the courts shall develop and  
4 approve standard court forms and format rules for mandatory use by  
5 litigants in all actions commenced under this chapter effective  
6 January 1, 2020. The administrative office of the courts has  
7 continuing responsibility to develop and revise mandatory forms and  
8 format rules as appropriate.

9 **Sec. 1004.** RCW 26.26A.410 and 2018 c 6 s 503 are each amended to  
10 read as follows:

11 (1) The petitioner shall give notice of a proceeding to  
12 adjudicate parentage to the following individuals:

13 (a) The woman who gave birth to the child, unless a court has  
14 adjudicated that she is not a parent;

15 (b) An individual who is a parent of the child under this  
16 chapter;

17 (c) A presumed, acknowledged, or adjudicated parent of the child;  
18 and

19 (d) An individual whose parentage of the child is to be  
20 adjudicated.

21 (2) An individual entitled to notice under subsection (1) of this  
22 section has a right to intervene in the proceeding.

23 (3) Lack of notice required by subsection (1) of this section  
24 does not render a judgment void. Lack of notice does not preclude an  
25 individual entitled to notice under subsection (1) of this section  
26 from bringing a proceeding under RCW 26.26A.450(2).

27 (4) Notice must be by service of the summons and complaint on all  
28 parties entitled to receive notice under subsection (1) of this  
29 section.

## 30 PART 2

### 31 COMPLIANCE WITH FOOD AND DRUG ADMINISTRATION REGULATIONS

32 **Sec. 2001.** RCW 26.26A.810 and 2018 c 6 s 803 are each amended to  
33 read as follows:

34 (1) A gamete bank or fertility clinic licensed in this state  
35 shall collect from a donor the donor's identifying information and  
36 medical history at the time of the donation.

1       (~~If the~~) (2) A gamete bank or fertility clinic (~~sends the~~)  
2 licensed in this state which receives gametes of a donor (~~to~~)  
3 collected by another gamete bank or fertility clinic (~~, the sending~~  
4 ~~gamete bank or fertility clinic shall forward any identifying~~  
5 ~~information and medical history of the donor, including the donor's~~  
6 ~~signed declaration under RCW 26.26A.815 regarding identity~~  
7 ~~disclosure, to the receiving gamete bank or fertility clinic. A~~  
8 ~~receiving gamete bank or fertility clinic licensed in this state~~)  
9 shall collect (~~and retain the information about the donor and each~~  
10 ~~sending~~) the name, address, telephone number, and email address of  
11 the gamete bank or fertility clinic from which it received the  
12 gametes.

13       (3) A gamete bank or fertility clinic licensed in this state  
14 shall disclose the information collected under subsections (1) and  
15 (2) of this section as provided under RCW 26.26A.820.

16       **Sec. 2002.** RCW 26.26A.820 and 2018 c 6 s 805 are each amended to  
17 read as follows:

18       (1) On request of a child conceived by assisted reproduction who  
19 attains eighteen years of age, a gamete bank or fertility clinic  
20 licensed in this state which collected (~~, stored, or released for~~  
21 ~~use~~) the gametes used in the assisted reproduction shall make a good  
22 faith effort to provide the child with identifying information of the  
23 donor who provided the gametes, unless the donor signed and did not  
24 withdraw a declaration under RCW 26.26A.815(2)(b). If the donor  
25 signed and did not withdraw the declaration, the gamete bank or  
26 fertility clinic shall make a good faith effort to notify the donor,  
27 who may elect under RCW 26.26A.815(3) to withdraw the donor's  
28 declaration.

29       (2) Regardless whether a donor signed a declaration under RCW  
30 26.26A.815(2)(b), on request by a child conceived by assisted  
31 reproduction who attains eighteen years of age, or, if the child is a  
32 minor, by a parent or guardian of the child, a gamete bank or  
33 fertility clinic licensed in this state which collected the gametes  
34 used in the assisted reproduction shall make a good faith effort to  
35 provide the child or, if the child is a minor, the parent or guardian  
36 of the child, access to nonidentifying medical history of the donor.

37       (3) On request of a child conceived by assisted reproduction who  
38 attains eighteen years of age, a gamete bank or fertility clinic  
39 licensed in this state which received the gametes used in the

1 assisted reproduction from another gamete bank or fertility clinic  
2 shall disclose the name, address, telephone number, and email address  
3 of the gamete bank or fertility clinic from which it received the  
4 gametes.

5 **Sec. 2003.** RCW 26.26A.825 and 2018 c 6 s 806 are each amended to  
6 read as follows:

7 (1) A gamete bank or fertility clinic licensed in this state  
8 which collects(~~(, stores, or releases)~~) gametes for use in assisted  
9 reproduction shall (~~(collect and)~~) maintain identifying information  
10 and medical history about each gamete donor. The gamete bank or  
11 fertility clinic shall (~~(collect and)~~) maintain records of gamete  
12 screening and testing and comply with reporting requirements, in  
13 accordance with federal law and applicable law of this state other  
14 than this chapter.

15 (2) A gamete bank or fertility clinic licensed in this state that  
16 receives gametes from another gamete bank or fertility clinic shall  
17 maintain the name, address, and telephone number of the gamete bank  
18 or fertility clinic from which it received the gametes.

19 **PART 3**

20 **ENACTING A REPEALED SECTION OF CHAPTER 26.26 RCW**

21 NEW SECTION. **Sec. 3001.** A new section is added to chapter  
22 26.26B RCW to read as follows:

23 (1) After the period for rescission of an acknowledgment of  
24 parentage provided in RCW 26.26A.235 has passed, a parent executing  
25 an acknowledgment of parentage of the child named therein may  
26 commence a judicial proceeding for:

27 (a) Making residential provisions or a parenting plan with regard  
28 to the minor child on the same basis as provided in chapter 26.09  
29 RCW; or

30 (b) Establishing a child support obligation under chapter 26.19  
31 RCW and maintaining health care coverage under RCW 26.09.105.

32 (2) Pursuant to RCW 26.09.010(3), a proceeding authorized by this  
33 section shall be titled "In re the parenting and support of...."

34 (3) Before the period for a challenge to the acknowledgment or  
35 denial of parentage has elapsed under RCW 26.26A.240, the petitioner  
36 must specifically allege under penalty of perjury, to the best of the  
37 petitioner's knowledge, that: (a) No person other than a person who

1 executed the acknowledgment of parentage is a parent of the child;  
2 (b) there is not currently pending a proceeding to adjudicate the  
3 parentage of the child or that another person is adjudicated the  
4 child's parent; and (c) the petitioner has provided notice of the  
5 proceeding to any other persons who have claimed parentage of the  
6 child. Should the respondent or any other person appearing in the  
7 action deny the allegations, a permanent parenting plan or  
8 residential schedule may not be entered for the child without the  
9 matter being converted to a proceeding to challenge the  
10 acknowledgment of parentage under RCW 26.26A.240 and 26.26A.445. A  
11 copy of the acknowledgment of parentage or the birth certificate  
12 issued by the state in which the child was born must be filed with  
13 the petition or response. The court may convert the matter to a  
14 proceeding to challenge the acknowledgment on its own motion.

15 **PART 4**

16 **CLARIFYING THE CRIMES INCLUDED IN SEXUAL ASSAULT FOR PURPOSES OF**  
17 **PRECLUSION OF PARENTAGE**

18 **Sec. 4001.** RCW 26.26A.465 and 2018 c 6 s 514 are each amended to  
19 read as follows:

20 (1) For the purposes of this section, "sexual assault" means  
21 nonconsensual sexual penetration that results in pregnancy.

22 (2) In a proceeding in which a parent alleges that a person  
23 committed a sexual assault that resulted in the parent becoming  
24 pregnant and subsequently giving birth to a child, the parent may  
25 seek to preclude the person from establishing or maintaining the  
26 person's parentage of the child. A parent who alleges that a child  
27 was born as a result of sexual assault may also seek additional  
28 relief as described in this section.

29 (3) This section does not apply if(~~+~~  
30 ~~(a)~~) the person described in subsection (2) of this section has  
31 previously been adjudicated in a proceeding brought under RCW  
32 26.26A.400 to be a parent of the child, except as may be specifically  
33 permitted under subsection (4) of this section.

34 (4) Unless RCW 26.26A.240 or 26.26A.430 applies, a parent must  
35 file a pleading making an allegation under subsection (2) of this  
36 section not later than four years after the birth of the child,  
37 except that for a period of one year after January 1, 2019, a court  
38 may waive the time bar in cases in which a presumed, acknowledged, or

1 adjudicated parent was found in a criminal or separate civil  
2 proceeding to have committed a sexual assault against the parent  
3 alleging that the child was born as a result of the sexual assault.

4 (5) If a parent makes an allegation under subsection (2) of this  
5 section and subsection (3) of this section does not apply, the court  
6 must conduct a fact-finding hearing on the allegation.

7 (a) The court may not enter any temporary orders providing  
8 residential time or decision making to the alleged perpetrator prior  
9 to the fact-finding hearing on the sexual assault allegation unless  
10 both of the following criteria are satisfied: (i) The alleged  
11 perpetrator has a bonded and dependent relationship with the child  
12 that is parental in nature; and (ii) the court specifically finds  
13 that it would be in the best interest of the child if such temporary  
14 orders are entered.

15 (b) Prior to the fact-finding hearing, the court may order  
16 genetic testing to determine whether the alleged perpetrator is  
17 biologically related to the child. If genetic testing reveals that  
18 the alleged perpetrator is not biologically related to the child, the  
19 fact-finding hearing must be stricken.

20 (c) Fourteen days prior to the fact-finding hearing, the parent  
21 alleging that the child was born as a result of a sexual assault  
22 shall submit affidavits setting forth facts supporting the allegation  
23 and shall give notice, together with a copy of the affidavit, to  
24 other parties to the proceedings, who may file opposing affidavits.  
25 Opposing affidavits must be submitted and served to other parties to  
26 the proceeding five days prior to the fact-finding hearing.

27 (d) The court shall determine on the record whether affidavits  
28 and documents submitted for the fact-finding hearing should be  
29 sealed.

30 (6) An allegation under subsection (2) of this section may be  
31 proved by:

32 (a) Evidence that the person was convicted of or pleaded guilty  
33 to a sexual assault under RCW 9A.44.040, 9A.44.050, or 9A.44.060, or  
34 a comparable crime of sexual assault (~~(in)~~), including child rape of  
35 any degree, in this state or any other jurisdiction, against the  
36 child's parent and the child was born within three hundred twenty  
37 days after the sexual assault; or

38 (b) Clear, cogent, and convincing evidence that the person  
39 committed sexual assault, as defined in this section, against the

1 child's parent and the child was born within three hundred twenty  
2 days after the sexual assault.

3 (7) Subject to subsections (1) through (5) of this section, if  
4 the court determines that an allegation has been proved under  
5 subsection (6) of this section at the fact-finding hearing or after a  
6 bench trial, the court shall:

7 (a) Adjudicate that the person described in subsection (2) of  
8 this section is not a parent of the child, has no right to  
9 residential time or decision-making responsibilities for the child,  
10 has no right to inheritance from the child, and has no right to  
11 notification of, or standing to object to, the adoption of the child.  
12 If the parent who was the victim of the sexual assault expressly  
13 consents in writing for the court to decline to enter one or more of  
14 these restrictions or limitations, the court may do so;

15 (b) Require the state registrar of vital statistics to amend the  
16 birth record if requested by the parent and the court determines that  
17 the amendment is in the best interest of the child; and

18 (c) Require the person pay to child support, birth-related costs,  
19 or both, unless the parent requests otherwise and the court  
20 determines that granting the request is in the best interest of the  
21 child.

22 (8) The child's parent or guardian may decline an order for child  
23 support or birth-related costs. If the child's parent or guardian  
24 declines an order for child support, and is either currently  
25 receiving public assistance or later applies for it for the child  
26 born as a result of the sexual assault, support enforcement agencies  
27 as defined in this chapter shall not file administrative or court  
28 proceedings to establish or collect child support, including medical  
29 support, from the person described in subsection (2) of this section.

30 (9) If the court enters an order under subsection (8) of this  
31 section providing that no child support obligation may be established  
32 or collected from the person described in subsection (2) of this  
33 section, the court shall forward a copy of the order to the  
34 Washington state support registry.

35 (10) The court may order an award of attorneys' fees under this  
36 section on the same basis as attorneys' fees are awarded under RCW  
37 26.09.140.

38 (11) Any party may move to close the fact-finding hearing and any  
39 related proceedings under this section to the public. If no party  
40 files such a motion, the court shall determine on its own initiative

1 whether the fact-finding hearing and any related proceedings under  
2 this section should be closed to the public. Upon finding good cause  
3 for closing the proceeding, and if consistent with Article I, section  
4 10 of the state Constitution, the court may:

5 (a) Restrict admission to only those persons whom the court finds  
6 to have a direct interest in the case or in the work of the court,  
7 including witnesses deemed necessary to the disposition of the case;  
8 and

9 (b) Restrict persons who are admitted from disclosing any  
10 information obtained at the hearing that would identify the parties  
11 involved or the child.

## 12 PART 5

### 13 CORRECTING CITATIONS AND TERMINOLOGY

14 **Sec. 5001.** RCW 4.16.360 and 1983 1st ex.s. c 41 s 13 are each  
15 amended to read as follows:

16 This chapter does not limit the time in which an action for  
17 determination of ((paternity)) parentage may be brought under chapter  
18 ((26.26)) 26.26A or 26.26B RCW.

19 **Sec. 5002.** RCW 5.44.140 and 2002 c 302 s 701 are each amended to  
20 read as follows:

21 In any proceeding regarding the determination of a family  
22 relationship, including but not limited to the parent and child  
23 relationship and the marriage relationship, a determination of family  
24 relationships regarding any person or persons who immigrated to the  
25 United States from a foreign country which was made or accepted by  
26 the United States ((immigration and naturalization service))  
27 citizenship and immigration services at the time of that person or  
28 persons' entry into the United States creates a rebuttable  
29 presumption that the determination is valid and that the family  
30 relationship under foreign law is as made or accepted at the time of  
31 entry. Except as provided in RCW ((26.26.116(2))) 26.26A.115(2), the  
32 presumption may be overcome by a preponderance of evidence showing  
33 that a living person other than the person named by the United States  
34 ((immigration and naturalization service)) citizenship and  
35 immigration services is in the relationship in question.

1       **Sec. 5003.** RCW 9.41.040 and 2018 c 234 s 1 are each amended to  
2 read as follows:

3       (1)(a) A person, whether an adult or juvenile, is guilty of the  
4 crime of unlawful possession of a firearm in the first degree, if the  
5 person owns, has in his or her possession, or has in his or her  
6 control any firearm after having previously been convicted or found  
7 not guilty by reason of insanity in this state or elsewhere of any  
8 serious offense as defined in this chapter.

9       (b) Unlawful possession of a firearm in the first degree is a  
10 class B felony punishable according to chapter 9A.20 RCW.

11       (2)(a) A person, whether an adult or juvenile, is guilty of the  
12 crime of unlawful possession of a firearm in the second degree, if  
13 the person does not qualify under subsection (1) of this section for  
14 the crime of unlawful possession of a firearm in the first degree and  
15 the person owns, has in his or her possession, or has in his or her  
16 control any firearm:

17       (i) After having previously been convicted or found not guilty by  
18 reason of insanity in this state or elsewhere of any felony not  
19 specifically listed as prohibiting firearm possession under  
20 subsection (1) of this section, or any of the following crimes when  
21 committed by one family or household member against another,  
22 committed on or after July 1, 1993: Assault in the fourth degree,  
23 coercion, stalking, reckless endangerment, criminal trespass in the  
24 first degree, or violation of the provisions of a protection order or  
25 no-contact order restraining the person or excluding the person from  
26 a residence (RCW 26.50.060, 26.50.070, 26.50.130, or 10.99.040);

27       (ii) After having previously been convicted or found not guilty  
28 by reason of insanity in this state or elsewhere of harassment when  
29 committed by one family or household member against another,  
30 committed on or after June 7, 2018;

31       (iii) During any period of time that the person is subject to a  
32 court order issued under chapter 7.90, 7.92, 9A.46, 10.14, 10.99,  
33 26.09, 26.10, (~~26.26~~) 26.26A, 26.26B, or 26.50 RCW that:

34       (A) Was issued after a hearing of which the person received  
35 actual notice, and at which the person had an opportunity to  
36 participate;

37       (B) Restrains the person from harassing, stalking, or threatening  
38 an intimate partner of the person or child of the intimate partner or  
39 person, or engaging in other conduct that would place an intimate

1 partner in reasonable fear of bodily injury to the partner or child;  
2 and

3 (C) (I) Includes a finding that the person represents a credible  
4 threat to the physical safety of the intimate partner or child; and

5 (II) By its terms, explicitly prohibits the use, attempted use,  
6 or threatened use of physical force against the intimate partner or  
7 child that would reasonably be expected to cause bodily injury;

8 (iv) After having previously been involuntarily committed for  
9 mental health treatment under RCW 71.05.240, 71.05.320, 71.34.740,  
10 71.34.750, chapter 10.77 RCW, or equivalent statutes of another  
11 jurisdiction, unless his or her right to possess a firearm has been  
12 restored as provided in RCW 9.41.047;

13 (v) If the person is under eighteen years of age, except as  
14 provided in RCW 9.41.042; and/or

15 (vi) If the person is free on bond or personal recognizance  
16 pending trial, appeal, or sentencing for a serious offense as defined  
17 in RCW 9.41.010.

18 (b) (a) (iii) of this subsection does not apply to a sexual  
19 assault protection order under chapter 7.90 RCW if the order has been  
20 modified pursuant to RCW 7.90.170 to remove any restrictions on  
21 firearm purchase, transfer, or possession.

22 (c) Unlawful possession of a firearm in the second degree is a  
23 class C felony punishable according to chapter 9A.20 RCW.

24 (3) Notwithstanding RCW 9.41.047 or any other provisions of law,  
25 as used in this chapter, a person has been "convicted," whether in an  
26 adult court or adjudicated in a juvenile court, at such time as a  
27 plea of guilty has been accepted, or a verdict of guilty has been  
28 filed, notwithstanding the pendency of any future proceedings  
29 including but not limited to sentencing or disposition, post-trial or  
30 post-fact-finding motions, and appeals. Conviction includes a  
31 dismissal entered after a period of probation, suspension or deferral  
32 of sentence, and also includes equivalent dispositions by courts in  
33 jurisdictions other than Washington state. A person shall not be  
34 precluded from possession of a firearm if the conviction has been the  
35 subject of a pardon, annulment, certificate of rehabilitation, or  
36 other equivalent procedure based on a finding of the rehabilitation  
37 of the person convicted or the conviction or disposition has been the  
38 subject of a pardon, annulment, or other equivalent procedure based  
39 on a finding of innocence. Where no record of the court's disposition

1 of the charges can be found, there shall be a rebuttable presumption  
2 that the person was not convicted of the charge.

3 (4) (a) Notwithstanding subsection (1) or (2) of this section, a  
4 person convicted or found not guilty by reason of insanity of an  
5 offense prohibiting the possession of a firearm under this section  
6 other than murder, manslaughter, robbery, rape, indecent liberties,  
7 arson, assault, kidnapping, extortion, burglary, or violations with  
8 respect to controlled substances under RCW 69.50.401 and 69.50.410,  
9 who received a probationary sentence under RCW 9.95.200, and who  
10 received a dismissal of the charge under RCW 9.95.240, shall not be  
11 precluded from possession of a firearm as a result of the conviction  
12 or finding of not guilty by reason of insanity. Notwithstanding any  
13 other provisions of this section, if a person is prohibited from  
14 possession of a firearm under subsection (1) or (2) of this section  
15 and has not previously been convicted or found not guilty by reason  
16 of insanity of a sex offense prohibiting firearm ownership under  
17 subsection (1) or (2) of this section and/or any felony defined under  
18 any law as a class A felony or with a maximum sentence of at least  
19 twenty years, or both, the individual may petition a court of record  
20 to have his or her right to possess a firearm restored:

21 (i) Under RCW 9.41.047; and/or

22 (ii) (A) If the conviction or finding of not guilty by reason of  
23 insanity was for a felony offense, after five or more consecutive  
24 years in the community without being convicted or found not guilty by  
25 reason of insanity or currently charged with any felony, gross  
26 misdemeanor, or misdemeanor crimes, if the individual has no prior  
27 felony convictions that prohibit the possession of a firearm counted  
28 as part of the offender score under RCW 9.94A.525; or

29 (B) If the conviction or finding of not guilty by reason of  
30 insanity was for a nonfelony offense, after three or more consecutive  
31 years in the community without being convicted or found not guilty by  
32 reason of insanity or currently charged with any felony, gross  
33 misdemeanor, or misdemeanor crimes, if the individual has no prior  
34 felony convictions that prohibit the possession of a firearm counted  
35 as part of the offender score under RCW 9.94A.525 and the individual  
36 has completed all conditions of the sentence.

37 (b) An individual may petition a court of record to have his or  
38 her right to possess a firearm restored under (a) of this subsection  
39 (4) only at:

1 (i) The court of record that ordered the petitioner's prohibition  
2 on possession of a firearm; or

3 (ii) The superior court in the county in which the petitioner  
4 resides.

5 (5) In addition to any other penalty provided for by law, if a  
6 person under the age of eighteen years is found by a court to have  
7 possessed a firearm in a vehicle in violation of subsection (1) or  
8 (2) of this section or to have committed an offense while armed with  
9 a firearm during which offense a motor vehicle served an integral  
10 function, the court shall notify the department of licensing within  
11 twenty-four hours and the person's privilege to drive shall be  
12 revoked under RCW 46.20.265, unless the offense is the juvenile's  
13 first offense in violation of this section and has not committed an  
14 offense while armed with a firearm, an unlawful possession of a  
15 firearm offense, or an offense in violation of chapter 66.44, 69.52,  
16 69.41, or 69.50 RCW.

17 (6) Nothing in chapter 129, Laws of 1995 shall ever be construed  
18 or interpreted as preventing an offender from being charged and  
19 subsequently convicted for the separate felony crimes of theft of a  
20 firearm or possession of a stolen firearm, or both, in addition to  
21 being charged and subsequently convicted under this section for  
22 unlawful possession of a firearm in the first or second degree.  
23 Notwithstanding any other law, if the offender is convicted under  
24 this section for unlawful possession of a firearm in the first or  
25 second degree and for the felony crimes of theft of a firearm or  
26 possession of a stolen firearm, or both, then the offender shall  
27 serve consecutive sentences for each of the felony crimes of  
28 conviction listed in this subsection.

29 (7) Each firearm unlawfully possessed under this section shall be  
30 a separate offense.

31 (8) For purposes of this section, "intimate partner" includes: A  
32 spouse, a domestic partner, a former spouse, a former domestic  
33 partner, a person with whom the restrained person has a child in  
34 common, or a person with whom the restrained person has cohabitated  
35 or is cohabitating as part of a dating relationship.

36 **Sec. 5004.** RCW 9.41.070 and 2018 c 226 s 2 and 2018 c 201 s 6002  
37 are each reenacted and amended to read as follows:

38 (1) The chief of police of a municipality or the sheriff of a  
39 county shall within thirty days after the filing of an application of

1 any person, issue a license to such person to carry a pistol  
2 concealed on his or her person within this state for five years from  
3 date of issue, for the purposes of protection or while engaged in  
4 business, sport, or while traveling. However, if the applicant does  
5 not have a valid permanent Washington driver's license or Washington  
6 state identification card or has not been a resident of the state for  
7 the previous consecutive ninety days, the issuing authority shall  
8 have up to sixty days after the filing of the application to issue a  
9 license. The issuing authority shall not refuse to accept completed  
10 applications for concealed pistol licenses during regular business  
11 hours.

12 The applicant's constitutional right to bear arms shall not be  
13 denied, unless:

14 (a) He or she is ineligible to possess a firearm under the  
15 provisions of RCW 9.41.040 or 9.41.045, or is prohibited from  
16 possessing a firearm under federal law;

17 (b) The applicant's concealed pistol license is in a revoked  
18 status;

19 (c) He or she is under twenty-one years of age;

20 (d) He or she is subject to a court order or injunction regarding  
21 firearms pursuant to chapter((s)) 7.90, 7.92, or 7.94 RCW, or RCW  
22 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060,  
23 26.10.040, 26.10.115, ((~~26.26.130~~)) 26.26B.020, 26.50.060, 26.50.070,  
24 or ((~~26.26.590~~)) 26.26A.470;

25 (e) He or she is free on bond or personal recognizance pending  
26 trial, appeal, or sentencing for a felony offense;

27 (f) He or she has an outstanding warrant for his or her arrest  
28 from any court of competent jurisdiction for a felony or misdemeanor;  
29 or

30 (g) He or she has been ordered to forfeit a firearm under RCW  
31 9.41.098(1)(e) within one year before filing an application to carry  
32 a pistol concealed on his or her person.

33 No person convicted of a felony may have his or her right to  
34 possess firearms restored or his or her privilege to carry a  
35 concealed pistol restored, unless the person has been granted relief  
36 from disabilities by the attorney general under 18 U.S.C. Sec.  
37 925(c), or RCW 9.41.040 (3) or (4) applies.

38 (2)(a) The issuing authority shall conduct a check through the  
39 national instant criminal background check system, the Washington  
40 state patrol electronic database, the health care authority

1 electronic database, and with other agencies or resources as  
2 appropriate, to determine whether the applicant is ineligible under  
3 RCW 9.41.040 or 9.41.045 to possess a firearm, or is prohibited from  
4 possessing a firearm under federal law, and therefore ineligible for  
5 a concealed pistol license.

6 (b) The issuing authority shall deny a permit to anyone who is  
7 found to be prohibited from possessing a firearm under federal or  
8 state law.

9 (c) This subsection applies whether the applicant is applying for  
10 a new concealed pistol license or to renew a concealed pistol  
11 license.

12 (3) Any person whose firearms rights have been restricted and who  
13 has been granted relief from disabilities by the attorney general  
14 under 18 U.S.C. Sec. 925(c) or who is exempt under 18 U.S.C. Sec.  
15 921(a)(20)(A) shall have his or her right to acquire, receive,  
16 transfer, ship, transport, carry, and possess firearms in accordance  
17 with Washington state law restored except as otherwise prohibited by  
18 this chapter.

19 (4) The license application shall bear the full name, residential  
20 address, telephone number at the option of the applicant, email  
21 address at the option of the applicant, date and place of birth,  
22 race, gender, description, a complete set of fingerprints, and  
23 signature of the licensee, and the licensee's driver's license number  
24 or state identification card number if used for identification in  
25 applying for the license. A signed application for a concealed pistol  
26 license shall constitute a waiver of confidentiality and written  
27 request that the health care authority, mental health institutions,  
28 and other health care facilities release information relevant to the  
29 applicant's eligibility for a concealed pistol license to an  
30 inquiring court or law enforcement agency.

31 The application for an original license shall include a complete  
32 set of fingerprints to be forwarded to the Washington state patrol.

33 The license and application shall contain a warning substantially  
34 as follows:

35 CAUTION: Although state and local laws do not differ, federal  
36 law and state law on the possession of firearms differ. If  
37 you are prohibited by federal law from possessing a firearm,  
38 you may be prosecuted in federal court. A state license is  
39 not a defense to a federal prosecution.

1 The license shall contain a description of the major differences  
2 between state and federal law and an explanation of the fact that  
3 local laws and ordinances on firearms are preempted by state law and  
4 must be consistent with state law.

5 The application shall contain questions about the applicant's  
6 eligibility under RCW 9.41.040 and federal law to possess a pistol,  
7 the applicant's place of birth, and whether the applicant is a United  
8 States citizen. If the applicant is not a United States citizen, the  
9 applicant must provide the applicant's country of citizenship, United  
10 States issued alien number or admission number, and the basis on  
11 which the applicant claims to be exempt from federal prohibitions on  
12 firearm possession by aliens. The applicant shall not be required to  
13 produce a birth certificate or other evidence of citizenship. A  
14 person who is not a citizen of the United States shall, if  
15 applicable, meet the additional requirements of RCW 9.41.173 and  
16 produce proof of compliance with RCW 9.41.173 upon application. The  
17 license may be in triplicate or in a form to be prescribed by the  
18 department of licensing.

19 A photograph of the applicant may be required as part of the  
20 application and printed on the face of the license.

21 The original thereof shall be delivered to the licensee, the  
22 duplicate shall within seven days be sent to the director of  
23 licensing and the triplicate shall be preserved for six years, by the  
24 authority issuing the license.

25 The department of licensing shall make available to law  
26 enforcement and corrections agencies, in an on-line format, all  
27 information received under this subsection.

28 (5) The nonrefundable fee, paid upon application, for the  
29 original five-year license shall be thirty-six dollars plus  
30 additional charges imposed by the federal bureau of investigation  
31 that are passed on to the applicant. No other state or local branch  
32 or unit of government may impose any additional charges on the  
33 applicant for the issuance of the license.

34 The fee shall be distributed as follows:

35 (a) Fifteen dollars shall be paid to the state general fund;

36 (b) Four dollars shall be paid to the agency taking the  
37 fingerprints of the person licensed;

38 (c) Fourteen dollars shall be paid to the issuing authority for  
39 the purpose of enforcing this chapter;

1 (d) Two dollars and sixteen cents to the firearms range account  
2 in the general fund; and

3 (e) Eighty-four cents to the concealed pistol license renewal  
4 notification account created in RCW 43.79.540.

5 (6) The nonrefundable fee for the renewal of such license shall  
6 be thirty-two dollars. No other branch or unit of government may  
7 impose any additional charges on the applicant for the renewal of the  
8 license.

9 The renewal fee shall be distributed as follows:

10 (a) Fifteen dollars shall be paid to the state general fund;

11 (b) Fourteen dollars shall be paid to the issuing authority for  
12 the purpose of enforcing this chapter;

13 (c) Two dollars and sixteen cents to the firearms range account  
14 in the general fund; and

15 (d) Eighty-four cents to the concealed pistol license renewal  
16 notification account created in RCW 43.79.540.

17 (7) The nonrefundable fee for replacement of lost or damaged  
18 licenses is ten dollars to be paid to the issuing authority.

19 (8) Payment shall be by cash, check, or money order at the option  
20 of the applicant. Additional methods of payment may be allowed at the  
21 option of the issuing authority.

22 (9) (a) A licensee may renew a license if the licensee applies for  
23 renewal within ninety days before or after the expiration date of the  
24 license. A license so renewed shall take effect on the expiration  
25 date of the prior license. A licensee renewing after the expiration  
26 date of the license must pay a late renewal penalty of ten dollars in  
27 addition to the renewal fee specified in subsection (6) of this  
28 section. The fee shall be distributed as follows:

29 (i) Three dollars shall be deposited in the state wildlife  
30 account and used exclusively first for the printing and distribution  
31 of a pamphlet on the legal limits of the use of firearms, firearms  
32 safety, and the preemptive nature of state law, and subsequently the  
33 support of volunteer instructors in the basic firearms safety  
34 training program conducted by the department of fish and wildlife.  
35 The pamphlet shall be given to each applicant for a license; and

36 (ii) Seven dollars shall be paid to the issuing authority for the  
37 purpose of enforcing this chapter.

38 (b) Beginning with concealed pistol licenses that expire on or  
39 after August 1, 2018, the department of licensing shall mail a  
40 renewal notice approximately ninety days before the license

1 expiration date to the licensee at the address listed on the  
2 concealed pistol license application, or to the licensee's new  
3 address if the licensee has notified the department of licensing of a  
4 change of address. Alternatively, if the licensee provides an email  
5 address at the time of license application, the department of  
6 licensing may send the renewal notice to the licensee's email  
7 address. The notice must contain the date the concealed pistol  
8 license will expire, the amount of renewal fee, the penalty for late  
9 renewal, and instructions on how to renew the license.

10 (10) Notwithstanding the requirements of subsections (1) through  
11 (9) of this section, the chief of police of the municipality or the  
12 sheriff of the county of the applicant's residence may issue a  
13 temporary emergency license for good cause pending review under  
14 subsection (1) of this section. However, a temporary emergency  
15 license issued under this subsection shall not exempt the holder of  
16 the license from any records check requirement. Temporary emergency  
17 licenses shall be easily distinguishable from regular licenses.

18 (11) A political subdivision of the state shall not modify the  
19 requirements of this section or chapter, nor may a political  
20 subdivision ask the applicant to voluntarily submit any information  
21 not required by this section.

22 (12) A person who knowingly makes a false statement regarding  
23 citizenship or identity on an application for a concealed pistol  
24 license is guilty of false swearing under RCW 9A.72.040. In addition  
25 to any other penalty provided for by law, the concealed pistol  
26 license of a person who knowingly makes a false statement shall be  
27 revoked, and the person shall be permanently ineligible for a  
28 concealed pistol license.

29 (13) A person may apply for a concealed pistol license:

30 (a) To the municipality or to the county in which the applicant  
31 resides if the applicant resides in a municipality;

32 (b) To the county in which the applicant resides if the applicant  
33 resides in an unincorporated area; or

34 (c) Anywhere in the state if the applicant is a nonresident.

35 (14) Any person who, as a member of the armed forces, including  
36 the national guard and armed forces reserves, is unable to renew his  
37 or her license under subsections (6) and (9) of this section because  
38 of the person's assignment, reassignment, or deployment for out-of-  
39 state military service may renew his or her license within ninety  
40 days after the person returns to this state from out-of-state

1 military service, if the person provides the following to the issuing  
2 authority no later than ninety days after the person's date of  
3 discharge or assignment, reassignment, or deployment back to this  
4 state: (a) A copy of the person's original order designating the  
5 specific period of assignment, reassignment, or deployment for out-  
6 of-state military service, and (b) if appropriate, a copy of the  
7 person's discharge or amended or subsequent assignment, reassignment,  
8 or deployment order back to this state. A license so renewed under  
9 this subsection (14) shall take effect on the expiration date of the  
10 prior license. A licensee renewing after the expiration date of the  
11 license under this subsection (14) shall pay only the renewal fee  
12 specified in subsection (6) of this section and shall not be required  
13 to pay a late renewal penalty in addition to the renewal fee.

14 **Sec. 5005.** RCW 9.41.173 and 2018 c 201 s 6006 are each amended  
15 to read as follows:

16 (1) In order to obtain an alien firearm license, a nonimmigrant  
17 alien residing in Washington must apply to the sheriff of the county  
18 in which he or she resides.

19 (2) The sheriff of the county shall within sixty days after the  
20 filing of an application of a nonimmigrant alien residing in the  
21 state of Washington, issue an alien firearm license to such person to  
22 carry or possess a firearm for the purposes of hunting and sport  
23 shooting. The license shall be good for two years. The issuing  
24 authority shall not refuse to accept completed applications for alien  
25 firearm licenses during regular business hours. An application for a  
26 license may not be denied, unless the applicant's alien firearm  
27 license is in a revoked status, or the applicant:

28 (a) Is ineligible to possess a firearm under the provisions of  
29 RCW 9.41.040 or 9.41.045;

30 (b) Is subject to a court order or injunction regarding firearms  
31 pursuant to RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045,  
32 26.09.050, 26.09.060, 26.10.040, 26.10.115, (~~(26.26.130)~~) 26.26B.020,  
33 26.50.060, 26.50.070, or (~~(26.26.590)~~) 26.26A.470;

34 (c) Is free on bond or personal recognizance pending trial,  
35 appeal, or sentencing for a felony offense; or

36 (d) Has an outstanding warrant for his or her arrest from any  
37 court of competent jurisdiction for a felony or misdemeanor.

38 No license application shall be granted to a nonimmigrant alien  
39 convicted of a felony unless the person has been granted relief from

1 disabilities by the attorney general under 18 U.S.C. Sec. 925(c), or  
2 unless RCW 9.41.040 (3) or (4) applies.

3 (3) The sheriff shall check with the national crime information  
4 center, the Washington state patrol electronic database, the health  
5 care authority electronic database, and with other agencies or  
6 resources as appropriate, to determine whether the applicant is  
7 ineligible under RCW 9.41.040 or 9.41.045 to possess a firearm.

8 (4) The license application shall bear the full name, residential  
9 address, telephone number at the option of the applicant, date and  
10 place of birth, race, gender, description, a complete set of  
11 fingerprints, and signature of the applicant, a copy of the  
12 applicant's passport and visa showing the applicant is in the country  
13 legally, and a valid Washington hunting license or documentation that  
14 the applicant is a member of a sport shooting club.

15 A signed application for an alien firearm license shall  
16 constitute a waiver of confidentiality and written request that the  
17 health care authority, mental health institutions, and other health  
18 care facilities release information relevant to the applicant's  
19 eligibility for an alien firearm license to an inquiring court or law  
20 enforcement agency.

21 The application for an original license shall include a complete  
22 set of fingerprints to be forwarded to the Washington state patrol.

23 The license and application shall contain a warning substantially  
24 as follows:

25 CAUTION: Although state and local laws do not differ, federal  
26 law and state law on the possession of firearms differ. If  
27 you are prohibited by federal law from possessing a firearm,  
28 you may be prosecuted in federal court. A state license is  
29 not a defense to a federal prosecution.

30 The license shall contain a description of the major differences  
31 between state and federal law and an explanation of the fact that  
32 local laws and ordinances on firearms are preempted by state law and  
33 must be consistent with state law. The application shall contain  
34 questions about the applicant's eligibility under RCW 9.41.040 to  
35 possess a firearm. The nonimmigrant alien applicant shall be required  
36 to produce a passport and visa as evidence of being in the country  
37 legally.

38 The license may be in triplicate or in a form to be prescribed by  
39 the department of licensing. The original thereof shall be delivered

1 to the licensee, the duplicate shall within seven days be sent to the  
2 director of licensing and the triplicate shall be preserved for six  
3 years, by the authority issuing the license.

4 The department of licensing shall make available to law  
5 enforcement and corrections agencies, in an online format, all  
6 information received under this section.

7 (5) The sheriff has the authority to collect a nonrefundable fee,  
8 paid upon application, for the two-year license. The fee shall be  
9 fifty dollars plus additional charges imposed by the Washington state  
10 patrol and the federal bureau of investigation that are passed on to  
11 the applicant. No other state or local branch or unit of government  
12 may impose any additional charges on the applicant for the issuance  
13 of the license. The fee shall be retained by the sheriff.

14 (6) Payment shall be by cash, check, or money order at the option  
15 of the applicant. Additional methods of payment may be allowed at the  
16 option of the sheriff.

17 (7) A political subdivision of the state shall not modify the  
18 requirements of this section, nor may a political subdivision ask the  
19 applicant to voluntarily submit any information not required by this  
20 section.

21 (8) A person who knowingly makes a false statement regarding  
22 citizenship or identity on an application for an alien firearm  
23 license is guilty of false swearing under RCW 9A.72.040. In addition  
24 to any other penalty provided for by law, the alien firearm license  
25 of a person who knowingly makes a false statement shall be revoked,  
26 and the person shall be permanently ineligible for an alien firearm  
27 license.

28 **Sec. 5006.** RCW 9.41.800 and 2014 c 111 s 2 are each amended to  
29 read as follows:

30 (1) Any court when entering an order authorized under chapter  
31 7.92 RCW, RCW 7.90.090, 9A.46.080, 10.14.080, 10.99.040, 10.99.045,  
32 26.09.050, 26.09.060, 26.10.040, 26.10.115, (~~26.26.130~~) 26.26B.020,  
33 26.50.060, 26.50.070, or (~~26.26.590~~) 26.26A.470 shall, upon a  
34 showing by clear and convincing evidence, that a party has: Used,  
35 displayed, or threatened to use a firearm or other dangerous weapon  
36 in a felony, or previously committed any offense that makes him or  
37 her ineligible to possess a firearm under the provisions of RCW  
38 9.41.040:

- 1 (a) Require the party to surrender any firearm or other dangerous  
2 weapon;
- 3 (b) Require the party to surrender any concealed pistol license  
4 issued under RCW 9.41.070;
- 5 (c) Prohibit the party from obtaining or possessing a firearm or  
6 other dangerous weapon;
- 7 (d) Prohibit the party from obtaining or possessing a concealed  
8 pistol license.

9 (2) Any court when entering an order authorized under chapter  
10 7.92 RCW, RCW 7.90.090, 9A.46.080, 10.14.080, 10.99.040, 10.99.045,  
11 26.09.050, 26.09.060, 26.10.040, 26.10.115, (~~26.26.130~~) 26.26B.020,  
12 26.50.060, 26.50.070, or (~~26.26.590~~) 26.26A.470 may, upon a showing  
13 by a preponderance of the evidence but not by clear and convincing  
14 evidence, that a party has: Used, displayed, or threatened to use a  
15 firearm or other dangerous weapon in a felony, or previously  
16 committed any offense that makes him or her ineligible to possess a  
17 firearm under the provisions of RCW 9.41.040:

- 18 (a) Require the party to surrender any firearm or other dangerous  
19 weapon;
- 20 (b) Require the party to surrender a concealed pistol license  
21 issued under RCW 9.41.070;
- 22 (c) Prohibit the party from obtaining or possessing a firearm or  
23 other dangerous weapon;
- 24 (d) Prohibit the party from obtaining or possessing a concealed  
25 pistol license.

26 (3) During any period of time that the person is subject to a  
27 court order issued under chapter 7.90, 7.92, 9A.46, 10.14, 10.99,  
28 26.09, 26.10, (~~26.26~~) 26.26A, 26.26B, or 26.50 RCW that:

29 (a) Was issued after a hearing of which the person received  
30 actual notice, and at which the person had an opportunity to  
31 participate;

32 (b) Restrains the person from harassing, stalking, or threatening  
33 an intimate partner of the person or child of the intimate partner or  
34 person, or engaging in other conduct that would place an intimate  
35 partner in reasonable fear of bodily injury to the partner or child;  
36 and

37 (c) (i) Includes a finding that the person represents a credible  
38 threat to the physical safety of the intimate partner or child; and

39 (ii) By its terms, explicitly prohibits the use, attempted use,  
40 or threatened use of physical force against the intimate partner or

1 child that would reasonably be expected to cause bodily injury, the  
2 court shall:

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

5 (B) Require the party to surrender a 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; and

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

11 (4) The court may order temporary surrender of a firearm or other  
12 dangerous weapon without notice to the other party if it finds, on  
13 the basis of the moving affidavit or other evidence, that irreparable  
14 injury could result if an order is not issued until the time for  
15 response has elapsed.

16 (5) In addition to the provisions of subsections (1), (2), and  
17 (4) of this section, the court may enter an order requiring a party  
18 to comply with the provisions in subsection (1) of this section if it  
19 finds that the possession of a firearm or other dangerous weapon by  
20 any party presents a serious and imminent threat to public health or  
21 safety, or to the health or safety of any individual.

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

25 (7) The court may require the party to surrender any firearm or  
26 other dangerous weapon in his or her immediate possession or control  
27 or subject to his or her immediate possession or control to the  
28 sheriff of the county having jurisdiction of the proceeding, the  
29 chief of police of the municipality having jurisdiction, or to the  
30 restrained or enjoined party's counsel or to any person designated by  
31 the court.

32 **Sec. 5007.** RCW 9.94A.030 and 2018 c 166 s 3 are each amended to  
33 read as follows:

34 Unless the context clearly requires otherwise, the definitions in  
35 this section apply throughout this chapter.

36 (1) "Board" means the indeterminate sentence review board created  
37 under chapter 9.95 RCW.

38 (2) "Collect," or any derivative thereof, "collect and remit," or  
39 "collect and deliver," when used with reference to the department,

1 means that the department, either directly or through a collection  
2 agreement authorized by RCW 9.94A.760, is responsible for monitoring  
3 and enforcing the offender's sentence with regard to the legal  
4 financial obligation, receiving payment thereof from the offender,  
5 and, consistent with current law, delivering daily the entire payment  
6 to the superior court clerk without depositing it in a departmental  
7 account.

8 (3) "Commission" means the sentencing guidelines commission.

9 (4) "Community corrections officer" means an employee of the  
10 department who is responsible for carrying out specific duties in  
11 supervision of sentenced offenders and monitoring of sentence  
12 conditions.

13 (5) "Community custody" means that portion of an offender's  
14 sentence of confinement in lieu of earned release time or imposed as  
15 part of a sentence under this chapter and served in the community  
16 subject to controls placed on the offender's movement and activities  
17 by the department.

18 (6) "Community protection zone" means the area within eight  
19 hundred eighty feet of the facilities and grounds of a public or  
20 private school.

21 (7) "Community restitution" means compulsory service, without  
22 compensation, performed for the benefit of the community by the  
23 offender.

24 (8) "Confinement" means total or partial confinement.

25 (9) "Conviction" means an adjudication of guilt pursuant to Title  
26 10 or 13 RCW and includes a verdict of guilty, a finding of guilty,  
27 and acceptance of a plea of guilty.

28 (10) "Crime-related prohibition" means an order of a court  
29 prohibiting conduct that directly relates to the circumstances of the  
30 crime for which the offender has been convicted, and shall not be  
31 construed to mean orders directing an offender affirmatively to  
32 participate in rehabilitative programs or to otherwise perform  
33 affirmative conduct. However, affirmative acts necessary to monitor  
34 compliance with the order of a court may be required by the  
35 department.

36 (11) "Criminal history" means the list of a defendant's prior  
37 convictions and juvenile adjudications, whether in this state, in  
38 federal court, or elsewhere, and any issued certificates of  
39 restoration of opportunity pursuant to RCW 9.97.020.

1 (a) The history shall include, where known, for each conviction  
2 (i) whether the defendant has been placed on probation and the length  
3 and terms thereof; and (ii) whether the defendant has been  
4 incarcerated and the length of incarceration.

5 (b) A conviction may be removed from a defendant's criminal  
6 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,  
7 9.95.240, or a similar out-of-state statute, or if the conviction has  
8 been vacated pursuant to a governor's pardon.

9 (c) The determination of a defendant's criminal history is  
10 distinct from the determination of an offender score. A prior  
11 conviction that was not included in an offender score calculated  
12 pursuant to a former version of the sentencing reform act remains  
13 part of the defendant's criminal history.

14 (12) "Criminal street gang" means any ongoing organization,  
15 association, or group of three or more persons, whether formal or  
16 informal, having a common name or common identifying sign or symbol,  
17 having as one of its primary activities the commission of criminal  
18 acts, and whose members or associates individually or collectively  
19 engage in or have engaged in a pattern of criminal street gang  
20 activity. This definition does not apply to employees engaged in  
21 concerted activities for their mutual aid and protection, or to the  
22 activities of labor and bona fide nonprofit organizations or their  
23 members or agents.

24 (13) "Criminal street gang associate or member" means any person  
25 who actively participates in any criminal street gang and who  
26 intentionally promotes, furthers, or assists in any criminal act by  
27 the criminal street gang.

28 (14) "Criminal street gang-related offense" means any felony or  
29 misdemeanor offense, whether in this state or elsewhere, that is  
30 committed for the benefit of, at the direction of, or in association  
31 with any criminal street gang, or is committed with the intent to  
32 promote, further, or assist in any criminal conduct by the gang, or  
33 is committed for one or more of the following reasons:

34 (a) To gain admission, prestige, or promotion within the gang;

35 (b) To increase or maintain the gang's size, membership,  
36 prestige, dominance, or control in any geographical area;

37 (c) To exact revenge or retribution for the gang or any member of  
38 the gang;

39 (d) To obstruct justice, or intimidate or eliminate any witness  
40 against the gang or any member of the gang;

1 (e) To directly or indirectly cause any benefit, aggrandizement,  
2 gain, profit, or other advantage for the gang, its reputation,  
3 influence, or membership; or

4 (f) To provide the gang with any advantage in, or any control or  
5 dominance over any criminal market sector, including, but not limited  
6 to, manufacturing, delivering, or selling any controlled substance  
7 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen  
8 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88  
9 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual  
10 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter  
11 9.68 RCW).

12 (15) "Day fine" means a fine imposed by the sentencing court that  
13 equals the difference between the offender's net daily income and the  
14 reasonable obligations that the offender has for the support of the  
15 offender and any dependents.

16 (16) "Day reporting" means a program of enhanced supervision  
17 designed to monitor the offender's daily activities and compliance  
18 with sentence conditions, and in which the offender is required to  
19 report daily to a specific location designated by the department or  
20 the sentencing court.

21 (17) "Department" means the department of corrections.

22 (18) "Determinate sentence" means a sentence that states with  
23 exactitude the number of actual years, months, or days of total  
24 confinement, of partial confinement, of community custody, the number  
25 of actual hours or days of community restitution work, or dollars or  
26 terms of a legal financial obligation. The fact that an offender  
27 through earned release can reduce the actual period of confinement  
28 shall not affect the classification of the sentence as a determinate  
29 sentence.

30 (19) "Disposable earnings" means that part of the earnings of an  
31 offender remaining after the deduction from those earnings of any  
32 amount required by law to be withheld. For the purposes of this  
33 definition, "earnings" means compensation paid or payable for  
34 personal services, whether denominated as wages, salary, commission,  
35 bonuses, or otherwise, and, notwithstanding any other provision of  
36 law making the payments exempt from garnishment, attachment, or other  
37 process to satisfy a court-ordered legal financial obligation,  
38 specifically includes periodic payments pursuant to pension or  
39 retirement programs, or insurance policies of any type, but does not

1 include payments made under Title 50 RCW, except as provided in RCW  
2 50.40.020 and 50.40.050, or Title 74 RCW.

3 (20) "Domestic violence" has the same meaning as defined in RCW  
4 10.99.020 and 26.50.010.

5 (21) "Drug offender sentencing alternative" is a sentencing  
6 option available to persons convicted of a felony offense other than  
7 a violent offense or a sex offense and who are eligible for the  
8 option under RCW 9.94A.660.

9 (22) "Drug offense" means:

10 (a) Any felony violation of chapter 69.50 RCW except possession  
11 of a controlled substance (RCW 69.50.4013) or forged prescription for  
12 a controlled substance (RCW 69.50.403);

13 (b) Any offense defined as a felony under federal law that  
14 relates to the possession, manufacture, distribution, or  
15 transportation of a controlled substance; or

16 (c) Any out-of-state conviction for an offense that under the  
17 laws of this state would be a felony classified as a drug offense  
18 under (a) of this subsection.

19 (23) "Earned release" means earned release from confinement as  
20 provided in RCW 9.94A.728.

21 (24) "Electronic monitoring" means tracking the location of an  
22 individual, whether pretrial or posttrial, through the use of  
23 technology that is capable of determining or identifying the  
24 monitored individual's presence or absence at a particular location  
25 including, but not limited to:

26 (a) Radio frequency signaling technology, which detects if the  
27 monitored individual is or is not at an approved location and  
28 notifies the monitoring agency of the time that the monitored  
29 individual either leaves the approved location or tampers with or  
30 removes the monitoring device; or

31 (b) Active or passive global positioning system technology, which  
32 detects the location of the monitored individual and notifies the  
33 monitoring agency of the monitored individual's location.

34 (25) "Escape" means:

35 (a) Sexually violent predator escape (RCW 9A.76.115), escape in  
36 the first degree (RCW 9A.76.110), escape in the second degree (RCW  
37 9A.76.120), willful failure to return from furlough (RCW 72.66.060),  
38 willful failure to return from work release (RCW 72.65.070), or  
39 willful failure to be available for supervision by the department  
40 while in community custody (RCW 72.09.310); or

1 (b) Any federal or out-of-state conviction for an offense that  
2 under the laws of this state would be a felony classified as an  
3 escape under (a) of this subsection.

4 (26) "Felony traffic offense" means:

5 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
6 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-  
7 run injury-accident (RCW 46.52.020(4)), felony driving while under  
8 the influence of intoxicating liquor or any drug (RCW 46.61.502(6)),  
9 or felony physical control of a vehicle while under the influence of  
10 intoxicating liquor or any drug (RCW 46.61.504(6)); or

11 (b) Any federal or out-of-state conviction for an offense that  
12 under the laws of this state would be a felony classified as a felony  
13 traffic offense under (a) of this subsection.

14 (27) "Fine" means a specific sum of money ordered by the  
15 sentencing court to be paid by the offender to the court over a  
16 specific period of time.

17 (28) "First-time offender" means any person who has no prior  
18 convictions for a felony and is eligible for the first-time offender  
19 waiver under RCW 9.94A.650.

20 (29) "Home detention" is a subset of electronic monitoring and  
21 means a program of partial confinement available to offenders wherein  
22 the offender is confined in a private residence twenty-four hours a  
23 day, unless an absence from the residence is approved, authorized, or  
24 otherwise permitted in the order by the court or other supervising  
25 agency that ordered home detention, and the offender is subject to  
26 electronic monitoring.

27 (30) "Homelessness" or "homeless" means a condition where an  
28 individual lacks a fixed, regular, and adequate nighttime residence  
29 and who has a primary nighttime residence that is:

30 (a) A supervised, publicly or privately operated shelter designed  
31 to provide temporary living accommodations;

32 (b) A public or private place not designed for, or ordinarily  
33 used as, a regular sleeping accommodation for human beings; or

34 (c) A private residence where the individual stays as a transient  
35 invitee.

36 (31) "Legal financial obligation" means a sum of money that is  
37 ordered by a superior court of the state of Washington for legal  
38 financial obligations which may include restitution to the victim,  
39 statutorily imposed crime victims' compensation fees as assessed  
40 pursuant to RCW 7.68.035, court costs, county or interlocal drug

1 funds, court-appointed attorneys' fees, and costs of defense, fines,  
2 and any other financial obligation that is assessed to the offender  
3 as a result of a felony conviction. Upon conviction for vehicular  
4 assault while under the influence of intoxicating liquor or any drug,  
5 RCW 46.61.522(1)(b), or vehicular homicide while under the influence  
6 of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal  
7 financial obligations may also include payment to a public agency of  
8 the expense of an emergency response to the incident resulting in the  
9 conviction, subject to RCW 38.52.430.

10 (32) "Minor child" means a biological or adopted child of the  
11 offender who is under age eighteen at the time of the offender's  
12 current offense.

13 (33) "Most serious offense" means any of the following felonies  
14 or a felony attempt to commit any of the following felonies:

15 (a) Any felony defined under any law as a class A felony or  
16 criminal solicitation of or criminal conspiracy to commit a class A  
17 felony;

18 (b) Assault in the second degree;

19 (c) Assault of a child in the second degree;

20 (d) Child molestation in the second degree;

21 (e) Controlled substance homicide;

22 (f) Extortion in the first degree;

23 (g) Incest when committed against a child under age fourteen;

24 (h) Indecent liberties;

25 (i) Kidnapping in the second degree;

26 (j) Leading organized crime;

27 (k) Manslaughter in the first degree;

28 (l) Manslaughter in the second degree;

29 (m) Promoting prostitution in the first degree;

30 (n) Rape in the third degree;

31 (o) Robbery in the second degree;

32 (p) Sexual exploitation;

33 (q) Vehicular assault, when caused by the operation or driving of  
34 a vehicle by a person while under the influence of intoxicating  
35 liquor or any drug or by the operation or driving of a vehicle in a  
36 reckless manner;

37 (r) Vehicular homicide, when proximately caused by the driving of  
38 any vehicle by any person while under the influence of intoxicating  
39 liquor or any drug as defined by RCW 46.61.502, or by the operation  
40 of any vehicle in a reckless manner;

1 (s) Any other class B felony offense with a finding of sexual  
2 motivation;

3 (t) Any other felony with a deadly weapon verdict under RCW  
4 9.94A.825;

5 (u) Any felony offense in effect at any time prior to December 2,  
6 1993, that is comparable to a most serious offense under this  
7 subsection, or any federal or out-of-state conviction for an offense  
8 that under the laws of this state would be a felony classified as a  
9 most serious offense under this subsection;

10 (v)(i) A prior conviction for indecent liberties under RCW  
11 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex.  
12 sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b),  
13 and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW  
14 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986,  
15 until July 1, 1988;

16 (ii) A prior conviction for indecent liberties under RCW  
17 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,  
18 if: (A) The crime was committed against a child under the age of  
19 fourteen; or (B) the relationship between the victim and perpetrator  
20 is included in the definition of indecent liberties under RCW  
21 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27,  
22 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25,  
23 1993, through July 27, 1997;

24 (w) Any out-of-state conviction for a felony offense with a  
25 finding of sexual motivation if the minimum sentence imposed was ten  
26 years or more; provided that the out-of-state felony offense must be  
27 comparable to a felony offense under this title and Title 9A RCW and  
28 the out-of-state definition of sexual motivation must be comparable  
29 to the definition of sexual motivation contained in this section.

30 (34) "Nonviolent offense" means an offense which is not a violent  
31 offense.

32 (35) "Offender" means a person who has committed a felony  
33 established by state law and is eighteen years of age or older or is  
34 less than eighteen years of age but whose case is under superior  
35 court jurisdiction under RCW 13.04.030 or has been transferred by the  
36 appropriate juvenile court to a criminal court pursuant to RCW  
37 13.40.110. In addition, for the purpose of community custody  
38 requirements under this chapter, "offender" also means a misdemeanor  
39 or gross misdemeanor probationer ordered by a superior court to  
40 probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and

1 supervised by the department pursuant to RCW 9.94A.501 and  
2 9.94A.5011. Throughout this chapter, the terms "offender" and  
3 "defendant" are used interchangeably.

4 (36) "Partial confinement" means confinement for no more than one  
5 year in a facility or institution operated or utilized under contract  
6 by the state or any other unit of government, or, if home detention,  
7 electronic monitoring, or work crew has been ordered by the court or  
8 home detention has been ordered by the department as part of the  
9 parenting program or the graduated reentry program, in an approved  
10 residence, for a substantial portion of each day with the balance of  
11 the day spent in the community. Partial confinement includes work  
12 release, home detention, work crew, electronic monitoring, and a  
13 combination of work crew, electronic monitoring, and home detention.

14 (37) "Pattern of criminal street gang activity" means:

15 (a) The commission, attempt, conspiracy, or solicitation of, or  
16 any prior juvenile adjudication of or adult conviction of, two or  
17 more of the following criminal street gang-related offenses:

18 (i) Any "serious violent" felony offense as defined in this  
19 section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a  
20 Child 1 (RCW 9A.36.120);

21 (ii) Any "violent" offense as defined by this section, excluding  
22 Assault of a Child 2 (RCW 9A.36.130);

23 (iii) Deliver or Possession with Intent to Deliver a Controlled  
24 Substance (chapter 69.50 RCW);

25 (iv) Any violation of the firearms and dangerous weapon act  
26 (chapter 9.41 RCW);

27 (v) Theft of a Firearm (RCW 9A.56.300);

28 (vi) Possession of a Stolen Firearm (RCW 9A.56.310);

29 (vii) Malicious Harassment (RCW 9A.36.080);

30 (viii) Harassment where a subsequent violation or deadly threat  
31 is made (RCW 9A.46.020(2)(b));

32 (ix) Criminal Gang Intimidation (RCW 9A.46.120);

33 (x) Any felony conviction by a person eighteen years of age or  
34 older with a special finding of involving a juvenile in a felony  
35 offense under RCW 9.94A.833;

36 (xi) Residential Burglary (RCW 9A.52.025);

37 (xii) Burglary 2 (RCW 9A.52.030);

38 (xiii) Malicious Mischief 1 (RCW 9A.48.070);

39 (xiv) Malicious Mischief 2 (RCW 9A.48.080);

40 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);

1 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);  
2 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW  
3 9A.56.070);  
4 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW  
5 9A.56.075);  
6 (xix) Extortion 1 (RCW 9A.56.120);  
7 (xx) Extortion 2 (RCW 9A.56.130);  
8 (xxi) Intimidating a Witness (RCW 9A.72.110);  
9 (xxii) Tampering with a Witness (RCW 9A.72.120);  
10 (xxiii) Reckless Endangerment (RCW 9A.36.050);  
11 (xxiv) Coercion (RCW 9A.36.070);  
12 (xxv) Harassment (RCW 9A.46.020); or  
13 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);  
14 (b) That at least one of the offenses listed in (a) of this  
15 subsection shall have occurred after July 1, 2008;  
16 (c) That the most recent committed offense listed in (a) of this  
17 subsection occurred within three years of a prior offense listed in  
18 (a) of this subsection; and  
19 (d) Of the offenses that were committed in (a) of this  
20 subsection, the offenses occurred on separate occasions or were  
21 committed by two or more persons.  
22 (38) "Persistent offender" is an offender who:  
23 (a) (i) Has been convicted in this state of any felony considered  
24 a most serious offense; and  
25 (ii) Has, before the commission of the offense under (a) of this  
26 subsection, been convicted as an offender on at least two separate  
27 occasions, whether in this state or elsewhere, of felonies that under  
28 the laws of this state would be considered most serious offenses and  
29 would be included in the offender score under RCW 9.94A.525; provided  
30 that of the two or more previous convictions, at least one conviction  
31 must have occurred before the commission of any of the other most  
32 serious offenses for which the offender was previously convicted; or  
33 (b) (i) Has been convicted of: (A) Rape in the first degree, rape  
34 of a child in the first degree, child molestation in the first  
35 degree, rape in the second degree, rape of a child in the second  
36 degree, or indecent liberties by forcible compulsion; (B) any of the  
37 following offenses with a finding of sexual motivation: Murder in the  
38 first degree, murder in the second degree, homicide by abuse,  
39 kidnapping in the first degree, kidnapping in the second degree,  
40 assault in the first degree, assault in the second degree, assault of

1 a child in the first degree, assault of a child in the second degree,  
2 or burglary in the first degree; or (C) an attempt to commit any  
3 crime listed in this subsection (38)(b)(i); and

4 (ii) Has, before the commission of the offense under (b)(i) of  
5 this subsection, been convicted as an offender on at least one  
6 occasion, whether in this state or elsewhere, of an offense listed in  
7 (b)(i) of this subsection or any federal or out-of-state offense or  
8 offense under prior Washington law that is comparable to the offenses  
9 listed in (b)(i) of this subsection. A conviction for rape of a child  
10 in the first degree constitutes a conviction under (b)(i) of this  
11 subsection only when the offender was sixteen years of age or older  
12 when the offender committed the offense. A conviction for rape of a  
13 child in the second degree constitutes a conviction under (b)(i) of  
14 this subsection only when the offender was eighteen years of age or  
15 older when the offender committed the offense.

16 (39) "Predatory" means: (a) The perpetrator of the crime was a  
17 stranger to the victim, as defined in this section; (b) the  
18 perpetrator established or promoted a relationship with the victim  
19 prior to the offense and the victimization of the victim was a  
20 significant reason the perpetrator established or promoted the  
21 relationship; or (c) the perpetrator was: (i) A teacher, counselor,  
22 volunteer, or other person in authority in any public or private  
23 school and the victim was a student of the school under his or her  
24 authority or supervision. For purposes of this subsection, "school"  
25 does not include home-based instruction as defined in RCW  
26 28A.225.010; (ii) a coach, trainer, volunteer, or other person in  
27 authority in any recreational activity and the victim was a  
28 participant in the activity under his or her authority or  
29 supervision; (iii) a pastor, elder, volunteer, or other person in  
30 authority in any church or religious organization, and the victim was  
31 a member or participant of the organization under his or her  
32 authority; or (iv) a teacher, counselor, volunteer, or other person  
33 in authority providing home-based instruction and the victim was a  
34 student receiving home-based instruction while under his or her  
35 authority or supervision. For purposes of this subsection: (A) "Home-  
36 based instruction" has the same meaning as defined in RCW  
37 28A.225.010; and (B) "teacher, counselor, volunteer, or other person  
38 in authority" does not include the parent or legal guardian of the  
39 victim.

1 (40) "Private school" means a school regulated under chapter  
2 28A.195 or 28A.205 RCW.

3 (41) "Public school" has the same meaning as in RCW 28A.150.010.

4 (42) "Repetitive domestic violence offense" means any:

5 (a)(i) Domestic violence assault that is not a felony offense  
6 under RCW 9A.36.041;

7 (ii) Domestic violence violation of a no-contact order under  
8 chapter 10.99 RCW that is not a felony offense;

9 (iii) Domestic violence violation of a protection order under  
10 chapter 26.09, 26.10, (~~26.26~~) 26.26A, 26.26B, or 26.50 RCW that is  
11 not a felony offense;

12 (iv) Domestic violence harassment offense under RCW 9A.46.020  
13 that is not a felony offense; or

14 (v) Domestic violence stalking offense under RCW 9A.46.110 that  
15 is not a felony offense; or

16 (b) Any federal, out-of-state, tribal court, military, county, or  
17 municipal conviction for an offense that under the laws of this state  
18 would be classified as a repetitive domestic violence offense under  
19 (a) of this subsection.

20 (43) "Restitution" means a specific sum of money ordered by the  
21 sentencing court to be paid by the offender to the court over a  
22 specified period of time as payment of damages. The sum may include  
23 both public and private costs.

24 (44) "Risk assessment" means the application of the risk  
25 instrument recommended to the department by the Washington state  
26 institute for public policy as having the highest degree of  
27 predictive accuracy for assessing an offender's risk of reoffense.

28 (45) "Serious traffic offense" means:

29 (a) Nonfelony driving while under the influence of intoxicating  
30 liquor or any drug (RCW 46.61.502), nonfelony actual physical control  
31 while under the influence of intoxicating liquor or any drug (RCW  
32 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an  
33 attended vehicle (RCW 46.52.020(5)); or

34 (b) Any federal, out-of-state, county, or municipal conviction  
35 for an offense that under the laws of this state would be classified  
36 as a serious traffic offense under (a) of this subsection.

37 (46) "Serious violent offense" is a subcategory of violent  
38 offense and means:

39 (a)(i) Murder in the first degree;

40 (ii) Homicide by abuse;

1 (iii) Murder in the second degree;  
2 (iv) Manslaughter in the first degree;  
3 (v) Assault in the first degree;  
4 (vi) Kidnapping in the first degree;  
5 (vii) Rape in the first degree;  
6 (viii) Assault of a child in the first degree; or  
7 (ix) An attempt, criminal solicitation, or criminal conspiracy to  
8 commit one of these felonies; or

9 (b) Any federal or out-of-state conviction for an offense that  
10 under the laws of this state would be a felony classified as a  
11 serious violent offense under (a) of this subsection.

12 (47) "Sex offense" means:

13 (a) (i) A felony that is a violation of chapter 9A.44 RCW other  
14 than RCW 9A.44.132;

15 (ii) A violation of RCW 9A.64.020;

16 (iii) A felony that is a violation of chapter 9.68A RCW other  
17 than RCW 9.68A.080;

18 (iv) A felony that is, under chapter 9A.28 RCW, a criminal  
19 attempt, criminal solicitation, or criminal conspiracy to commit such  
20 crimes; or

21 (v) A felony violation of RCW 9A.44.132(1) (failure to register  
22 as a sex offender) if the person has been convicted of violating RCW  
23 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130  
24 prior to June 10, 2010, on at least one prior occasion;

25 (b) Any conviction for a felony offense in effect at any time  
26 prior to July 1, 1976, that is comparable to a felony classified as a  
27 sex offense in (a) of this subsection;

28 (c) A felony with a finding of sexual motivation under RCW  
29 9.94A.835 or 13.40.135; or

30 (d) Any federal or out-of-state conviction for an offense that  
31 under the laws of this state would be a felony classified as a sex  
32 offense under (a) of this subsection.

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

36 (49) "Standard sentence range" means the sentencing court's  
37 discretionary range in imposing a nonappealable sentence.

38 (50) "Statutory maximum sentence" means the maximum length of  
39 time for which an offender may be confined as punishment for a crime  
40 as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute

1 defining the crime, or other statute defining the maximum penalty for  
2 a crime.

3 (51) "Stranger" means that the victim did not know the offender  
4 twenty-four hours before the offense.

5 (52) "Total confinement" means confinement inside the physical  
6 boundaries of a facility or institution operated or utilized under  
7 contract by the state or any other unit of government for twenty-four  
8 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

9 (53) "Transition training" means written and verbal instructions  
10 and assistance provided by the department to the offender during the  
11 two weeks prior to the offender's successful completion of the work  
12 ethic camp program. The transition training shall include  
13 instructions in the offender's requirements and obligations during  
14 the offender's period of community custody.

15 (54) "Victim" means any person who has sustained emotional,  
16 psychological, physical, or financial injury to person or property as  
17 a direct result of the crime charged.

18 (55) "Violent offense" means:

19 (a) Any of the following felonies:

20 (i) Any felony defined under any law as a class A felony or an  
21 attempt to commit a class A felony;

22 (ii) Criminal solicitation of or criminal conspiracy to commit a  
23 class A felony;

24 (iii) Manslaughter in the first degree;

25 (iv) Manslaughter in the second degree;

26 (v) Indecent liberties if committed by forcible compulsion;

27 (vi) Kidnapping in the second degree;

28 (vii) Arson in the second degree;

29 (viii) Assault in the second degree;

30 (ix) Assault of a child in the second degree;

31 (x) Extortion in the first degree;

32 (xi) Robbery in the second degree;

33 (xii) Drive-by shooting;

34 (xiii) Vehicular assault, when caused by the operation or driving  
35 of a vehicle by a person while under the influence of intoxicating  
36 liquor or any drug or by the operation or driving of a vehicle in a  
37 reckless manner; and

38 (xiv) Vehicular homicide, when proximately caused by the driving  
39 of any vehicle by any person while under the influence of

1 intoxicating liquor or any drug as defined by RCW 46.61.502, or by  
2 the operation of any vehicle in a reckless manner;

3 (b) Any conviction for a felony offense in effect at any time  
4 prior to July 1, 1976, that is comparable to a felony classified as a  
5 violent offense in (a) of this subsection; and

6 (c) Any federal or out-of-state conviction for an offense that  
7 under the laws of this state would be a felony classified as a  
8 violent offense under (a) or (b) of this subsection.

9 (56) "Work crew" means a program of partial confinement  
10 consisting of civic improvement tasks for the benefit of the  
11 community that complies with RCW 9.94A.725.

12 (57) "Work ethic camp" means an alternative incarceration program  
13 as provided in RCW 9.94A.690 designed to reduce recidivism and lower  
14 the cost of corrections by requiring offenders to complete a  
15 comprehensive array of real-world job and vocational experiences,  
16 character-building work ethics training, life management skills  
17 development, substance abuse rehabilitation, counseling, literacy  
18 training, and basic adult education.

19 (58) "Work release" means a program of partial confinement  
20 available to offenders who are employed or engaged as a student in a  
21 regular course of study at school.

22 **Sec. 5008.** RCW 9.94A.411 and 2017 c 272 s 2 and 2017 c 266 s 5  
23 are each reenacted and amended to read as follows:

24 (1) Decision not to prosecute.

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

30 GUIDELINE/COMMENTARY:

31 Examples

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

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

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

- 1 (i) It has not been enforced for many years; and  
2 (ii) Most members of society act as if it were no longer in  
3 existence; and  
4 (iii) It serves no deterrent or protective purpose in today's  
5 society; and  
6 (iv) The statute has not been recently reconsidered by the  
7 legislature.

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

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

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

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

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

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

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

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

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

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

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

34 (f) High Disproportionate Cost of Prosecution - It may be proper  
35 to decline to charge where the cost of locating or transporting, or  
36 the burden on, prosecution witnesses is highly disproportionate to  
37 the importance of prosecuting the offense in question. This reason  
38 should be limited to minor cases and should not be relied upon in  
39 serious cases.

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

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

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

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

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

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

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

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

#### 25 Notification

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

29 (2) Decision to prosecute.

30 (a) STANDARD:

31 Crimes against persons will be filed if sufficient admissible  
32 evidence exists, which, when considered with the most plausible,  
33 reasonably foreseeable defense that could be raised under the  
34 evidence, would justify conviction by a reasonable and objective fact  
35 finder. With regard to offenses prohibited by RCW 9A.44.040,  
36 9A.44.050, 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086,  
37 9A.44.089, and 9A.64.020 the prosecutor should avoid prefiling  
38 agreements or diversions intended to place the accused in a program  
39 of treatment or counseling, so that treatment, if determined to be  
40 beneficial, can be provided pursuant to RCW 9.94A.670.

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

6 See table below for the crimes within these categories.

7 CATEGORIZATION OF CRIMES FOR PROSECUTING STANDARDS

8 CRIMES AGAINST PERSONS

9 Aggravated Murder (RCW 10.95.020)  
10 1st Degree Murder (RCW 9A.32.030)  
11 2nd Degree Murder (RCW 9A.32.050)  
12 1st Degree Manslaughter (RCW 9A.32.060)  
13 2nd Degree Manslaughter (RCW 9A.32.070)  
14 1st Degree Kidnapping (RCW 9A.40.020)  
15 2nd Degree Kidnapping (RCW 9A.40.030)  
16 1st Degree Assault (RCW 9A.36.011)  
17 2nd Degree Assault (RCW 9A.36.021)  
18 3rd Degree Assault (RCW 9A.36.031)  
19 4th Degree Assault (if a violation of RCW 9A.36.041(3))  
20 1st Degree Assault of a Child (RCW 9A.36.120)  
21 2nd Degree Assault of a Child (RCW 9A.36.130)  
22 3rd Degree Assault of a Child (RCW 9A.36.140)  
23 1st Degree Rape (RCW 9A.44.040)  
24 2nd Degree Rape (RCW 9A.44.050)  
25 3rd Degree Rape (RCW 9A.44.060)  
26 1st Degree Rape of a Child (RCW 9A.44.073)  
27 2nd Degree Rape of a Child (RCW 9A.44.076)  
28 3rd Degree Rape of a Child (RCW 9A.44.079)  
29 1st Degree Robbery (RCW 9A.56.200)  
30 2nd Degree Robbery (RCW 9A.56.210)  
31 1st Degree Arson (RCW 9A.48.020)  
32 1st Degree Burglary (RCW 9A.52.020)  
33 1st Degree Identity Theft (RCW 9.35.020(2))  
34 2nd Degree Identity Theft (RCW 9.35.020(3))  
35 1st Degree Extortion (RCW 9A.56.120)  
36 2nd Degree Extortion (RCW 9A.56.130)  
37 1st Degree Criminal Mistreatment (RCW 9A.42.020)  
38 2nd Degree Criminal Mistreatment (RCW 9A.42.030)  
39 1st Degree Theft from a Vulnerable Adult (RCW 9A.56.400(1))

1 2nd Degree Theft from a Vulnerable Adult (RCW 9A.56.400(2))  
2 Indecent Liberties (RCW 9A.44.100)  
3 Incest (RCW 9A.64.020)  
4 Vehicular Homicide (RCW 46.61.520)  
5 Vehicular Assault (RCW 46.61.522)  
6 1st Degree Child Molestation (RCW 9A.44.083)  
7 2nd Degree Child Molestation (RCW 9A.44.086)  
8 3rd Degree Child Molestation (RCW 9A.44.089)  
9 1st Degree Promoting Prostitution (RCW 9A.88.070)  
10 Intimidating a Juror (RCW 9A.72.130)  
11 Communication with a Minor (RCW 9.68A.090)  
12 Intimidating a Witness (RCW 9A.72.110)  
13 Intimidating a Public Servant (RCW 9A.76.180)  
14 Bomb Threat (if against person) (RCW 9.61.160)  
15 Unlawful Imprisonment (RCW 9A.40.040)  
16 Promoting a Suicide Attempt (RCW 9A.36.060)  
17 Criminal Mischief (if against person) (RCW 9A.84.010)  
18 Stalking (RCW 9A.46.110)  
19 Custodial Assault (RCW 9A.36.100)  
20 Domestic Violence Court Order Violation (RCW 10.99.040,  
21 10.99.050, 26.09.300, 26.10.220, (~~26.26.138~~) 26.26B.050, 26.50.110,  
22 26.52.070, or 74.34.145)  
23 Counterfeiting (if a violation of RCW 9.16.035(4))  
24 Felony Driving a Motor Vehicle While Under the Influence of  
25 Intoxicating Liquor or Any Drug (RCW 46.61.502(6))  
26 Felony Physical Control of a Motor Vehicle While Under the  
27 Influence of Intoxicating Liquor or Any Drug (RCW 46.61.504(6))  
28 CRIMES AGAINST PROPERTY/OTHER CRIMES  
29 2nd Degree Arson (RCW 9A.48.030)  
30 1st Degree Escape (RCW 9A.76.110)  
31 2nd Degree Escape (RCW 9A.76.120)  
32 2nd Degree Burglary (RCW 9A.52.030)  
33 1st Degree Theft (RCW 9A.56.030)  
34 2nd Degree Theft (RCW 9A.56.040)  
35 1st Degree Perjury (RCW 9A.72.020)  
36 2nd Degree Perjury (RCW 9A.72.030)  
37 1st Degree Introducing Contraband (RCW 9A.76.140)  
38 2nd Degree Introducing Contraband (RCW 9A.76.150)  
39 1st Degree Possession of Stolen Property (RCW 9A.56.150)

1 2nd Degree Possession of Stolen Property (RCW 9A.56.160)  
2 Bribery (RCW 9A.68.010)  
3 Bribing a Witness (RCW 9A.72.090)  
4 Bribe received by a Witness (RCW 9A.72.100)  
5 Bomb Threat (if against property) (RCW 9.61.160)  
6 1st Degree Malicious Mischief (RCW 9A.48.070)  
7 2nd Degree Malicious Mischief (RCW 9A.48.080)  
8 1st Degree Reckless Burning (RCW 9A.48.040)  
9 Taking a Motor Vehicle without Authorization (RCW 9A.56.070 and  
10 9A.56.075)  
11 Forgery (RCW 9A.60.020)  
12 2nd Degree Promoting Prostitution (RCW 9A.88.080)  
13 Tampering with a Witness (RCW 9A.72.120)  
14 Trading in Public Office (RCW 9A.68.040)  
15 Trading in Special Influence (RCW 9A.68.050)  
16 Receiving/Granting Unlawful Compensation (RCW 9A.68.030)  
17 Bigamy (RCW 9A.64.010)  
18 Eluding a Pursuing Police Vehicle (RCW 46.61.024)  
19 Willful Failure to Return from Furlough  
20 Escape from Community Custody  
21 Criminal Mischief (if against property) (RCW 9A.84.010)  
22 1st Degree Theft of Livestock (RCW 9A.56.080)  
23 2nd Degree Theft of Livestock (RCW 9A.56.083)

24 ALL OTHER UNCLASSIFIED FELONIES

25 Selection of Charges/Degree of Charge

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

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

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

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

34 (A) Charging a higher degree;

35 (B) Charging additional counts.

36 This standard is intended to direct prosecutors to charge those  
37 crimes which demonstrate the nature and seriousness of a defendant's  
38 criminal conduct, but to decline to charge crimes which are not  
39 necessary to such an indication. Crimes which do not merge as a

1 matter of law, but which arise from the same course of conduct, do  
2 not all have to be charged.

3 (b) GUIDELINES/COMMENTARY:

4 (i) Police Investigation

5 A prosecuting attorney is dependent upon law enforcement agencies  
6 to conduct the necessary factual investigation which must precede the  
7 decision to prosecute. The prosecuting attorney shall ensure that a  
8 thorough factual investigation has been conducted before a decision  
9 to prosecute is made. In ordinary circumstances the investigation  
10 should include the following:

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

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

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

16 If the initial investigation is incomplete, a prosecuting  
17 attorney should insist upon further investigation before a decision  
18 to prosecute is made, and specify what the investigation needs to  
19 include.

20 (ii) Exceptions

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

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

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

27 (C) The arrest of the suspect is necessary to complete the  
28 investigation of the crime.

29 In the event that the exception to the standard is applied, the  
30 prosecuting attorney shall obtain a commitment from the law  
31 enforcement agency involved to complete the investigation in a timely  
32 manner. If the subsequent investigation does not produce sufficient  
33 evidence to meet the normal charging standard, the complaint should  
34 be dismissed.

35 (iii) Investigation Techniques

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

38 (A) Polygraph testing;

39 (B) Hypnosis;

1 (C) Electronic surveillance;  
 2 (D) Use of informants.  
 3 (iv) Prefiling Discussions with Defendant  
 4 Discussions with the defendant or his/her representative  
 5 regarding the selection or disposition of charges may occur prior to  
 6 the filing of charges, and potential agreements can be reached.  
 7 (v) Prefiling Discussions with Victim(s)  
 8 Discussions with the victim(s) or victims' representatives  
 9 regarding the selection or disposition of charges may occur before  
 10 the filing of charges. The discussions may be considered by the  
 11 prosecutor in charging and disposition decisions, and should be  
 12 considered before reaching any agreement with the defendant regarding  
 13 these decisions.

14 **Sec. 5009.** RCW 9.94A.515 and 2018 c 236 s 721 and 2018 c 7 s 7  
 15 are each reenacted and amended to read as follows:

16 TABLE 2  
 17 CRIMES INCLUDED WITHIN EACH  
 18 SERIOUSNESS LEVEL

19	XVI	Aggravated Murder 1 (RCW 10.95.020)
20	XV	Homicide by abuse (RCW 9A.32.055)
21		Malicious explosion 1 (RCW
22		70.74.280(1))
23		Murder 1 (RCW 9A.32.030)
24	XIV	Murder 2 (RCW 9A.32.050)
25		Trafficking 1 (RCW 9A.40.100(1))
26	XIII	Malicious explosion 2 (RCW
27		70.74.280(2))
28		Malicious placement of an explosive 1
29		(RCW 70.74.270(1))
30	XII	Assault 1 (RCW 9A.36.011)
31		Assault of a Child 1 (RCW 9A.36.120)
32		Malicious placement of an imitation
33		device 1 (RCW 70.74.272(1)(a))
34		Promoting Commercial Sexual Abuse of
35		a Minor (RCW 9.68A.101)

1 Rape 1 (RCW 9A.44.040)  
2 Rape of a Child 1 (RCW 9A.44.073)  
3 Trafficking 2 (RCW 9A.40.100(3))  
4 XI Manslaughter 1 (RCW 9A.32.060)  
5 Rape 2 (RCW 9A.44.050)  
6 Rape of a Child 2 (RCW 9A.44.076)  
7 Vehicular Homicide, by being under the  
8 influence of intoxicating liquor or  
9 any drug (RCW 46.61.520)  
10 Vehicular Homicide, by the operation of  
11 any vehicle in a reckless manner  
12 (RCW 46.61.520)  
13 X Child Molestation 1 (RCW 9A.44.083)  
14 Criminal Mistreatment 1 (RCW  
15 9A.42.020)  
16 Indecent Liberties (with forcible  
17 compulsion) (RCW  
18 9A.44.100(1)(a))  
19 Kidnapping 1 (RCW 9A.40.020)  
20 Leading Organized Crime (RCW  
21 9A.82.060(1)(a))  
22 Malicious explosion 3 (RCW  
23 70.74.280(3))  
24 Sexually Violent Predator Escape (RCW  
25 9A.76.115)  
26 IX Abandonment of Dependent Person 1  
27 (RCW 9A.42.060)  
28 Assault of a Child 2 (RCW 9A.36.130)  
29 Explosive devices prohibited (RCW  
30 70.74.180)  
31 Hit and Run—Death (RCW  
32 46.52.020(4)(a))  
33 Homicide by Watercraft, by being under  
34 the influence of intoxicating liquor  
35 or any drug (RCW 79A.60.050)

1 Inciting Criminal Profiteering (RCW  
2 9A.82.060(1)(b))  
3 Malicious placement of an explosive 2  
4 (RCW 70.74.270(2))  
5 Robbery 1 (RCW 9A.56.200)  
6 Sexual Exploitation (RCW 9.68A.040)  
7 VIII Arson 1 (RCW 9A.48.020)  
8 Commercial Sexual Abuse of a Minor  
9 (RCW 9.68A.100)  
10 Homicide by Watercraft, by the  
11 operation of any vessel in a reckless  
12 manner (RCW 79A.60.050)  
13 Manslaughter 2 (RCW 9A.32.070)  
14 Promoting Prostitution 1 (RCW  
15 9A.88.070)  
16 Theft of Ammonia (RCW 69.55.010)  
17 VII Air bag diagnostic systems (causing  
18 bodily injury or death) (RCW  
19 46.37.660(2)(b))  
20 Air bag replacement requirements  
21 (causing bodily injury or death)  
22 (RCW 46.37.660(1)(b))  
23 Burglary 1 (RCW 9A.52.020)  
24 Child Molestation 2 (RCW 9A.44.086)  
25 Civil Disorder Training (RCW  
26 9A.48.120)  
27 Dealing in depictions of minor engaged  
28 in sexually explicit conduct 1  
29 (RCW 9.68A.050(1))  
30 Drive-by Shooting (RCW 9A.36.045)  
31 Homicide by Watercraft, by disregard  
32 for the safety of others (RCW  
33 79A.60.050)

1 Indecent Liberties (without forcible  
2 compulsion) (RCW 9A.44.100(1)  
3 (b) and (c))  
4 Introducing Contraband 1 (RCW  
5 9A.76.140)  
6 Malicious placement of an explosive 3  
7 (RCW 70.74.270(3))  
8 Manufacture or import counterfeit,  
9 nonfunctional, damaged, or  
10 previously deployed air bag  
11 (causing bodily injury or death)  
12 (RCW 46.37.650(1)(b))  
13 Negligently Causing Death By Use of a  
14 Signal Preemption Device (RCW  
15 46.37.675)  
16 Sell, install, or reinstall counterfeit,  
17 nonfunctional, damaged, or  
18 previously deployed airbag (RCW  
19 46.37.650(2)(b))  
20 Sending, bringing into state depictions  
21 of minor engaged in sexually  
22 explicit conduct 1 (RCW  
23 9.68A.060(1))  
24 Unlawful Possession of a Firearm in the  
25 first degree (RCW 9.41.040(1))  
26 Use of a Machine Gun or Bump-fire  
27 Stock in Commission of a Felony  
28 (RCW 9.41.225)  
29 Vehicular Homicide, by disregard for  
30 the safety of others (RCW  
31 46.61.520)  
32 VI Bail Jumping with Murder 1 (RCW  
33 9A.76.170(3)(a))  
34 Bribery (RCW 9A.68.010)  
35 Incest 1 (RCW 9A.64.020(1))  
36 Intimidating a Judge (RCW 9A.72.160)

1 Intimidating a Juror/Witness (RCW  
2 9A.72.110, 9A.72.130)  
3 Malicious placement of an imitation  
4 device 2 (RCW 70.74.272(1)(b))  
5 Possession of Depictions of a Minor  
6 Engaged in Sexually Explicit  
7 Conduct 1 (RCW 9.68A.070(1))  
8 Rape of a Child 3 (RCW 9A.44.079)  
9 Theft of a Firearm (RCW 9A.56.300)  
10 Theft from a Vulnerable Adult 1 (RCW  
11 9A.56.400(1))  
12 Unlawful Storage of Ammonia (RCW  
13 69.55.020)  
14 V Abandonment of Dependent Person 2  
15 (RCW 9A.42.070)  
16 Advancing money or property for  
17 extortionate extension of credit  
18 (RCW 9A.82.030)  
19 Air bag diagnostic systems (RCW  
20 46.37.660(2)(c))  
21 Air bag replacement requirements  
22 (RCW 46.37.660(1)(c))  
23 Bail Jumping with class A Felony  
24 (RCW 9A.76.170(3)(b))  
25 Child Molestation 3 (RCW 9A.44.089)  
26 Criminal Mistreatment 2 (RCW  
27 9A.42.030)  
28 Custodial Sexual Misconduct 1 (RCW  
29 9A.44.160)  
30 Dealing in Depictions of Minor  
31 Engaged in Sexually Explicit  
32 Conduct 2 (RCW 9.68A.050(2))

1 Domestic Violence Court Order  
2 Violation (RCW 10.99.040,  
3 10.99.050, 26.09.300, 26.10.220,  
4 ((~~26.26.138~~)) 26.26B.050,  
5 26.50.110, 26.52.070, or 74.34.145)  
6 Extortion 1 (RCW 9A.56.120)  
7 Extortionate Extension of Credit (RCW  
8 9A.82.020)  
9 Extortionate Means to Collect  
10 Extensions of Credit (RCW  
11 9A.82.040)  
12 Incest 2 (RCW 9A.64.020(2))  
13 Kidnapping 2 (RCW 9A.40.030)  
14 Manufacture or import counterfeit,  
15 nonfunctional, damaged, or  
16 previously deployed air bag (RCW  
17 46.37.650(1)(c))  
18 Perjury 1 (RCW 9A.72.020)  
19 Persistent prison misbehavior (RCW  
20 9.94.070)  
21 Possession of a Stolen Firearm (RCW  
22 9A.56.310)  
23 Rape 3 (RCW 9A.44.060)  
24 Rendering Criminal Assistance 1 (RCW  
25 9A.76.070)  
26 Sell, install, or reinstall counterfeit,  
27 nonfunctional, damaged, or  
28 previously deployed airbag (RCW  
29 46.37.650(2)(c))  
30 Sending, Bringing into State Depictions  
31 of Minor Engaged in Sexually  
32 Explicit Conduct 2 (RCW  
33 9.68A.060(2))  
34 Sexual Misconduct with a Minor 1  
35 (RCW 9A.44.093)

1 Sexually Violating Human Remains  
2 (RCW 9A.44.105)  
3 Stalking (RCW 9A.46.110)  
4 Taking Motor Vehicle Without  
5 Permission 1 (RCW 9A.56.070)  
6 IV Arson 2 (RCW 9A.48.030)  
7 Assault 2 (RCW 9A.36.021)  
8 Assault 3 (of a Peace Officer with a  
9 Projectile Stun Gun) (RCW  
10 9A.36.031(1)(h))  
11 Assault 4 (third domestic violence  
12 offense) (RCW 9A.36.041(3))  
13 Assault by Watercraft (RCW  
14 79A.60.060)  
15 Bribing a Witness/Bribe Received by  
16 Witness (RCW 9A.72.090,  
17 9A.72.100)  
18 Cheating 1 (RCW 9A.46.1961)  
19 Commercial Bribery (RCW 9A.68.060)  
20 Counterfeiting (RCW 9.16.035(4))  
21 Driving While Under the Influence  
22 (RCW 46.61.502(6))  
23 Endangerment with a Controlled  
24 Substance (RCW 9A.42.100)  
25 Escape 1 (RCW 9A.76.110)  
26 Hit and Run—Injury (RCW  
27 46.52.020(4)(b))  
28 Hit and Run with Vessel—Injury  
29 Accident (RCW 79A.60.200(3))  
30 Identity Theft 1 (RCW 9.35.020(2))  
31 Indecent Exposure to Person Under Age  
32 Fourteen (subsequent sex offense)  
33 (RCW 9A.88.010)  
34 Influencing Outcome of Sporting Event  
35 (RCW 9A.82.070)

1 Malicious Harassment (RCW  
2 9A.36.080)  
3 Physical Control of a Vehicle While  
4 Under the Influence (RCW  
5 46.61.504(6))  
6 Possession of Depictions of a Minor  
7 Engaged in Sexually Explicit  
8 Conduct 2 (RCW 9.68A.070(2))  
9 Residential Burglary (RCW 9A.52.025)  
10 Robbery 2 (RCW 9A.56.210)  
11 Theft of Livestock 1 (RCW 9A.56.080)  
12 Threats to Bomb (RCW 9.61.160)  
13 Trafficking in Stolen Property 1 (RCW  
14 9A.82.050)  
15 Unlawful factoring of a credit card or  
16 payment card transaction (RCW  
17 9A.56.290(4)(b))  
18 Unlawful transaction of health coverage  
19 as a health care service contractor  
20 (RCW 48.44.016(3))  
21 Unlawful transaction of health coverage  
22 as a health maintenance  
23 organization (RCW 48.46.033(3))  
24 Unlawful transaction of insurance  
25 business (RCW 48.15.023(3))  
26 Unlicensed practice as an insurance  
27 professional (RCW 48.17.063(2))  
28 Use of Proceeds of Criminal  
29 Profiteering (RCW 9A.82.080 (1)  
30 and (2))  
31 Vehicle Prowling 2 (third or subsequent  
32 offense) (RCW 9A.52.100(3))

1 Vehicular Assault, by being under the  
2 influence of intoxicating liquor or  
3 any drug, or by the operation or  
4 driving of a vehicle in a reckless  
5 manner (RCW 46.61.522)

6 Viewing of Depictions of a Minor  
7 Engaged in Sexually Explicit  
8 Conduct 1 (RCW 9.68A.075(1))

9 Willful Failure to Return from Furlough  
10 (RCW 72.66.060)

11 III Animal Cruelty 1 (Sexual Conduct or  
12 Contact) (RCW 16.52.205(3))

13 Assault 3 (Except Assault 3 of a Peace  
14 Officer With a Projectile Stun Gun)  
15 (RCW 9A.36.031 except subsection  
16 (1)(h))

17 Assault of a Child 3 (RCW 9A.36.140)

18 Bail Jumping with class B or C Felony  
19 (RCW 9A.76.170(3)(c))

20 Burglary 2 (RCW 9A.52.030)

21 Communication with a Minor for  
22 Immoral Purposes (RCW  
23 9.68A.090)

24 Criminal Gang Intimidation (RCW  
25 9A.46.120)

26 Custodial Assault (RCW 9A.36.100)

27 Cyberstalking (subsequent conviction or  
28 threat of death) (RCW 9.61.260(3))

29 Escape 2 (RCW 9A.76.120)

30 Extortion 2 (RCW 9A.56.130)

31 Harassment (RCW 9A.46.020)

32 Intimidating a Public Servant (RCW  
33 9A.76.180)

34 Introducing Contraband 2 (RCW  
35 9A.76.150)

1 Malicious Injury to Railroad Property  
2 (RCW 81.60.070)  
3 Mortgage Fraud (RCW 19.144.080)  
4 Negligently Causing Substantial Bodily  
5 Harm By Use of a Signal  
6 Preemption Device (RCW  
7 46.37.674)  
8 Organized Retail Theft 1 (RCW  
9 9A.56.350(2))  
10 Perjury 2 (RCW 9A.72.030)  
11 Possession of Incendiary Device (RCW  
12 9.40.120)  
13 Possession of Machine Gun, Bump-fire  
14 Stock, or Short-Barreled Shotgun or  
15 Rifle (RCW 9.41.190)  
16 Promoting Prostitution 2 (RCW  
17 9A.88.080)  
18 Retail Theft with Special Circumstances  
19 1 (RCW 9A.56.360(2))  
20 Securities Act violation (RCW  
21 21.20.400)  
22 Tampering with a Witness (RCW  
23 9A.72.120)  
24 Telephone Harassment (subsequent  
25 conviction or threat of death) (RCW  
26 9.61.230(2))  
27 Theft of Livestock 2 (RCW 9A.56.083)  
28 Theft with the Intent to Resell 1 (RCW  
29 9A.56.340(2))  
30 Trafficking in Stolen Property 2 (RCW  
31 9A.82.055)  
32 Unlawful Hunting of Big Game 1 (RCW  
33 77.15.410(3)(b))  
34 Unlawful Imprisonment (RCW  
35 9A.40.040)

1 Unlawful Misbranding of ((Food)) Fish  
2 or Shellfish 1 (RCW 77.140.060(3))  
3 Unlawful possession of firearm in the  
4 second degree (RCW 9A.04.020(2))  
5 Unlawful Taking of Endangered Fish or  
6 Wildlife 1 (RCW 77.15.120(3)(b))  
7 Unlawful Trafficking in Fish, Shellfish,  
8 or Wildlife 1 (RCW  
9 77.15.260(3)(b))  
10 Unlawful Use of a Nondesignated  
11 Vessel (RCW 77.15.530(4))  
12 Vehicular Assault, by the operation or  
13 driving of a vehicle with disregard  
14 for the safety of others (RCW  
15 46.61.522)  
16 Willful Failure to Return from Work  
17 Release (RCW 72.65.070)  
18 II Commercial Fishing Without a License  
19 1 (RCW 77.15.500(3)(b))  
20 Computer Trespass 1 (RCW 9A.90.040)  
21 Counterfeiting (RCW 9.16.035(3))  
22 Electronic Data Service Interference  
23 (RCW 9A.90.060)  
24 Electronic Data Tampering 1 (RCW  
25 9A.90.080)  
26 Electronic Data Theft (RCW 9A.90.100)  
27 Engaging in Fish Dealing Activity  
28 Unlicensed 1 (RCW 77.15.620(3))  
29 Escape from Community Custody  
30 (RCW 72.09.310)  
31 Failure to Register as a Sex Offender  
32 (second or subsequent offense)  
33 (RCW 9A.44.130 prior to June 10,  
34 2010, and RCW 9A.44.132)  
35 Health Care False Claims (RCW  
36 48.80.030)

1 Identity Theft 2 (RCW 9.35.020(3))  
2 Improperly Obtaining Financial  
3 Information (RCW 9.35.010)  
4 Malicious Mischief 1 (RCW 9A.48.070)  
5 Organized Retail Theft 2 (RCW  
6 9A.56.350(3))  
7 Possession of Stolen Property 1 (RCW  
8 9A.56.150)  
9 Possession of a Stolen Vehicle (RCW  
10 9A.56.068)  
11 Retail Theft with Special Circumstances  
12 2 (RCW 9A.56.360(3))  
13 Scrap Processing, Recycling, or  
14 Supplying Without a License  
15 (second or subsequent offense)  
16 (RCW 19.290.100)  
17 Theft 1 (RCW 9A.56.030)  
18 Theft of a Motor Vehicle (RCW  
19 9A.56.065)  
20 Theft of Rental, Leased, Lease-  
21 purchased, or Loaned Property  
22 (valued at five thousand dollars or  
23 more) (RCW 9A.56.096(5)(a))  
24 Theft with the Intent to Resell 2 (RCW  
25 9A.56.340(3))  
26 Trafficking in Insurance Claims (RCW  
27 48.30A.015)  
28 Unlawful factoring of a credit card or  
29 payment card transaction (RCW  
30 9A.56.290(4)(a))  
31 Unlawful Participation of Non-Indians  
32 in Indian Fishery (RCW  
33 77.15.570(2))  
34 Unlawful Practice of Law (RCW  
35 2.48.180)

1 Unlawful Purchase or Use of a License  
2 (RCW 77.15.650(3)(b))  
3 Unlawful Trafficking in Fish, Shellfish,  
4 or Wildlife 2 (RCW  
5 77.15.260(3)(a))  
6 Unlicensed Practice of a Profession or  
7 Business (RCW 18.130.190(7))  
8 Voyeurism 1 (RCW 9A.44.115)  
9 I Attempting to Elude a Pursuing Police  
10 Vehicle (RCW 46.61.024)  
11 False Verification for Welfare (RCW  
12 74.08.055)  
13 Forgery (RCW 9A.60.020)  
14 Fraudulent Creation or Revocation of a  
15 Mental Health Advance Directive  
16 (RCW 9A.60.060)  
17 Malicious Mischief 2 (RCW 9A.48.080)  
18 Mineral Trespass (RCW 78.44.330)  
19 Possession of Stolen Property 2 (RCW  
20 9A.56.160)  
21 Reckless Burning 1 (RCW 9A.48.040)  
22 Spotlighting Big Game 1 (RCW  
23 77.15.450(3)(b))  
24 Suspension of Department Privileges 1  
25 (RCW 77.15.670(3)(b))  
26 Taking Motor Vehicle Without  
27 Permission 2 (RCW 9A.56.075)  
28 Theft 2 (RCW 9A.56.040)  
29 Theft from a Vulnerable Adult 2 (RCW  
30 9A.56.400(2))  
31 Theft of Rental, Leased, Lease-  
32 purchased, or Loaned Property  
33 (valued at seven hundred fifty  
34 dollars or more but less than five  
35 thousand dollars) (RCW  
36 9A.56.096(5)(b))

1 Transaction of insurance business  
2 beyond the scope of licensure  
3 (RCW 48.17.063)  
4 Unlawful Fish and Shellfish Catch  
5 Accounting (RCW 77.15.630(3)(b))  
6 Unlawful Issuance of Checks or Drafts  
7 (RCW 9A.56.060)  
8 Unlawful Possession of Fictitious  
9 Identification (RCW 9A.56.320)  
10 Unlawful Possession of Instruments of  
11 Financial Fraud (RCW 9A.56.320)  
12 Unlawful Possession of Payment  
13 Instruments (RCW 9A.56.320)  
14 Unlawful Possession of a Personal  
15 Identification Device (RCW  
16 9A.56.320)  
17 Unlawful Production of Payment  
18 Instruments (RCW 9A.56.320)  
19 Unlawful Releasing, Planting,  
20 Possessing, or Placing Deleterious  
21 Exotic Wildlife (RCW  
22 77.15.250(2)(b))  
23 Unlawful Trafficking in Food Stamps  
24 (RCW 9.91.142)  
25 Unlawful Use of Food Stamps (RCW  
26 9.91.144)  
27 Unlawful Use of Net to Take Fish 1  
28 (RCW 77.15.580(3)(b))  
29 Unlawful Use of Prohibited Aquatic  
30 Animal Species (RCW  
31 77.15.253(3))  
32 Vehicle Prowl 1 (RCW 9A.52.095)  
33 Violating Commercial Fishing Area or  
34 Time 1 (RCW 77.15.550(3)(b))

1       **Sec. 5010.** RCW 9.96.060 and 2017 c 336 s 2, 2017 c 272 s 9, and  
2 2017 c 128 s 1 are each reenacted and amended to read as follows:

3       (1) Every person convicted of a misdemeanor or gross misdemeanor  
4 offense who has completed all of the terms of the sentence for the  
5 misdemeanor or gross misdemeanor offense may apply to the sentencing  
6 court for a vacation of the applicant's record of conviction for the  
7 offense. If the court finds the applicant meets the tests prescribed  
8 in subsection (2) of this section, the court may in its discretion  
9 vacate the record of conviction by: (a) (i) Permitting the applicant  
10 to withdraw the applicant's plea of guilty and to enter a plea of not  
11 guilty; or (ii) if the applicant has been convicted after a plea of  
12 not guilty, the court setting aside the verdict of guilty; and (b)  
13 the court dismissing the information, indictment, complaint, or  
14 citation against the applicant and vacating the judgment and  
15 sentence.

16       (2) An applicant may not have the record of conviction for a  
17 misdemeanor or gross misdemeanor offense vacated if any one of the  
18 following is present:

19       (a) There are any criminal charges against the applicant pending  
20 in any court of this state or another state, or in any federal court;

21       (b) The offense was a violent offense as defined in RCW 9.94A.030  
22 or an attempt to commit a violent offense;

23       (c) The offense was a violation of RCW 46.61.502 (driving while  
24 under the influence), 46.61.504 (actual physical control while under  
25 the influence), 9.91.020 (operating a railroad, etc. while  
26 intoxicated), or the offense is considered a "prior offense" under  
27 RCW 46.61.5055 and the applicant has had a subsequent alcohol or drug  
28 violation within ten years of the date of arrest for the prior  
29 offense or less than ten years has elapsed since the date of the  
30 arrest for the prior offense;

31       (d) The offense was any misdemeanor or gross misdemeanor  
32 violation, including attempt, of chapter 9.68 RCW (obscenity and  
33 pornography), chapter 9.68A RCW (sexual exploitation of children), or  
34 chapter 9A.44 RCW (sex offenses);

35       (e) The applicant was convicted of a misdemeanor or gross  
36 misdemeanor offense as defined in RCW 10.99.020, or the court  
37 determines after a review of the court file that the offense was  
38 committed by one family member or household member against another,  
39 or the court, after considering the damage to person or property that  
40 resulted in the conviction, any prior convictions for crimes defined

1 in RCW 10.99.020, or for comparable offenses in another state or in  
2 federal court, and the totality of the records under review by the  
3 court regarding the conviction being considered for vacation,  
4 determines that the offense involved domestic violence, and any one  
5 of the following factors exist:

6 (i) The applicant has not provided written notification of the  
7 vacation petition to the prosecuting attorney's office that  
8 prosecuted the offense for which vacation is sought, or has not  
9 provided that notification to the court;

10 (ii) The applicant has previously had a conviction for domestic  
11 violence. For purposes of this subsection, however, if the current  
12 application is for more than one conviction that arose out of a  
13 single incident, none of those convictions counts as a previous  
14 conviction;

15 (iii) The applicant has signed an affidavit under penalty of  
16 perjury affirming that the applicant has not previously had a  
17 conviction for a domestic violence offense, and a criminal history  
18 check reveals that the applicant has had such a conviction; or

19 (iv) Less than five years have elapsed since the person completed  
20 the terms of the original conditions of the sentence, including any  
21 financial obligations and successful completion of any treatment  
22 ordered as a condition of sentencing;

23 (f) For any offense other than those described in (e) of this  
24 subsection, less than three years have passed since the person  
25 completed the terms of the sentence, including any financial  
26 obligations;

27 (g) The offender has been convicted of a new crime in this state,  
28 another state, or federal court since the date of conviction;

29 (h) The applicant has ever had the record of another conviction  
30 vacated; or

31 (i) The applicant is currently restrained, or has been restrained  
32 within five years prior to the vacation application, by a domestic  
33 violence protection order, a no-contact order, an antiharassment  
34 order, or a civil restraining order which restrains one party from  
35 contacting the other party.

36 (3) Subject to RCW 9.96.070, every person convicted of  
37 prostitution under RCW 9A.88.030 who committed the offense as a  
38 result of being a victim of trafficking, RCW 9A.40.100, promoting  
39 prostitution in the first degree, RCW 9A.88.070, promoting commercial  
40 sexual abuse of a minor, RCW 9.68A.101, or trafficking in persons

1 under the trafficking victims protection act of 2000, 22 U.S.C. Sec.  
2 7101 et seq. may apply to the sentencing court for vacation of the  
3 applicant's record of conviction for the prostitution offense. An  
4 applicant may not have the record of conviction for prostitution  
5 vacated if any one of the following is present:

6 (a) There are any criminal charges against the applicant pending  
7 in any court of this state or another state, or in any federal court,  
8 for any crime other than prostitution; or

9 (b) The offender has been convicted of another crime, except  
10 prostitution, in this state, another state, or federal court since  
11 the date of conviction. The limitation in this subsection (3)(b) does  
12 not apply to convictions where the offender proves by a preponderance  
13 of the evidence that he or she committed the crime as a result of  
14 being a victim of trafficking, RCW 9A.40.100, promoting prostitution  
15 in the first degree, RCW 9A.88.070, promoting commercial sexual abuse  
16 of a minor, RCW 9.68A.101, or trafficking in persons under the  
17 trafficking victims protection act of 2000, 22 U.S.C. Sec. 7101 et  
18 seq., according to the requirements provided in RCW 9.96.070 for each  
19 respective conviction.

20 (4) Every person convicted prior to January 1, 1975, of violating  
21 any statute or rule regarding the regulation of fishing activities,  
22 including, but not limited to, RCW 75.08.260, 75.12.060, 75.12.070,  
23 75.12.160, 77.16.020, 77.16.030, 77.16.040, 77.16.060, and 77.16.240  
24 who claimed to be exercising a treaty Indian fishing right, may apply  
25 to the sentencing court for vacation of the applicant's record of the  
26 misdemeanor, gross misdemeanor, or felony conviction for the offense.  
27 If the person is deceased, a member of the person's family or an  
28 official representative of the tribe of which the person was a member  
29 may apply to the court on behalf of the deceased person.  
30 Notwithstanding the requirements of RCW 9.94A.640, the court shall  
31 vacate the record of conviction if:

32 (a) The applicant is a member of a tribe that may exercise treaty  
33 Indian fishing rights at the location where the offense occurred; and

34 (b) The state has been enjoined from taking enforcement action of  
35 the statute or rule to the extent that it interferes with a treaty  
36 Indian fishing right as determined under *United States v. Washington*,  
37 384 F. Supp. 312 (W.D. Wash. 1974), or *Sohappy v. Smith*, 302 F. Supp.  
38 899 (D. Oregon 1969), and any posttrial orders of those courts, or  
39 any other state supreme court or federal court decision.

1 (5) (a) Once the court vacates a record of conviction under this  
2 section, the person shall be released from all penalties and  
3 disabilities resulting from the offense and the fact that the person  
4 has been convicted of the offense shall not be included in the  
5 person's criminal history for purposes of determining a sentence in  
6 any subsequent conviction. For all purposes, including responding to  
7 questions on employment or housing applications, a person whose  
8 conviction has been vacated under this section may state that he or  
9 she has never been convicted of that crime. Except as provided in (b)  
10 of this subsection, nothing in this section affects or prevents the  
11 use of an offender's prior conviction in a later criminal  
12 prosecution.

13 (b) When a court vacates a record of domestic violence as defined  
14 in RCW 10.99.020 under this section, the state may not use the  
15 vacated conviction in a later criminal prosecution unless the  
16 conviction was for: (i) Violating the provisions of a restraining  
17 order, no-contact order, or protection order restraining or enjoining  
18 the person or restraining the person from going on to the grounds of  
19 or entering a residence, workplace, school, or day care, or  
20 prohibiting the person from knowingly coming within, or knowingly  
21 remaining within, a specified distance of a location (RCW 10.99.040,  
22 10.99.050, 26.09.300, 26.10.220, (~~26.26.138~~) 26.26B.050, 26.44.063,  
23 26.44.150, 26.50.060, 26.50.070, 26.50.130, 26.52.070, or 74.34.145);  
24 or (ii) stalking (RCW 9A.46.110). A vacated conviction under this  
25 section is not considered a conviction of such an offense for the  
26 purposes of 27 C.F.R. 478.11.

27 (6) All costs incurred by the court and probation services shall  
28 be paid by the person making the motion to vacate the record unless a  
29 determination is made pursuant to chapter 10.101 RCW that the person  
30 making the motion is indigent, at the time the motion is brought.

31 (7) The clerk of the court in which the vacation order is entered  
32 shall immediately transmit the order vacating the conviction to the  
33 Washington state patrol identification section and to the local  
34 police agency, if any, which holds criminal history information for  
35 the person who is the subject of the conviction. The Washington state  
36 patrol and any such local police agency shall immediately update  
37 their records to reflect the vacation of the conviction, and shall  
38 transmit the order vacating the conviction to the federal bureau of  
39 investigation. A conviction that has been vacated under this section  
40 may not be disseminated or disclosed by the state patrol or local law

1 enforcement agency to any person, except other criminal justice  
2 enforcement agencies.

3 **Sec. 5011.** RCW 10.14.080 and 2011 c 307 s 3 are each amended to  
4 read as follows:

5 (1) Upon filing a petition for a civil antiharassment protection  
6 order under this chapter, the petitioner may obtain an ex parte  
7 temporary antiharassment protection order. An ex parte temporary  
8 antiharassment protection order may be granted with or without notice  
9 upon the filing of an affidavit which, to the satisfaction of the  
10 court, shows reasonable proof of unlawful harassment of the  
11 petitioner by the respondent and that great or irreparable harm will  
12 result to the petitioner if the temporary antiharassment protection  
13 order is not granted.

14 (2) An ex parte temporary antiharassment protection order shall  
15 be effective for a fixed period not to exceed fourteen days or  
16 twenty-four days if the court has permitted service by publication  
17 under RCW 10.14.085. The ex parte order may be reissued. A full  
18 hearing, as provided in this chapter, shall be set for not later than  
19 fourteen days from the issuance of the temporary order or not later  
20 than twenty-four days if service by publication is permitted. Except  
21 as provided in RCW 10.14.070 and 10.14.085, the respondent shall be  
22 personally served with a copy of the ex parte order along with a copy  
23 of the petition and notice of the date set for the hearing. The ex  
24 parte order and notice of hearing shall include at a minimum the date  
25 and time of the hearing set by the court to determine if the  
26 temporary order should be made effective for one year or more, and  
27 notice that if the respondent should fail to appear or otherwise not  
28 respond, an order for protection will be issued against the  
29 respondent pursuant to the provisions of this chapter, for a minimum  
30 of one year from the date of the hearing. The notice shall also  
31 include a brief statement of the provisions of the ex parte order and  
32 notify the respondent that a copy of the ex parte order and notice of  
33 hearing has been filed with the clerk of the court.

34 (3) At the hearing, if the court finds by a preponderance of the  
35 evidence that unlawful harassment exists, a civil antiharassment  
36 protection order shall issue prohibiting such unlawful harassment.

37 (4) An order issued under this chapter shall be effective for not  
38 more than one year unless the court finds that the respondent is  
39 likely to resume unlawful harassment of the petitioner when the order

1 expires. If so, the court may enter an order for a fixed time  
2 exceeding one year or may enter a permanent antiharassment protection  
3 order. The court shall not enter an order that is effective for more  
4 than one year if the order restrains the respondent from contacting  
5 the respondent's minor children. This limitation is not applicable to  
6 civil antiharassment protection orders issued under chapter 26.09,  
7 26.10, (~~or 26.26~~) 26.26A, or 26.26B RCW. If the petitioner seeks  
8 relief for a period longer than one year on behalf of the  
9 respondent's minor children, the court shall advise the petitioner  
10 that the petitioner may apply for renewal of the order as provided in  
11 this chapter or if appropriate may seek relief pursuant to chapter  
12 26.09 or 26.10 RCW.

13 (5) At any time within the three months before the expiration of  
14 the order, the petitioner may apply for a renewal of the order by  
15 filing a petition for renewal. The petition for renewal shall state  
16 the reasons why the petitioner seeks to renew the protection order.  
17 Upon receipt of the petition for renewal, the court shall order a  
18 hearing which shall be not later than fourteen days from the date of  
19 the order. Except as provided in RCW 10.14.085, personal service  
20 shall be made upon the respondent not less than five days before the  
21 hearing. If timely service cannot be made the court shall set a new  
22 hearing date and shall either require additional attempts at  
23 obtaining personal service or permit service by publication as  
24 provided by RCW 10.14.085. If the court permits service by  
25 publication, the court shall set the new hearing date not later than  
26 twenty-four days from the date of the order. If the order expires  
27 because timely service cannot be made the court shall grant an ex  
28 parte order of protection as provided in this section. The court  
29 shall grant the petition for renewal unless the respondent proves by  
30 a preponderance of the evidence that the respondent will not resume  
31 harassment of the petitioner when the order expires. The court may  
32 renew the protection order for another fixed time period or may enter  
33 a permanent order as provided in subsection (4) of this section.

34 (6) The court, in granting an ex parte temporary antiharassment  
35 protection order or a civil antiharassment protection order, shall  
36 have broad discretion to grant such relief as the court deems proper,  
37 including an order:

38 (a) Restraining the respondent from making any attempts to  
39 contact the petitioner;

1 (b) Restraining the respondent from making any attempts to keep  
2 the petitioner under surveillance;

3 (c) Requiring the respondent to stay a stated distance from the  
4 petitioner's residence and workplace; and

5 (d) Considering the provisions of RCW 9.41.800.

6 (7) The court in granting an ex parte temporary antiharassment  
7 protection order or a civil antiharassment protection order((7))  
8 shall not prohibit the respondent from exercising constitutionally  
9 protected free speech. Nothing in this section prohibits the  
10 petitioner from utilizing other civil or criminal remedies to  
11 restrain conduct or communications not otherwise constitutionally  
12 protected.

13 (8) The court in granting an ex parte temporary antiharassment  
14 protection order or a civil antiharassment protection order((7))  
15 shall not prohibit the respondent from the use or enjoyment of real  
16 property to which the respondent has a cognizable claim unless that  
17 order is issued under chapter 26.09 RCW or under a separate action  
18 commenced with a summons and complaint to determine title or  
19 possession of real property.

20 (9) The court in granting an ex parte temporary antiharassment  
21 protection order or a civil antiharassment protection order((7))  
22 shall not limit the respondent's right to care, control, or custody  
23 of the respondent's minor child, unless that order is issued under  
24 chapter 13.32A, 26.09, 26.10, (~~or 26.26~~) 26.26A, or 26.26B RCW.

25 (10) A petitioner may not obtain an ex parte temporary  
26 antiharassment protection order against a respondent if the  
27 petitioner has previously obtained two such ex parte orders against  
28 the same respondent but has failed to obtain the issuance of a civil  
29 antiharassment protection order unless good cause for such failure  
30 can be shown.

31 (11) The court order shall specify the date an order issued  
32 pursuant to subsections (4) and (5) of this section expires if any.  
33 The court order shall also state whether the court issued the  
34 protection order following personal service or service by publication  
35 and whether the court has approved service by publication of an order  
36 issued under this section.

37 **Sec. 5012.** RCW 10.14.200 and 1999 c 397 s 4 are each amended to  
38 read as follows:

1 Any order available under this chapter may be issued in actions  
2 under chapter 13.32A, 26.09, 26.10, (~~or 26.26~~) 26.26A, or 26.26B  
3 RCW. An order available under this chapter that is issued under those  
4 chapters shall be fully enforceable and shall be enforced pursuant to  
5 the provisions of this chapter.

6 **Sec. 5013.** RCW 10.31.100 and 2017 c 336 s 3 and 2017 c 223 s 1  
7 are each reenacted and amended to read as follows:

8 A police officer having probable cause to believe that a person  
9 has committed or is committing a felony shall have the authority to  
10 arrest the person without a warrant. A police officer may arrest a  
11 person without a warrant for committing a misdemeanor or gross  
12 misdemeanor only when the offense is committed in the presence of an  
13 officer, except as provided in subsections (1) through (11) of this  
14 section.

15 (1) Any police officer having probable cause to believe that a  
16 person has committed or is committing a misdemeanor or gross  
17 misdemeanor, involving physical harm or threats of harm to any person  
18 or property or the unlawful taking of property or involving the use  
19 or possession of cannabis, or involving the acquisition, possession,  
20 or consumption of alcohol by a person under the age of twenty-one  
21 years under RCW 66.44.270, or involving criminal trespass under RCW  
22 9A.52.070 or 9A.52.080, shall have the authority to arrest the  
23 person.

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

28 (a) An order has been issued of which the person has knowledge  
29 under RCW 26.44.063, or chapter 7.92, 7.90, 9A.46, 10.99, 26.09,  
30 26.10, (~~26.26~~) 26.26A, 26.26B, 26.50, or 74.34 RCW restraining the  
31 person and the person has violated the terms of the order restraining  
32 the person from acts or threats of violence, or restraining the  
33 person from going onto the grounds of or entering a residence,  
34 workplace, school, or day care, or prohibiting the person from  
35 knowingly coming within, or knowingly remaining within, a specified  
36 distance of a location or, in the case of an order issued under RCW  
37 26.44.063, imposing any other restrictions or conditions upon the  
38 person; or

1 (b) A foreign protection order, as defined in RCW 26.52.010, has  
2 been issued of which the person under restraint has knowledge and the  
3 person under restraint has violated a provision of the foreign  
4 protection order prohibiting the person under restraint from  
5 contacting or communicating with another person, or excluding the  
6 person under restraint from a residence, workplace, school, or day  
7 care, or prohibiting the person from knowingly coming within, or  
8 knowingly remaining within, a specified distance of a location, or a  
9 violation of any provision for which the foreign protection order  
10 specifically indicates that a violation will be a crime; or

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

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

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

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

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

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

1 (e) RCW 46.61.503 or 46.25.110, relating to persons having  
2 alcohol or THC in their system;

3 (f) RCW 46.20.342, relating to driving a motor vehicle while  
4 operator's license is suspended or revoked;

5 (g) RCW 46.61.5249, relating to operating a motor vehicle in a  
6 negligent manner.

7 (4) A law enforcement officer investigating at the scene of a  
8 motor vehicle accident may arrest the driver of a motor vehicle  
9 involved in the accident if the officer has probable cause to believe  
10 that the driver has committed in connection with the accident a  
11 violation of any traffic law or regulation.

12 (5) (a) A law enforcement officer investigating at the scene of a  
13 motor vessel accident may arrest the operator of a motor vessel  
14 involved in the accident if the officer has probable cause to believe  
15 that the operator has committed, in connection with the accident, a  
16 criminal violation of chapter 79A.60 RCW.

17 (b) A law enforcement officer investigating at the scene of a  
18 motor vessel accident may issue a citation for an infraction to the  
19 operator of a motor vessel involved in the accident if the officer  
20 has probable cause to believe that the operator has committed, in  
21 connection with the accident, a violation of any boating safety law  
22 of chapter 79A.60 RCW.

23 (6) Any police officer having probable cause to believe that a  
24 person has committed or is committing a violation of RCW 79A.60.040  
25 shall have the authority to arrest the person.

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

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

35 (9) A police officer may arrest and take into custody, pending  
36 release on bail, personal recognizance, or court order, a person  
37 without a warrant when the officer has probable cause to believe that  
38 an order has been issued of which the person has knowledge under  
39 chapter 10.14 RCW and the person has violated the terms of that  
40 order.

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

4 (11) A police officer having probable cause to believe that a  
5 person illegally possesses or illegally has possessed a firearm or  
6 other dangerous weapon on private or public elementary or secondary  
7 school premises shall have the authority to arrest the person.

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

11 (12) A law enforcement officer having probable cause to believe  
12 that a person has committed a violation under RCW 77.15.160(~~(+4)~~)  
13 (5) may issue a citation for an infraction to the person in  
14 connection with the violation.

15 (13) A law enforcement officer having probable cause to believe  
16 that a person has committed a criminal violation under RCW 77.15.809  
17 or 77.15.811 may arrest the person in connection with the violation.

18 (14) Except as specifically provided in subsections (2), (3),  
19 (4), and (7) of this section, nothing in this section extends or  
20 otherwise affects the powers of arrest prescribed in Title 46 RCW.

21 (15) No police officer may be held criminally or civilly liable  
22 for making an arrest pursuant to subsection (2) or (9) of this  
23 section if the police officer acts in good faith and without malice.

24 (16)(a) Except as provided in (b) of this subsection, a police  
25 officer shall arrest and keep in custody, until release by a judicial  
26 officer on bail, personal recognizance, or court order, a person  
27 without a warrant when the officer has probable cause to believe that  
28 the person has violated RCW 46.61.502 or 46.61.504 or an equivalent  
29 local ordinance and the police officer: (i) Has knowledge that the  
30 person has a prior offense as defined in RCW 46.61.5055 within ten  
31 years; or (ii) has knowledge, based on a review of the information  
32 available to the officer at the time of arrest, that the person is  
33 charged with or is awaiting arraignment for an offense that would  
34 qualify as a prior offense as defined in RCW 46.61.5055 if it were a  
35 conviction.

36 (b) A police officer is not required to keep in custody a person  
37 under (a) of this subsection if the person requires immediate medical  
38 attention and is admitted to a hospital.

1       **Sec. 5014.** RCW 10.99.020 and 2004 c 18 s 2 are each amended to  
2 read as follows:

3       Unless the context clearly requires otherwise, the definitions in  
4 this section apply throughout this chapter.

5       (1) "Agency" means a general authority Washington law enforcement  
6 agency as defined in RCW 10.93.020.

7       (2) "Association" means the Washington association of sheriffs  
8 and police chiefs.

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

21       (4) "Dating relationship" has the same meaning as in RCW  
22 26.50.010.

23       (5) "Domestic violence" includes but is not limited to any of the  
24 following crimes when committed by one family or household member  
25 against another:

- 26       (a) Assault in the first degree (RCW 9A.36.011);
- 27       (b) Assault in the second degree (RCW 9A.36.021);
- 28       (c) Assault in the third degree (RCW 9A.36.031);
- 29       (d) Assault in the fourth degree (RCW 9A.36.041);
- 30       (e) Drive-by shooting (RCW 9A.36.045);
- 31       (f) Reckless endangerment (RCW 9A.36.050);
- 32       (g) Coercion (RCW 9A.36.070);
- 33       (h) Burglary in the first degree (RCW 9A.52.020);
- 34       (i) Burglary in the second degree (RCW 9A.52.030);
- 35       (j) Criminal trespass in the first degree (RCW 9A.52.070);
- 36       (k) Criminal trespass in the second degree (RCW 9A.52.080);
- 37       (l) Malicious mischief in the first degree (RCW 9A.48.070);
- 38       (m) Malicious mischief in the second degree (RCW 9A.48.080);
- 39       (n) Malicious mischief in the third degree (RCW 9A.48.090);
- 40       (o) Kidnapping in the first degree (RCW 9A.40.020);

- 1 (p) Kidnapping in the second degree (RCW 9A.40.030);  
2 (q) Unlawful imprisonment (RCW 9A.40.040);  
3 (r) Violation of the provisions of a restraining order, no-  
4 contact order, or protection order restraining or enjoining the  
5 person or restraining the person from going onto the grounds of or  
6 entering a residence, workplace, school, or day care, or prohibiting  
7 the person from knowingly coming within, or knowingly remaining  
8 within, a specified distance of a location (RCW 10.99.040, 10.99.050,  
9 26.09.300, 26.10.220, (~~26.26.138~~) 26.26B.050, 26.44.063, 26.44.150,  
10 26.50.060, 26.50.070, 26.50.130, 26.52.070, or 74.34.145);  
11 (s) Rape in the first degree (RCW 9A.44.040);  
12 (t) Rape in the second degree (RCW 9A.44.050);  
13 (u) Residential burglary (RCW 9A.52.025);  
14 (v) Stalking (RCW 9A.46.110); and  
15 (w) Interference with the reporting of domestic violence (RCW  
16 9A.36.150).  
17 (6) "Employee" means any person currently employed with an  
18 agency.  
19 (7) "Sworn employee" means a general authority Washington peace  
20 officer as defined in RCW 10.93.020, any person appointed under RCW  
21 35.21.333, and any person appointed or elected to carry out the  
22 duties of the sheriff under chapter 36.28 RCW.  
23 (8) "Victim" means a family or household member who has been  
24 subjected to domestic violence.

25 **Sec. 5015.** RCW 13.04.030 and 2018 c 162 s 2 are each amended to  
26 read as follows:

27 (1) Except as provided in this section, the juvenile courts in  
28 this state shall have exclusive original jurisdiction over all  
29 proceedings:

30 (a) Under the interstate compact on placement of children as  
31 provided in chapter 26.34 RCW;

32 (b) Relating to children alleged or found to be dependent as  
33 provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.161;

34 (c) Relating to the termination of a parent and child  
35 relationship as provided in RCW 13.34.180 through 13.34.210;

36 (d) To approve or disapprove out-of-home placement as provided in  
37 RCW 13.32A.170;

1 (e) Relating to juveniles alleged or found to have committed  
2 offenses, traffic or civil infractions, or violations as provided in  
3 RCW 13.40.020 through 13.40.230, unless:

4 (i) The juvenile court transfers jurisdiction of a particular  
5 juvenile to adult criminal court pursuant to RCW 13.40.110;

6 (ii) The statute of limitations applicable to adult prosecution  
7 for the offense, traffic or civil infraction, or violation has  
8 expired;

9 (iii) The alleged offense or infraction is a traffic, fish,  
10 boating, or game offense, or traffic or civil infraction committed by  
11 a juvenile sixteen years of age or older and would, if committed by  
12 an adult, be tried or heard in a court of limited jurisdiction, in  
13 which instance the appropriate court of limited jurisdiction shall  
14 have jurisdiction over the alleged offense or infraction, and no  
15 guardian ad litem is required in any such proceeding due to the  
16 juvenile's age. If such an alleged offense or infraction and an  
17 alleged offense or infraction subject to juvenile court jurisdiction  
18 arise out of the same event or incident, the juvenile court may have  
19 jurisdiction of both matters. The jurisdiction under this subsection  
20 does not constitute "transfer" or a "decline" for purposes of RCW  
21 13.40.110 (1) or (2) or (e)(i) of this subsection. Courts of limited  
22 jurisdiction which confine juveniles for an alleged offense or  
23 infraction may place juveniles in juvenile detention facilities under  
24 an agreement with the officials responsible for the administration of  
25 the juvenile detention facility in RCW 13.04.035 and 13.20.060;

26 (iv) The alleged offense is a traffic or civil infraction, a  
27 violation of compulsory school attendance provisions under chapter  
28 28A.225 RCW, or a misdemeanor, and a court of limited jurisdiction  
29 has assumed concurrent jurisdiction over those offenses as provided  
30 in RCW 13.04.0301; or

31 (v) The juvenile is sixteen or seventeen years old on the date  
32 the alleged offense is committed and the alleged offense is:

33 (A) A serious violent offense as defined in RCW 9.94A.030;

34 (B) A violent offense as defined in RCW 9.94A.030 and the  
35 juvenile has a criminal history consisting of: One or more prior  
36 serious violent offenses; two or more prior violent offenses; or  
37 three or more of any combination of the following offenses: Any class  
38 A felony, any class B felony, vehicular assault, or manslaughter in  
39 the second degree, all of which must have been committed after the  
40 juvenile's thirteenth birthday and prosecuted separately; or

1 (C) Rape of a child in the first degree.

2 (I) In such a case the adult criminal court shall have exclusive  
3 original jurisdiction, except as provided in (e)(v)(C)(II) and (III)  
4 of this subsection.

5 (II) The juvenile court shall have exclusive jurisdiction over  
6 the disposition of any remaining charges in any case in which the  
7 juvenile is found not guilty in the adult criminal court of the  
8 charge or charges for which he or she was transferred, or is  
9 convicted in the adult criminal court of a lesser included offense  
10 that is not also an offense listed in (e)(v) of this subsection. The  
11 juvenile court shall maintain residual juvenile court jurisdiction up  
12 to age twenty-five if the juvenile has turned eighteen years of age  
13 during the adult criminal court proceedings but only for the purpose  
14 of returning a case to juvenile court for disposition pursuant to RCW  
15 13.40.300(3)(d). However, once the case is returned to juvenile  
16 court, the court may hold a decline hearing pursuant to RCW 13.40.110  
17 to determine whether to retain the case in juvenile court for the  
18 purpose of disposition or return the case to adult criminal court for  
19 sentencing.

20 (III) The prosecutor and respondent may agree to juvenile court  
21 jurisdiction and waive application of exclusive adult criminal  
22 jurisdiction in (e)(v)(A) through (C) of this subsection and remove  
23 the proceeding back to juvenile court with the court's approval.

24 If the juvenile challenges the state's determination of the  
25 juvenile's criminal history under (e)(v) of this subsection, the  
26 state may establish the offender's criminal history by a  
27 preponderance of the evidence. If the criminal history consists of  
28 adjudications entered upon a plea of guilty, the state shall not bear  
29 a burden of establishing the knowing and voluntariness of the plea;

30 (f) Under the interstate compact on juveniles as provided in  
31 chapter 13.24 RCW;

32 (g) Relating to termination of a diversion agreement under RCW  
33 13.40.080, including a proceeding in which the divertee has attained  
34 eighteen years of age;

35 (h) Relating to court validation of a voluntary consent to an  
36 out-of-home placement under chapter 13.34 RCW, by the parent or  
37 Indian custodian of an Indian child, except if the parent or Indian  
38 custodian and child are residents of or domiciled within the  
39 boundaries of a federally recognized Indian reservation over which  
40 the tribe exercises exclusive jurisdiction;

1 (i) Relating to petitions to compel disclosure of information  
2 filed by the department of social and health services pursuant to RCW  
3 74.13.042; and

4 (j) Relating to judicial determinations and permanency planning  
5 hearings involving developmentally disabled children who have been  
6 placed in out-of-home care pursuant to a voluntary placement  
7 agreement between the child's parent, guardian, or legal custodian  
8 and the department of social and health services and the department  
9 of children, youth, and families.

10 (2) The family court shall have concurrent original jurisdiction  
11 with the juvenile court over all proceedings under this section if  
12 the superior court judges of a county authorize concurrent  
13 jurisdiction as provided in RCW 26.12.010.

14 (3) The juvenile court shall have concurrent original  
15 jurisdiction with the family court over child custody proceedings  
16 under chapter 26.10 RCW and parenting plans or residential schedules  
17 under chapter((s)) 26.09 ((and ~~26.26~~)), 26.26A, or 26.26B RCW as  
18 provided for in RCW 13.34.155.

19 (4) A juvenile subject to adult superior court jurisdiction under  
20 subsection (1)(e)(i) through (v) of this section, who is detained  
21 pending trial, may be detained in a detention facility as defined in  
22 RCW 13.40.020 pending sentencing or a dismissal.

23 **Sec. 5016.** RCW 13.34.030 and 2018 c 284 s 3 and 2018 c 58 s 54  
24 are each reenacted and amended to read as follows:

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

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

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

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

38 (b) Any individual age eighteen to twenty-one years who is  
39 eligible to receive and who elects to receive the extended foster

1 care services authorized under RCW 74.13.031. A youth who remains  
2 dependent and who receives extended foster care services under RCW  
3 74.13.031 shall not be considered a "child" under any other statute  
4 or for any other purpose.

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

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

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

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

19 (a) Has been abandoned;

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

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

26 (d) Is receiving extended foster care services, as authorized by  
27 RCW 74.13.031.

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

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

1 (9) "Extended foster care services" means residential and other  
2 support services the department is authorized to provide under RCW  
3 74.13.031. These services may include placement in licensed,  
4 relative, or otherwise approved care, or supervised independent  
5 living settings; assistance in meeting basic needs; independent  
6 living services; medical assistance; and counseling or treatment.

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

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

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

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

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

37 (a) Receiving one of the following types of public assistance:  
38 Temporary assistance for needy families, aged, blind, or disabled  
39 assistance benefits, medical care services under RCW 74.09.035,  
40 pregnant women assistance benefits, poverty-related veterans'

1 benefits, food stamps or food stamp benefits transferred  
2 electronically, refugee resettlement benefits, medicaid, or  
3 supplemental security income; or

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

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

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

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

15 (16) "Out-of-home care" means placement in a foster family home  
16 or group care facility licensed pursuant to chapter 74.15 RCW or  
17 placement in a home, other than that of the child's parent, guardian,  
18 or legal custodian, not required to be licensed pursuant to chapter  
19 74.15 RCW.

20 (17) "Parent" means the biological or adoptive parents of a  
21 child, or an individual who has established a parent-child  
22 relationship under RCW ((~~26.26.101~~)) 26.26A.100, unless the legal  
23 rights of that person have been terminated by a judicial proceeding  
24 pursuant to this chapter, chapter 26.33 RCW, or the equivalent laws  
25 of another state or a federally recognized Indian tribe.

26 (18) "Preventive services" means preservation services, as  
27 defined in chapter 74.14C RCW, and other reasonably available  
28 services, including housing assistance, capable of preventing the  
29 need for out-of-home placement while protecting the child.

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

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

37 (21) "Social study" means a written evaluation of matters  
38 relevant to the disposition of the case and shall contain the  
39 following information:

1 (a) A statement of the specific harm or harms to the child that  
2 intervention is designed to alleviate;

3 (b) A description of the specific services and activities, for  
4 both the parents and child, that are needed in order to prevent  
5 serious harm to the child; the reasons why such services and  
6 activities are likely to be useful; the availability of any proposed  
7 services; and the agency's overall plan for ensuring that the  
8 services will be delivered. The description shall identify the  
9 services chosen and approved by the parent;

10 (c) If removal is recommended, a full description of the reasons  
11 why the child cannot be protected adequately in the home, including a  
12 description of any previous efforts to work with the parents and the  
13 child in the home; the in-home treatment programs that have been  
14 considered and rejected; the preventive services, including housing  
15 assistance, that have been offered or provided and have failed to  
16 prevent the need for out-of-home placement, unless the health,  
17 safety, and welfare of the child cannot be protected adequately in  
18 the home; and the parents' attitude toward placement of the child;

19 (d) A statement of the likely harms the child will suffer as a  
20 result of removal;

21 (e) A description of the steps that will be taken to minimize the  
22 harm to the child that may result if separation occurs including an  
23 assessment of the child's relationship and emotional bond with any  
24 siblings, and the agency's plan to provide ongoing contact between  
25 the child and the child's siblings if appropriate; and

26 (f) Behavior that will be expected before determination that  
27 supervision of the family or placement is no longer necessary.

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

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

38 **Sec. 5017.** RCW 13.34.155 and 2018 c 284 s 16 are each amended to  
39 read as follows:

1 (1) The court hearing the dependency petition may hear and  
2 determine issues related to chapter 26.10 RCW in a dependency  
3 proceeding as necessary to facilitate a permanency plan for the child  
4 or children as part of the dependency disposition order or a  
5 dependency review order or as otherwise necessary to implement a  
6 permanency plan of care for a child. The parents, guardians, or legal  
7 custodian of the child must agree, subject to court approval, to  
8 establish a permanent custody order. This agreed order may have the  
9 concurrence of the other parties to the dependency, the guardian ad  
10 litem of the child, and the child if age twelve or older, and must  
11 also be in the best interests of the child. If the petitioner for a  
12 custody order under chapter 26.10 RCW is not a party to the  
13 dependency proceeding, he or she must agree on the record or by the  
14 filing of a declaration to the entry of a custody order. Once an  
15 order is entered under chapter 26.10 RCW, and the dependency petition  
16 dismissed, the department shall not continue to supervise the  
17 placement.

18 (2) (a) The court hearing the dependency petition may establish or  
19 modify a parenting plan under chapter 26.09 (~~or 26.26~~), 26.26A, or  
20 26.26B RCW as part of a disposition order or at a review hearing when  
21 doing so will implement a permanent plan of care for the child and  
22 result in dismissal of the dependency.

23 (b) The dependency court shall adhere to procedural requirements  
24 under chapter 26.09 RCW and must make a written finding that the  
25 parenting plan established or modified by the dependency court under  
26 this section is in the child's best interests.

27 (c) Unless the whereabouts of one of the parents is unknown to  
28 either the department or the court, the parents must agree, subject  
29 to court approval, to establish the parenting plan or modify an  
30 existing parenting plan.

31 (d) Whenever the court is asked to establish or modify a  
32 parenting plan, the child's residential schedule, the allocation of  
33 decision-making authority, and dispute resolution under this section,  
34 the dependency court may:

35 (i) Appoint a guardian ad litem to represent the interests of the  
36 child when the court believes the appointment is necessary to protect  
37 the best interests of the child; and

38 (ii) Appoint an attorney to represent the interests of the child  
39 with respect to provisions for the parenting plan.

1 (e) The dependency court must make a written finding that the  
2 parenting plan established or modified by the dependency court under  
3 this section is in the child's best interests.

4 (f) The dependency court may interview the child in chambers to  
5 ascertain the child's wishes as to the child's residential schedule  
6 in a proceeding for the entry or modification of a parenting plan  
7 under this section. The court may permit counsel to be present at the  
8 interview. The court shall cause a record of the interview to be made  
9 and to become part of the court record of the dependency case and the  
10 case under chapter((s)) 26.09 ((~~or 26.26~~)), 26.26A, or 26.26B RCW.

11 (g) In the absence of agreement by a parent, guardian, or legal  
12 custodian of the child to allow the juvenile court to hear and  
13 determine issues related to the establishment or modification of a  
14 parenting plan under chapter((s)) 26.09 ((~~or 26.26~~)), 26.26A, or  
15 26.26B RCW, a party may move the court to transfer such issues to the  
16 family law department of the superior court for further resolution.  
17 The court may only grant the motion upon entry of a written finding  
18 that it is in the best interests of the child.

19 (h) In any parenting plan agreed to by the parents and entered or  
20 modified in juvenile court under this section, all issues pertaining  
21 to child support and the division of marital property shall be  
22 referred to or retained by the family law department of the superior  
23 court.

24 (3) Any court order determining issues under chapter 26.10 RCW is  
25 subject to modification upon the same showing and standards as a  
26 court order determining Title 26 RCW issues.

27 (4) Any order entered in the dependency court establishing or  
28 modifying a permanent legal custody order ((~~or~~)), parenting plan, or  
29 residential schedule under chapter((s)) 26.09, 26.10, ((~~and 26.26~~))  
30 26.26A, or 26.26B RCW shall also be filed in the chapter((s)) 26.09,  
31 26.10, ((~~and 26.26~~)) 26.26A, or 26.26B RCW action by the moving or  
32 prevailing party. If the petitioning or moving party has been found  
33 indigent and appointed counsel at public expense in the dependency  
34 proceeding, no filing fees shall be imposed by the clerk. Once filed,  
35 any order, parenting plan, or residential schedule establishing or  
36 modifying permanent legal custody of a child shall survive dismissal  
37 of the dependency proceeding.

38 **Sec. 5018.** RCW 13.38.040 and 2017 3rd sp.s. c 6 s 311 are each  
39 amended to read as follows:

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

3 (1) "Active efforts" means the following:

4 (a) In any foster care placement or termination of parental  
5 rights proceeding of an Indian child under chapter 13.34 RCW and this  
6 chapter where the department or a supervising agency as defined in  
7 RCW 74.13.020 has a statutory or contractual duty to provide services  
8 to, or procure services for, the parent or parents or Indian  
9 custodian, or is providing services to a parent or parents or Indian  
10 custodian pursuant to a disposition order entered pursuant to RCW  
11 13.34.130, the department or supervising agency shall make timely and  
12 diligent efforts to provide or procure such services, including  
13 engaging the parent or parents or Indian custodian in reasonably  
14 available and culturally appropriate preventive, remedial, or  
15 rehabilitative services. This shall include those services offered by  
16 tribes and Indian organizations whenever possible. At a minimum  
17 "active efforts" shall include:

18 (i) In any dependency proceeding under chapter 13.34 RCW seeking  
19 out-of-home placement of an Indian child in which the department or  
20 supervising agency provided voluntary services to the parent,  
21 parents, or Indian custodian prior to filing the dependency petition,  
22 a showing to the court that the department or supervising agency  
23 social workers actively worked with the parent, parents, or Indian  
24 custodian to engage them in remedial services and rehabilitation  
25 programs to prevent the breakup of the family beyond simply providing  
26 referrals to such services.

27 (ii) In any dependency proceeding under chapter 13.34 RCW, in  
28 which the petitioner is seeking the continued out-of-home placement  
29 of an Indian child, the department or supervising agency must show to  
30 the court that it has actively worked with the parent, parents, or  
31 Indian custodian in accordance with existing court orders and the  
32 individual service plan to engage them in remedial services and  
33 rehabilitative programs to prevent the breakup of the family beyond  
34 simply providing referrals to such services.

35 (iii) In any termination of parental rights proceeding regarding  
36 an Indian child under chapter 13.34 RCW in which the department or  
37 supervising agency provided services to the parent, parents, or  
38 Indian custodian, a showing to the court that the department or  
39 supervising agency social workers actively worked with the parent,  
40 parents, or Indian custodian to engage them in remedial services and

1 rehabilitation programs ordered by the court or identified in the  
2 department or supervising agency's individual service and safety plan  
3 beyond simply providing referrals to such services.

4 (b) In any foster care placement or termination of parental  
5 rights proceeding in which the petitioner does not otherwise have a  
6 statutory or contractual duty to directly provide services to, or  
7 procure services for, the parent or Indian custodian, "active  
8 efforts" means a documented, concerted, and good faith effort to  
9 facilitate the parent's or Indian custodian's receipt of and  
10 engagement in services capable of meeting the criteria set out in (a)  
11 of this subsection.

12 (2) "Best interests of the Indian child" means the use of  
13 practices in accordance with the federal Indian child welfare act,  
14 this chapter, and other applicable law, that are designed to  
15 accomplish the following: (a) Protect the safety, well-being,  
16 development, and stability of the Indian child; (b) prevent the  
17 unnecessary out-of-home placement of the Indian child; (c)  
18 acknowledge the right of Indian tribes to maintain their existence  
19 and integrity which will promote the stability and security of their  
20 children and families; (d) recognize the value to the Indian child of  
21 establishing, developing, or maintaining a political, cultural,  
22 social, and spiritual relationship with the Indian child's tribe and  
23 tribal community; and (e) in a proceeding under this chapter where  
24 out-of-home placement is necessary, to prioritize placement of the  
25 Indian child in accordance with the placement preferences of this  
26 chapter.

27 (3) "Child custody proceeding" includes:

28 (a) "Foster care placement" which means any action removing an  
29 Indian child from his or her parent or Indian custodian for temporary  
30 placement in a foster home, institution, or with a relative,  
31 guardian, conservator, or suitable other person where the parent or  
32 Indian custodian cannot have the child returned upon demand, but  
33 where parental rights have not been terminated;

34 (b) "Termination of parental rights" which means any action  
35 resulting in the termination of the parent-child relationship;

36 (c) "Preadoptive placement" which means the temporary placement  
37 of an Indian child in a foster home or institution after the  
38 termination of parental rights but before or in lieu of adoptive  
39 placement; and

1 (d) "Adoptive placement" which means the permanent placement of  
2 an Indian child for adoption, including any action resulting in a  
3 final decree of adoption.

4 These terms shall not include a placement based upon an act  
5 which, if committed by an adult, would be deemed a crime or upon an  
6 award, in a dissolution proceeding of custody to one of the parents.

7 (4) "Court of competent jurisdiction" means a federal court, or a  
8 state court that entered an order in a child custody proceeding  
9 involving an Indian child, as long as the state court had proper  
10 subject matter jurisdiction in accordance with this chapter and the  
11 laws of that state, or a tribal court that had or has exclusive or  
12 concurrent jurisdiction pursuant to 25 U.S.C. Sec. 1911.

13 (5) "Department" means the department of children, youth, and  
14 families and any of its divisions. "Department" also includes  
15 supervising agencies as defined in RCW 74.13.020 with which the  
16 department entered into a contract to provide services, care,  
17 placement, case management, contract monitoring, or supervision to  
18 children subject to a petition filed under chapter 13.34 or 26.33  
19 RCW.

20 (6) "Indian" means a person who is a member of an Indian tribe,  
21 or who is an Alaska native and a member of a regional corporation as  
22 defined in 43 U.S.C. Sec. 1606.

23 (7) "Indian child" means an unmarried and unemancipated Indian  
24 person who is under eighteen years of age and is either: (a) A member  
25 of an Indian tribe; or (b) eligible for membership in an Indian tribe  
26 and is the biological child of a member of an Indian tribe.

27 (8) "Indian child's family" or "extended family member" means an  
28 individual, defined by the law or custom of the child's tribe, as a  
29 relative of the child. If the child's tribe does not identify such  
30 individuals by law or custom, the term means an adult who is the  
31 Indian child's grandparent, aunt, uncle, brother, sister,  
32 brother-in-law, sister-in-law, niece, nephew, first or second cousin,  
33 or stepparent, even following termination of the marriage.

34 (9) "Indian child's tribe" means a tribe in which an Indian child  
35 is a member or eligible for membership.

36 (10) "Indian custodian" means an Indian person who under tribal  
37 law, tribal custom, or state law has legal or temporary physical  
38 custody of an Indian child, or to whom the parent has transferred  
39 temporary care, physical custody, and control of an Indian child.

1 (11) "Indian tribe" or "tribe" means any Indian tribe, band,  
2 nation, or other organized group or community of Indians recognized  
3 as eligible for the services provided to Indians by the secretary of  
4 the interior because of their status as Indians, including any Alaska  
5 native village as defined in 43 U.S.C. Sec. 1602(c).

6 (12) "Member" and "membership" means a determination by an Indian  
7 tribe that a person is a member or eligible for membership in that  
8 Indian tribe.

9 (13) "Parent" means a biological parent or parents of an Indian  
10 child or a person who has lawfully adopted an Indian child, including  
11 adoptions made under tribal law or custom. "Parent" does not include  
12 ((an unwed father)) a person whose ((paternity)) parentage has not  
13 been acknowledged or established under chapter ((26.26)) 26.26A RCW  
14 or the applicable laws of other states.

15 (14) "Secretary of the interior" means the secretary of the  
16 United States department of the interior.

17 (15) "Tribal court" means a court or body vested by an Indian  
18 tribe with jurisdiction over child custody proceedings, including but  
19 not limited to a federal court of Indian offenses, a court  
20 established and operated under the code or custom of an Indian tribe,  
21 or an administrative body of an Indian tribe vested with authority  
22 over child custody proceedings.

23 (16) "Tribal customary adoption" means adoption or other process  
24 through the tribal custom, traditions, or laws of an Indian child's  
25 tribe by which the Indian child is permanently placed with a  
26 nonparent and through which the nonparent is vested with the rights,  
27 privileges, and obligations of a legal parent. Termination of the  
28 parent-child relationship between the Indian child and the biological  
29 parent is not required to effect or recognize a tribal customary  
30 adoption.

31 **Sec. 5019.** RCW 26.09.030 and 2008 c 6 s 1006 are each amended to  
32 read as follows:

33 When a party who (1) is a resident of this state, or (2) is a  
34 member of the armed forces and is stationed in this state, or (3) is  
35 married or in a domestic partnership to a party who is a resident of  
36 this state or who is a member of the armed forces and is stationed in  
37 this state, petitions for a dissolution of marriage or dissolution of  
38 domestic partnership, and alleges that the marriage or domestic  
39 partnership is irretrievably broken and when ninety days have elapsed

1 since the petition was filed and from the date when service of  
2 summons was made upon the respondent or the first publication of  
3 summons was made, the court shall proceed as follows:

4 (a) If the other party joins in the petition or does not deny  
5 that the marriage or domestic partnership is irretrievably broken,  
6 the court shall enter a decree of dissolution.

7 (b) If the other party alleges that the petitioner was induced to  
8 file the petition by fraud, or coercion, the court shall make a  
9 finding as to that allegation and, if it so finds shall dismiss the  
10 petition.

11 (c) If the other party denies that the marriage or domestic  
12 partnership is irretrievably broken the court shall consider all  
13 relevant factors, including the circumstances that gave rise to the  
14 filing of the petition and the prospects for reconciliation and  
15 shall:

16 (i) Make a finding that the marriage or domestic partnership is  
17 irretrievably broken and enter a decree of dissolution of the  
18 marriage or domestic partnership; or

19 (ii) At the request of either party or on its own motion,  
20 transfer the cause to the family court, refer them to another  
21 counseling service of their choice, and request a report back from  
22 the counseling service within sixty days, or continue the matter for  
23 not more than sixty days for hearing. If the cause is returned from  
24 the family court or at the adjourned hearing, the court shall:

25 (A) Find that the parties have agreed to reconciliation and  
26 dismiss the petition; or

27 (B) Find that the parties have not been reconciled, and that  
28 either party continues to allege that the marriage or domestic  
29 partnership is irretrievably broken. When such facts are found, the  
30 court shall enter a decree of dissolution of the marriage or domestic  
31 partnership.

32 (d) If the petitioner requests the court to decree legal  
33 separation in lieu of dissolution, the court shall enter the decree  
34 in that form unless the other party objects and petitions for a  
35 decree of dissolution or declaration of invalidity.

36 (e) In considering a petition for dissolution of marriage or  
37 domestic partnership, a court shall not use a party's pregnancy as  
38 the sole basis for denying or delaying the entry of a decree of  
39 dissolution of marriage or domestic partnership. Granting a decree of  
40 dissolution of marriage or domestic partnership when a party is

1 pregnant does not affect further proceedings under (~~the uniform~~  
2 ~~parentage act,~~) chapter (~~(26.26)~~) 26.26A or 26.26B RCW.

3 **Sec. 5020.** RCW 26.09.191 and 2017 c 234 s 2 are each amended to  
4 read as follows:

5 (1) The permanent parenting plan shall not require mutual  
6 decision-making or designation of a dispute resolution process other  
7 than court action if it is found that a parent has engaged in any of  
8 the following conduct: (a) Willful abandonment that continues for an  
9 extended period of time or substantial refusal to perform parenting  
10 functions; (b) physical, sexual, or a pattern of emotional abuse of a  
11 child; or (c) a history of acts of domestic violence as defined in  
12 RCW 26.50.010(3) or an assault or sexual assault that causes grievous  
13 bodily harm or the fear of such harm or that results in a pregnancy.

14 (2)(a) The parent's residential time with the child shall be  
15 limited if it is found that the parent has engaged in any of the  
16 following conduct: (i) Willful abandonment that continues for an  
17 extended period of time or substantial refusal to perform parenting  
18 functions; (ii) physical, sexual, or a pattern of emotional abuse of  
19 a child; (iii) a history of acts of domestic violence as defined in  
20 RCW 26.50.010(3) or an assault or sexual assault that causes grievous  
21 bodily harm or the fear of such harm or that results in a pregnancy;  
22 or (iv) the parent has been convicted as an adult of a sex offense  
23 under:

24 (A) RCW 9A.44.076 if, because of the difference in age between  
25 the offender and the victim, no rebuttable presumption exists under  
26 (d) of this subsection;

27 (B) RCW 9A.44.079 if, because of the difference in age between  
28 the offender and the victim, no rebuttable presumption exists under  
29 (d) of this subsection;

30 (C) RCW 9A.44.086 if, because of the difference in age between  
31 the offender and the victim, no rebuttable presumption exists under  
32 (d) of this subsection;

33 (D) RCW 9A.44.089;

34 (E) RCW 9A.44.093;

35 (F) RCW 9A.44.096;

36 (G) RCW 9A.64.020 (1) or (2) if, because of the difference in age  
37 between the offender and the victim, no rebuttable presumption exists  
38 under (d) of this subsection;

39 (H) Chapter 9.68A RCW;

1 (I) Any predecessor or antecedent statute for the offenses listed  
2 in (a)(iv)(A) through (H) of this subsection;

3 (J) Any statute from any other jurisdiction that describes an  
4 offense analogous to the offenses listed in (a)(iv)(A) through (H) of  
5 this subsection.

6 This subsection (2)(a) shall not apply when (c) or (d) of this  
7 subsection applies.

8 (b) The parent's residential time with the child shall be limited  
9 if it is found that the parent resides with a person who has engaged  
10 in any of the following conduct: (i) Physical, sexual, or a pattern  
11 of emotional abuse of a child; (ii) a history of acts of domestic  
12 violence as defined in RCW 26.50.010(3) or an assault or sexual  
13 assault that causes grievous bodily harm or the fear of such harm or  
14 that results in a pregnancy; or (iii) the person has been convicted  
15 as an adult or as a juvenile has been adjudicated of a sex offense  
16 under:

17 (A) RCW 9A.44.076 if, because of the difference in age between  
18 the offender and the victim, no rebuttable presumption exists under  
19 (e) of this subsection;

20 (B) RCW 9A.44.079 if, because of the difference in age between  
21 the offender and the victim, no rebuttable presumption exists under  
22 (e) of this subsection;

23 (C) RCW 9A.44.086 if, because of the difference in age between  
24 the offender and the victim, no rebuttable presumption exists under  
25 (e) of this subsection;

26 (D) RCW 9A.44.089;

27 (E) RCW 9A.44.093;

28 (F) RCW 9A.44.096;

29 (G) RCW 9A.64.020 (1) or (2) if, because of the difference in age  
30 between the offender and the victim, no rebuttable presumption exists  
31 under (e) of this subsection;

32 (H) Chapter 9.68A RCW;

33 (I) Any predecessor or antecedent statute for the offenses listed  
34 in (b)(iii)(A) through (H) of this subsection;

35 (J) Any statute from any other jurisdiction that describes an  
36 offense analogous to the offenses listed in (b)(iii)(A) through (H)  
37 of this subsection.

38 This subsection (2)(b) shall not apply when (c) or (e) of this  
39 subsection applies.

1 (c) If a parent has been found to be a sexual predator under  
2 chapter 71.09 RCW or under an analogous statute of any other  
3 jurisdiction, the court shall restrain the parent from contact with a  
4 child that would otherwise be allowed under this chapter. If a parent  
5 resides with an adult or a juvenile who has been found to be a sexual  
6 predator under chapter 71.09 RCW or under an analogous statute of any  
7 other jurisdiction, the court shall restrain the parent from contact  
8 with the parent's child except contact that occurs outside that  
9 person's presence.

10 (d) There is a rebuttable presumption that a parent who has been  
11 convicted as an adult of a sex offense listed in (d)(i) through (ix)  
12 of this subsection poses a present danger to a child. Unless the  
13 parent rebuts this presumption, the court shall restrain the parent  
14 from contact with a child that would otherwise be allowed under this  
15 chapter:

16 (i) RCW 9A.64.020 (1) or (2), provided that the person convicted  
17 was at least five years older than the other person;

18 (ii) RCW 9A.44.073;

19 (iii) RCW 9A.44.076, provided that the person convicted was at  
20 least eight years older than the victim;

21 (iv) RCW 9A.44.079, provided that the person convicted was at  
22 least eight years older than the victim;

23 (v) RCW 9A.44.083;

24 (vi) RCW 9A.44.086, provided that the person convicted was at  
25 least eight years older than the victim;

26 (vii) RCW 9A.44.100;

27 (viii) Any predecessor or antecedent statute for the offenses  
28 listed in (d)(i) through (vii) of this subsection;

29 (ix) Any statute from any other jurisdiction that describes an  
30 offense analogous to the offenses listed in (d)(i) through (vii) of  
31 this subsection.

32 (e) There is a rebuttable presumption that a parent who resides  
33 with a person who, as an adult, has been convicted, or as a juvenile  
34 has been adjudicated, of the sex offenses listed in (e)(i) through  
35 (ix) of this subsection places a child at risk of abuse or harm when  
36 that parent exercises residential time in the presence of the  
37 convicted or adjudicated person. Unless the parent rebuts the  
38 presumption, the court shall restrain the parent from contact with  
39 the parent's child except for contact that occurs outside of the  
40 convicted or adjudicated person's presence:

- 1 (i) RCW 9A.64.020 (1) or (2), provided that the person convicted  
2 was at least five years older than the other person;
- 3 (ii) RCW 9A.44.073;
- 4 (iii) RCW 9A.44.076, provided that the person convicted was at  
5 least eight years older than the victim;
- 6 (iv) RCW 9A.44.079, provided that the person convicted was at  
7 least eight years older than the victim;
- 8 (v) RCW 9A.44.083;
- 9 (vi) RCW 9A.44.086, provided that the person convicted was at  
10 least eight years older than the victim;
- 11 (vii) RCW 9A.44.100;
- 12 (viii) Any predecessor or antecedent statute for the offenses  
13 listed in (e)(i) through (vii) of this subsection;
- 14 (ix) Any statute from any other jurisdiction that describes an  
15 offense analogous to the offenses listed in (e)(i) through (vii) of  
16 this subsection.
- 17 (f) The presumption established in (d) of this subsection may be  
18 rebutted only after a written finding that the child was not  
19 conceived and subsequently born as a result of a sexual assault  
20 committed by the parent requesting residential time and that:
- 21 (i) If the child was not the victim of the sex offense committed  
22 by the parent requesting residential time, (A) contact between the  
23 child and the offending parent is appropriate and poses minimal risk  
24 to the child, and (B) the offending parent has successfully engaged  
25 in treatment for sex offenders or is engaged in and making progress  
26 in such treatment, if any was ordered by a court, and the treatment  
27 provider believes such contact is appropriate and poses minimal risk  
28 to the child; or
- 29 (ii) If the child was the victim of the sex offense committed by  
30 the parent requesting residential time, (A) contact between the child  
31 and the offending parent is appropriate and poses minimal risk to the  
32 child, (B) if the child is in or has been in therapy for victims of  
33 sexual abuse, the child's counselor believes such contact between the  
34 child and the offending parent is in the child's best interest, and  
35 (C) the offending parent has successfully engaged in treatment for  
36 sex offenders or is engaged in and making progress in such treatment,  
37 if any was ordered by a court, and the treatment provider believes  
38 such contact is appropriate and poses minimal risk to the child.
- 39 (g) The presumption established in (e) of this subsection may be  
40 rebutted only after a written finding that the child was not

1 conceived and subsequently born as a result of a sexual assault  
2 committed by the parent requesting residential time and that:

3 (i) If the child was not the victim of the sex offense committed  
4 by the person who is residing with the parent requesting residential  
5 time, (A) contact between the child and the parent residing with the  
6 convicted or adjudicated person is appropriate and that parent is  
7 able to protect the child in the presence of the convicted or  
8 adjudicated person, and (B) the convicted or adjudicated person has  
9 successfully engaged in treatment for sex offenders or is engaged in  
10 and making progress in such treatment, if any was ordered by a court,  
11 and the treatment provider believes such contact is appropriate and  
12 poses minimal risk to the child; or

13 (ii) If the child was the victim of the sex offense committed by  
14 the person who is residing with the parent requesting residential  
15 time, (A) contact between the child and the parent in the presence of  
16 the convicted or adjudicated person is appropriate and poses minimal  
17 risk to the child, (B) if the child is in or has been in therapy for  
18 victims of sexual abuse, the child's counselor believes such contact  
19 between the child and the parent residing with the convicted or  
20 adjudicated person in the presence of the convicted or adjudicated  
21 person is in the child's best interest, and (C) the convicted or  
22 adjudicated person has successfully engaged in treatment for sex  
23 offenders or is engaged in and making progress in such treatment, if  
24 any was ordered by a court, and the treatment provider believes  
25 contact between the parent and child in the presence of the convicted  
26 or adjudicated person is appropriate and poses minimal risk to the  
27 child.

28 (h) If the court finds that the parent has met the burden of  
29 rebutting the presumption under (f) of this subsection, the court may  
30 allow a parent who has been convicted as an adult of a sex offense  
31 listed in (d)(i) through (ix) of this subsection to have residential  
32 time with the child supervised by a neutral and independent adult and  
33 pursuant to an adequate plan for supervision of such residential  
34 time. The court shall not approve of a supervisor for contact between  
35 the child and the parent unless the court finds, based on the  
36 evidence, that the supervisor is willing and capable of protecting  
37 the child from harm. The court shall revoke court approval of the  
38 supervisor upon finding, based on the evidence, that the supervisor  
39 has failed to protect the child or is no longer willing or capable of  
40 protecting the child.

1 (i) If the court finds that the parent has met the burden of  
2 rebutting the presumption under (g) of this subsection, the court may  
3 allow a parent residing with a person who has been adjudicated as a  
4 juvenile of a sex offense listed in (e)(i) through (ix) of this  
5 subsection to have residential time with the child in the presence of  
6 the person adjudicated as a juvenile, supervised by a neutral and  
7 independent adult and pursuant to an adequate plan for supervision of  
8 such residential time. The court shall not approve of a supervisor  
9 for contact between the child and the parent unless the court finds,  
10 based on the evidence, that the supervisor is willing and capable of  
11 protecting the child from harm. The court shall revoke court approval  
12 of the supervisor upon finding, based on the evidence, that the  
13 supervisor has failed to protect the child or is no longer willing or  
14 capable of protecting the child.

15 (j) If the court finds that the parent has met the burden of  
16 rebutting the presumption under (g) of this subsection, the court may  
17 allow a parent residing with a person who, as an adult, has been  
18 convicted of a sex offense listed in (e)(i) through (ix) of this  
19 subsection to have residential time with the child in the presence of  
20 the convicted person supervised by a neutral and independent adult  
21 and pursuant to an adequate plan for supervision of such residential  
22 time. The court shall not approve of a supervisor for contact between  
23 the child and the parent unless the court finds, based on the  
24 evidence, that the supervisor is willing and capable of protecting  
25 the child from harm. The court shall revoke court approval of the  
26 supervisor upon finding, based on the evidence, that the supervisor  
27 has failed to protect the child or is no longer willing or capable of  
28 protecting the child.

29 (k) A court shall not order unsupervised contact between the  
30 offending parent and a child of the offending parent who was sexually  
31 abused by that parent. A court may order unsupervised contact between  
32 the offending parent and a child who was not sexually abused by the  
33 parent after the presumption under (d) of this subsection has been  
34 rebutted and supervised residential time has occurred for at least  
35 two years with no further arrests or convictions of sex offenses  
36 involving children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter  
37 9.68A RCW and (i) the sex offense of the offending parent was not  
38 committed against a child of the offending parent, and (ii) the court  
39 finds that unsupervised contact between the child and the offending  
40 parent is appropriate and poses minimal risk to the child, after

1 consideration of the testimony of a state-certified therapist, mental  
2 health counselor, or social worker with expertise in treating child  
3 sexual abuse victims who has supervised at least one period of  
4 residential time between the parent and the child, and after  
5 consideration of evidence of the offending parent's compliance with  
6 community supervision requirements, if any. If the offending parent  
7 was not ordered by a court to participate in treatment for sex  
8 offenders, then the parent shall obtain a psychosexual evaluation  
9 conducted by a certified sex offender treatment provider or a  
10 certified affiliate sex offender treatment provider indicating that  
11 the offender has the lowest likelihood of risk to reoffend before the  
12 court grants unsupervised contact between the parent and a child.

13 (1) A court may order unsupervised contact between the parent and  
14 a child which may occur in the presence of a juvenile adjudicated of  
15 a sex offense listed in (e)(i) through (ix) of this subsection who  
16 resides with the parent after the presumption under (e) of this  
17 subsection has been rebutted and supervised residential time has  
18 occurred for at least two years during which time the adjudicated  
19 juvenile has had no further arrests, adjudications, or convictions of  
20 sex offenses involving children under chapter 9A.44 RCW, RCW  
21 9A.64.020, or chapter 9.68A RCW, and (i) the court finds that  
22 unsupervised contact between the child and the parent that may occur  
23 in the presence of the adjudicated juvenile is appropriate and poses  
24 minimal risk to the child, after consideration of the testimony of a  
25 state-certified therapist, mental health counselor, or social worker  
26 with expertise in treatment of child sexual abuse victims who has  
27 supervised at least one period of residential time between the parent  
28 and the child in the presence of the adjudicated juvenile, and after  
29 consideration of evidence of the adjudicated juvenile's compliance  
30 with community supervision or parole requirements, if any. If the  
31 adjudicated juvenile was not ordered by a court to participate in  
32 treatment for sex offenders, then the adjudicated juvenile shall  
33 obtain a psychosexual evaluation conducted by a certified sex  
34 offender treatment provider or a certified affiliate sex offender  
35 treatment provider indicating that the adjudicated juvenile has the  
36 lowest likelihood of risk to reoffend before the court grants  
37 unsupervised contact between the parent and a child which may occur  
38 in the presence of the adjudicated juvenile who is residing with the  
39 parent.

1 (m)(i) The limitations imposed by the court under (a) or (b) of  
2 this subsection shall be reasonably calculated to protect the child  
3 from the physical, sexual, or emotional abuse or harm that could  
4 result if the child has contact with the parent requesting  
5 residential time. The limitations shall also be reasonably calculated  
6 to provide for the safety of the parent who may be at risk of  
7 physical, sexual, or emotional abuse or harm that could result if the  
8 parent has contact with the parent requesting residential time. The  
9 limitations the court may impose include, but are not limited to:  
10 Supervised contact between the child and the parent or completion of  
11 relevant counseling or treatment. If the court expressly finds based  
12 on the evidence that limitations on the residential time with the  
13 child will not adequately protect the child from the harm or abuse  
14 that could result if the child has contact with the parent requesting  
15 residential time, the court shall restrain the parent requesting  
16 residential time from all contact with the child.

17 (ii) The court shall not enter an order under (a) of this  
18 subsection allowing a parent to have contact with a child if the  
19 parent has been found by clear and convincing evidence in a civil  
20 action or by a preponderance of the evidence in a dependency action  
21 to have sexually abused the child, except upon recommendation by an  
22 evaluator or therapist for the child that the child is ready for  
23 contact with the parent and will not be harmed by the contact. The  
24 court shall not enter an order allowing a parent to have contact with  
25 the child in the offender's presence if the parent resides with a  
26 person who has been found by clear and convincing evidence in a civil  
27 action or by a preponderance of the evidence in a dependency action  
28 to have sexually abused a child, unless the court finds that the  
29 parent accepts that the person engaged in the harmful conduct and the  
30 parent is willing to and capable of protecting the child from harm  
31 from the person.

32 (iii) The court shall not enter an order under (a) of this  
33 subsection allowing a parent to have contact with a child if the  
34 parent has been found by clear and convincing evidence pursuant to  
35 RCW ((~~26.26.760~~)) 26.26A.465 to have committed sexual assault, as  
36 defined in RCW ((~~26.26.760~~)) 26.26A.465, against the child's parent,  
37 and that the child was born within three hundred twenty days of the  
38 sexual assault.

39 (iv) If the court limits residential time under (a) or (b) of  
40 this subsection to require supervised contact between the child and

1 the parent, the court shall not approve of a supervisor for contact  
2 between a child and a parent who has engaged in physical, sexual, or  
3 a pattern of emotional abuse of the child unless the court finds  
4 based upon the evidence that the supervisor accepts that the harmful  
5 conduct occurred and is willing to and capable of protecting the  
6 child from harm. The court shall revoke court approval of the  
7 supervisor upon finding, based on the evidence, that the supervisor  
8 has failed to protect the child or is no longer willing to or capable  
9 of protecting the child.

10 (n) If the court expressly finds based on the evidence that  
11 contact between the parent and the child will not cause physical,  
12 sexual, or emotional abuse or harm to the child and that the  
13 probability that the parent's or other person's harmful or abusive  
14 conduct will recur is so remote that it would not be in the child's  
15 best interests to apply the limitations of (a), (b), and (m)(i) and  
16 (iv) of this subsection, or if the court expressly finds that the  
17 parent's conduct did not have an impact on the child, then the court  
18 need not apply the limitations of (a), (b), and (m)(i) and (iv) of  
19 this subsection. The weight given to the existence of a protection  
20 order issued under chapter 26.50 RCW as to domestic violence is  
21 within the discretion of the court. This subsection shall not apply  
22 when (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), and (m)(ii) of  
23 this subsection apply.

24 (3) A parent's involvement or conduct may have an adverse effect  
25 on the child's best interests, and the court may preclude or limit  
26 any provisions of the parenting plan, if any of the following factors  
27 exist:

28 (a) A parent's neglect or substantial nonperformance of parenting  
29 functions;

30 (b) A long-term emotional or physical impairment which interferes  
31 with the parent's performance of parenting functions as defined in  
32 RCW 26.09.004;

33 (c) A long-term impairment resulting from drug, alcohol, or other  
34 substance abuse that interferes with the performance of parenting  
35 functions;

36 (d) The absence or substantial impairment of emotional ties  
37 between the parent and the child;

38 (e) The abusive use of conflict by the parent which creates the  
39 danger of serious damage to the child's psychological development;

1 (f) A parent has withheld from the other parent access to the  
2 child for a protracted period without good cause; or

3 (g) Such other factors or conduct as the court expressly finds  
4 adverse to the best interests of the child.

5 (4) In cases involving allegations of limiting factors under  
6 subsection (2)(a)(ii) and (iii) of this section, both parties shall  
7 be screened to determine the appropriateness of a comprehensive  
8 assessment regarding the impact of the limiting factor on the child  
9 and the parties.

10 (5) In entering a permanent parenting plan, the court shall not  
11 draw any presumptions from the provisions of the temporary parenting  
12 plan.

13 (6) In determining whether any of the conduct described in this  
14 section has occurred, the court shall apply the civil rules of  
15 evidence, proof, and procedure.

16 (7) For the purposes of this section:

17 (a) "A parent's child" means that parent's natural child, adopted  
18 child, or stepchild; and

19 (b) "Social worker" means a person with a master's or further  
20 advanced degree from a social work educational program accredited and  
21 approved as provided in RCW 18.320.010.

22 **Sec. 5021.** RCW 26.09.405 and 2008 c 259 s 2 are each amended to  
23 read as follows:

24 (1) The provisions of RCW 26.09.405 through 26.09.560 and the  
25 chapter 21, Laws of 2000 amendments to RCW 26.09.260, 26.10.190, and  
26 (~~26.26.160~~) 26.26B.090 apply to a court order regarding residential  
27 time or visitation with a child issued:

28 (a) After June 8, 2000; and

29 (b) Before June 8, 2000, if the existing court order does not  
30 expressly govern relocation of the child.

31 (2) To the extent that a provision of RCW 26.09.405 through  
32 26.09.560 and the chapter 21, Laws of 2000 amendments to RCW  
33 26.09.260, 26.10.190, and (~~26.26.160~~) 26.26B.090 conflicts with the  
34 express terms of a court order existing prior to June 8, 2000, then  
35 RCW 26.09.405 through 26.09.560 and the chapter 21, Laws of 2000  
36 amendments to RCW 26.09.260, 26.10.190, and (~~26.26.160~~) 26.26B.090  
37 do not apply to those terms of that order governing relocation of the  
38 child.

1 (3) The provisions of RCW 26.09.405 through 26.09.560 do not  
2 apply to visitation orders entered in dependency proceedings as  
3 provided in RCW 13.34.385.

4 **Sec. 5022.** RCW 26.09.510 and 2000 c 21 s 13 are each amended to  
5 read as follows:

6 (1) The court may grant a temporary order restraining relocation  
7 of the child, or ordering return of the child if the child's  
8 relocation has occurred, if the court finds:

9 (a) The required notice of an intended relocation of the child  
10 was not provided in a timely manner and the nonrelocating party was  
11 substantially prejudiced;

12 (b) The relocation of the child has occurred without agreement of  
13 the parties, court order, or the notice required by RCW 26.09.405  
14 through 26.09.560 and the chapter 21, Laws of 2000 amendments to RCW  
15 26.09.260, 26.10.190, and (~~26.26.160~~) 26.26B.090; or

16 (c) After examining evidence presented at a hearing for temporary  
17 orders in which the parties had adequate opportunity to prepare and  
18 be heard, there is a likelihood that on final hearing the court will  
19 not approve the intended relocation of the child or no circumstances  
20 exist sufficient to warrant a relocation of the child prior to a  
21 final determination at trial.

22 (2) The court may grant a temporary order authorizing the  
23 intended relocation of the child pending final hearing if the court  
24 finds:

25 (a) The required notice of an intended relocation of the child  
26 was provided in a timely manner or that the circumstances otherwise  
27 warrant issuance of a temporary order in the absence of compliance  
28 with the notice requirements and issues an order for a revised  
29 schedule for residential time with the child; and

30 (b) After examining the evidence presented at a hearing for  
31 temporary orders in which the parties had adequate opportunity to  
32 prepare and be heard, there is a likelihood that on final hearing the  
33 court will approve the intended relocation of the child.

34 **Sec. 5023.** RCW 26.12.802 and 2005 c 282 s 31 are each amended to  
35 read as follows:

36 The administrative office of the courts shall conduct a unified  
37 family court pilot program.

1 (1) Pilot program sites shall be selected through a request for  
2 proposal process, and shall be established in no more than three  
3 superior court judicial districts.

4 (2) To be eligible for consideration as a pilot project site,  
5 judicial districts must have a statutorily authorized judicial  
6 complement of at least five judges.

7 (3) The administrative office of the courts shall develop  
8 criteria for the unified family court pilot program. The pilot  
9 program shall include:

10 (a) All case types under Title 13 RCW, chapters 26.09, 26.10,  
11 26.12, 26.18, 26.19, 26.20, (~~26.26~~) 26.26A, 26.26B, 26.50, 26.27,  
12 and 28A.225 RCW;

13 (b) Unified family court judicial officers, who volunteer for the  
14 program, and meet training requirements established by local court  
15 rule;

16 (c) Case management practices that provide a flexible response to  
17 the diverse court-related needs of families involved in multiple  
18 areas of the justice system. Case management practices should result  
19 in a reduction in process redundancies and an efficient use of time  
20 and resources, and create a system enabling multiple case type  
21 resolution by one judicial officer or judicial team;

22 (d) A court facilitator to provide assistance to parties with  
23 matters before the unified family court; and

24 (e) An emphasis on providing nonadversarial methods of dispute  
25 resolution such as a settlement conference, evaluative mediation by  
26 attorney mediators, and facilitative mediation by nonattorney  
27 mediators.

28 (4) The administrative office of the courts shall publish and  
29 disseminate a state-approved listing of definitions of nonadversarial  
30 methods of dispute resolution so that court officials, practitioners,  
31 and users can choose the most appropriate process for the matter at  
32 hand.

33 (5) The administrative office of the courts shall provide to the  
34 judicial districts selected for the pilot program the computer  
35 resources needed by each judicial district to implement the unified  
36 family court pilot program.

37 (6) The administrative office of the courts shall conduct a study  
38 of the pilot program measuring improvements in the judicial system's  
39 response to family involvement in the judicial system. The  
40 administrator for the courts shall report preliminary findings and

1 final results of the study to the governor, the chief justice of the  
2 supreme court, and the legislature on a biennial basis. The initial  
3 report is due by July 1, 2000, and the final report is due by  
4 December 1, 2004.

5 **Sec. 5024.** RCW 26.18.010 and 2008 c 6 s 1026 are each amended to  
6 read as follows:

7 The legislature finds that there is an urgent need for vigorous  
8 enforcement of child support and maintenance obligations, and that  
9 stronger and more efficient statutory remedies need to be established  
10 to supplement and complement the remedies provided in chapters 26.09,  
11 26.21A, (~~26.26~~) 26.26A, 26.26B, 74.20, and 74.20A RCW.

12 **Sec. 5025.** RCW 26.18.220 and 2005 c 282 s 34 are each amended to  
13 read as follows:

14 (1) The administrative office of the courts shall develop not  
15 later than July 1, 1991, standard court forms and format rules for  
16 mandatory use by litigants in all actions commenced under chapters  
17 26.09, 26.10, (~~and 26.26~~) 26.26A, and 26.26B RCW effective January  
18 1, 1992. The administrator for the courts shall develop mandatory  
19 forms for financial affidavits for integration into the worksheets.  
20 The forms shall be developed and approved not later than September 1,  
21 1992. The parties shall use the mandatory form for financial  
22 affidavits for actions commenced on or after September 1, 1992. The  
23 administrative office of the courts has continuing responsibility to  
24 develop and revise mandatory forms and format rules as appropriate.

25 (2) A party may delete unnecessary portions of the forms  
26 according to the rules established by the administrative office of  
27 the courts. A party may supplement the mandatory forms with  
28 additional material.

29 (3) A party's failure to use the mandatory forms or follow the  
30 format rules shall not be a reason to dismiss a case, refuse a  
31 filing, or strike a pleading. However, the court may require the  
32 party to submit a corrected pleading and may impose terms payable to  
33 the opposing party or payable to the court, or both.

34 (4) The administrative office of the courts shall distribute a  
35 master copy of the forms to all county court clerks. The  
36 administrative office of the courts and county clerks shall  
37 distribute the mandatory forms to the public upon request and may  
38 charge for the cost of production and distribution of the forms.

1 Private vendors may distribute the mandatory forms. Distribution may  
2 be in printed or electronic form.

3 **Sec. 5026.** RCW 26.23.050 and 2018 c 150 s 104 are each amended  
4 to read as follows:

5 (1) If the division of child support is providing support  
6 enforcement services under RCW 26.23.045, or if a party is applying  
7 for support enforcement services by signing the application form on  
8 the bottom of the support order, the superior court shall include in  
9 all court orders that establish or modify a support obligation:

10 (a) A provision that orders and directs the responsible parent to  
11 make all support payments to the Washington state support registry;

12 (b) A statement that withholding action may be taken against  
13 wages, earnings, assets, or benefits, and liens enforced against real  
14 and personal property under the child support statutes of this or any  
15 other state, without further notice to the responsible parent at any  
16 time after entry of the court order, unless:

17 (i) One of the parties demonstrates, and the court finds, that  
18 there is good cause not to require immediate income withholding and  
19 that withholding should be delayed until a payment is past due; or

20 (ii) The parties reach a written agreement that is approved by  
21 the court that provides for an alternate arrangement;

22 (c) A statement that the receiving parent might be required to  
23 submit an accounting of how the support, including any cash medical  
24 support, is being spent to benefit the child;

25 (d) A statement that any parent required to provide health care  
26 coverage for the child or children covered by the order must notify  
27 the division of child support and the other parent when the coverage  
28 terminates; and

29 (e) A statement that the responsible parent's privileges to  
30 obtain and maintain a license, as defined in RCW 74.20A.320, may not  
31 be renewed, or may be suspended if the parent is not in compliance  
32 with a support order as provided in RCW 74.20A.320.

33 As used in this subsection and subsection (3) of this section,  
34 "good cause not to require immediate income withholding" means a  
35 written determination of why implementing immediate wage withholding  
36 would not be in the child's best interests and, in modification  
37 cases, proof of timely payment of previously ordered support.

38 (2) In all other cases not under subsection (1) of this section,  
39 the court may order the responsible parent to make payments directly

1 to the person entitled to receive the payments, to the Washington  
2 state support registry, or may order that payments be made in  
3 accordance with an alternate arrangement agreed upon by the parties.

4 (a) The superior court shall include in all orders under this  
5 subsection that establish or modify a support obligation:

6 (i) A statement that withholding action may be taken against  
7 wages, earnings, assets, or benefits, and liens enforced against real  
8 and personal property under the child support statutes of this or any  
9 other state, without further notice to the responsible parent at any  
10 time after entry of the court order, unless:

11 (A) One of the parties demonstrates, and the court finds, that  
12 there is good cause not to require immediate income withholding and  
13 that withholding should be delayed until a payment is past due; or

14 (B) The parties reach a written agreement that is approved by the  
15 court that provides for an alternate arrangement;

16 (ii) A statement that the receiving parent may be required to  
17 submit an accounting of how the support is being spent to benefit the  
18 child;

19 (iii) A statement that any parent required to provide health care  
20 coverage for the child or children covered by the order must notify  
21 the division of child support and the other parent when the coverage  
22 terminates; and

23 (iv) A statement that a parent seeking to enforce the obligation  
24 to provide health care coverage may:

25 (A) File a motion in the underlying superior court action; or

26 (B) If there is not already an underlying superior court action,  
27 initiate an action in the superior court.

28 As used in this subsection, "good cause not to require immediate  
29 income withholding" is any reason that the court finds appropriate.

30 (b) The superior court may order immediate or delayed income  
31 withholding as follows:

32 (i) Immediate income withholding may be ordered if the  
33 responsible parent has earnings. If immediate income withholding is  
34 ordered under this subsection, all support payments shall be paid to  
35 the Washington state support registry. The superior court shall issue  
36 a mandatory wage assignment order as set forth in chapter 26.18 RCW  
37 when the support order is signed by the court. The parent entitled to  
38 receive the transfer payment is responsible for serving the employer  
39 with the order and for its enforcement as set forth in chapter 26.18  
40 RCW.

1 (ii) If immediate income withholding is not ordered, the court  
2 shall require that income withholding be delayed until a payment is  
3 past due. The support order shall contain a statement that  
4 withholding action may be taken against wages, earnings, assets, or  
5 benefits, and liens enforced against real and personal property under  
6 the child support statutes of this or any other state, without  
7 further notice to the responsible parent, after a payment is past  
8 due.

9 (c) If a mandatory wage withholding order under chapter 26.18 RCW  
10 is issued under this subsection and the division of child support  
11 provides support enforcement services under RCW 26.23.045, the  
12 existing wage withholding assignment is prospectively superseded upon  
13 the division of child support's subsequent service of an income  
14 withholding notice.

15 (3) The office of administrative hearings and the department of  
16 social and health services shall require that all support obligations  
17 established as administrative orders include a provision which orders  
18 and directs that the responsible parent shall make all support  
19 payments to the Washington state support registry. All administrative  
20 orders shall also state that the responsible parent's privileges to  
21 obtain and maintain a license, as defined in RCW 74.20A.320, may not  
22 be renewed, or may be suspended if the parent is not in compliance  
23 with a support order as provided in RCW 74.20A.320. All  
24 administrative orders shall also state that withholding action may be  
25 taken against wages, earnings, assets, or benefits, and liens  
26 enforced against real and personal property under the child support  
27 statutes of this or any other state without further notice to the  
28 responsible parent at any time after entry of the order, unless:

29 (a) One of the parties demonstrates, and the presiding officer  
30 finds, that there is good cause not to require immediate income  
31 withholding; or

32 (b) The parties reach a written agreement that is approved by the  
33 presiding officer that provides for an alternate agreement.

34 (4) If the support order does not include the provision ordering  
35 and directing that all payments be made to the Washington state  
36 support registry and a statement that withholding action may be taken  
37 against wages, earnings, assets, or benefits if a support payment is  
38 past due or at any time after the entry of the order, or that a  
39 parent's licensing privileges may not be renewed, or may be  
40 suspended, the division of child support may serve a notice on the

1 responsible parent stating such requirements and authorizations.  
2 Service may be by personal service or any form of mail requiring a  
3 return receipt.

4 (5) Every support order shall state:

5 (a) The address where the support payment is to be sent;

6 (b) That withholding action may be taken against wages, earnings,  
7 assets, or benefits, and liens enforced against real and personal  
8 property under the child support statutes of this or any other state,  
9 without further notice to the responsible parent at any time after  
10 entry of a support order, unless:

11 (i) One of the parties demonstrates, and the court finds, that  
12 there is good cause not to require immediate income withholding; or

13 (ii) The parties reach a written agreement that is approved by  
14 the court that provides for an alternate arrangement;

15 (c) The income of the parties, if known, or that their income is  
16 unknown and the income upon which the support award is based;

17 (d) The support award as a sum certain amount;

18 (e) The specific day or date on which the support payment is due;

19 (f) The names and ages of the dependent children;

20 (g) A provision requiring both the responsible parent and the  
21 custodial parent to keep the Washington state support registry  
22 informed of whether he or she has access to health care coverage at  
23 reasonable cost and, if so, the health care coverage information;

24 (h) That either or both the responsible parent and the custodial  
25 parent shall be obligated to provide medical support for his or her  
26 child through health care coverage if:

27 (i) The obligated parent provides accessible coverage for the  
28 child through private or public health care coverage; or

29 (ii) Coverage that can be extended to cover the child is or  
30 becomes available to the parent through employment or is union-  
31 related; or

32 (iii) In the absence of such coverage, through an additional sum  
33 certain amount, as that parent's monthly payment toward the premium  
34 as provided under RCW 26.09.105;

35 (i) That a parent providing health care coverage must notify both  
36 the division of child support and the other parent when coverage  
37 terminates;

38 (j) That if proof of health care coverage or proof that the  
39 coverage is unavailable is not provided within twenty days, the  
40 parent seeking enforcement or the department may seek direct

1 enforcement of the coverage through the employer or union of the  
2 parent required to provide medical support without further notice to  
3 the parent as provided under chapter 26.18 RCW;

4 (k) The reasons for not ordering health care coverage if the  
5 order fails to require such coverage;

6 (l) That the responsible parent's privileges to obtain and  
7 maintain a license, as defined in RCW 74.20A.320, may not be renewed,  
8 or may be suspended if the parent is not in compliance with a support  
9 order as provided in RCW 74.20A.320;

10 (m) That each parent must:

11 (i) Promptly file with the court and update as necessary the  
12 confidential information form required by subsection (7) of this  
13 section; and

14 (ii) Provide the state case registry and update as necessary the  
15 information required by subsection (7) of this section; and

16 (n) That parties to administrative support orders shall provide  
17 to the state case registry and update as necessary their residential  
18 addresses and the address of the responsible parent's employer. The  
19 division of child support may adopt rules that govern the collection  
20 of parties' current residence and mailing addresses, telephone  
21 numbers, dates of birth, social security numbers, the names of the  
22 children, social security numbers of the children, dates of birth of  
23 the children, driver's license numbers, and the names, addresses, and  
24 telephone numbers of the parties' employers to enforce an  
25 administrative support order. The division of child support shall not  
26 release this information if the division of child support determines  
27 that there is reason to believe that release of the information may  
28 result in physical or emotional harm to the party or to the child, or  
29 a restraining order or protective order is in effect to protect one  
30 party from the other party.

31 (6) After the responsible parent has been ordered or notified to  
32 make payments to the Washington state support registry under this  
33 section, the responsible parent shall be fully responsible for making  
34 all payments to the Washington state support registry and shall be  
35 subject to payroll deduction or other income-withholding action. The  
36 responsible parent shall not be entitled to credit against a support  
37 obligation for any payments made to a person or agency other than to  
38 the Washington state support registry except as provided under RCW  
39 74.20.101. A civil action may be brought by the payor to recover

1 payments made to persons or agencies who have received and retained  
2 support moneys paid contrary to the provisions of this section.

3 (7) All petitioners and parties to all court actions under  
4 chapters 26.09, 26.10, 26.12, 26.18, 26.21A, 26.23, (~~26.26~~) 26.26A,  
5 26.26B, and 26.27 RCW shall complete to the best of their knowledge a  
6 verified and signed confidential information form or equivalent that  
7 provides the parties' current residence and mailing addresses,  
8 telephone numbers, dates of birth, social security numbers, driver's  
9 license numbers, and the names, addresses, and telephone numbers of  
10 the parties' employers. The clerk of the court shall not accept  
11 petitions, except in parentage actions initiated by the state, orders  
12 of child support, decrees of dissolution, or (~~paternity~~) parentage  
13 orders for filing in such actions unless accompanied by the  
14 confidential information form or equivalent, or unless the  
15 confidential information form or equivalent is already on file with  
16 the court clerk. In lieu of or in addition to requiring the parties  
17 to complete a separate confidential information form, the clerk may  
18 collect the information in electronic form. The clerk of the court  
19 shall transmit the confidential information form or its data to the  
20 division of child support with a copy of the order of child support  
21 or (~~paternity~~) parentage order, and may provide copies of the  
22 confidential information form or its data and any related findings,  
23 decrees, parenting plans, orders, or other documents to the state  
24 administrative agency that administers Title IV-A, IV-D, IV-E, or XIX  
25 of the federal social security act. In state initiated (~~paternity~~)  
26 parentage actions, the parties adjudicated the parents of the child  
27 or children shall complete the confidential information form or  
28 equivalent or the state's attorney of record may complete that form  
29 to the best of the attorney's knowledge.

30 (8) The department has rule-making authority to enact rules  
31 consistent with 42 U.S.C. Sec. 652(f) and 42 U.S.C. Sec. 666(a)(19)  
32 as amended by section 7307 of the deficit reduction act of 2005.  
33 Additionally, the department has rule-making authority to implement  
34 regulations required under 45 C.F.R. Parts 302, 303, 304, 305, and  
35 308.

36 **Sec. 5027.** RCW 26.26B.010 and 2005 c 282 s 38 are each amended  
37 to read as follows:

38 (1) Effective January 1, 1992, a party shall not file any  
39 pleading with the clerk of the court in an action commenced under

1 this chapter or chapter 26.26A RCW unless on forms approved by the  
2 administrative office of the courts.

3 (2) The parties shall comply with requirements for submission to  
4 the court of forms as provided in RCW 26.18.220.

5 **Sec. 5028.** RCW 26.26B.020 and 2011 c 283 s 9 are each amended to  
6 read as follows:

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

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

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

24 (4) The judgment and order shall contain a provision that each  
25 party must file with the court and the Washington state child support  
26 registry and update as necessary the information required in the  
27 confidential information form required by RCW 26.23.050.

28 (5) Support judgment and orders shall be for periodic payments  
29 which may vary in amount. The court may limit the parent's liability  
30 for the past support to the child to the proportion of the expenses  
31 already incurred as the court deems just. The court shall not limit  
32 or affect in any manner the right of nonparties including the state  
33 of Washington to seek reimbursement for support and other services  
34 previously furnished to the child.

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

38 (7) On the same basis as provided in chapter 26.09 RCW, the court  
39 shall make residential provisions with regard to minor children of

1 the parties, except that a parenting plan shall not be required  
2 unless requested by a party. If a parenting plan or residential  
3 schedule was not entered at the time the order establishing parentage  
4 was entered, a parent may move the court for entry of a parenting  
5 plan or residential schedule:

6 (a) By filing a motion and proposed parenting plan or residential  
7 schedule and providing notice to the other parent and other persons  
8 who have residential time with the child pursuant to a court order:  
9 PROVIDED, That at the time of filing the motion less than twenty-four  
10 months have passed since entry of the order establishing parentage  
11 and that the proposed parenting plan or residential schedule does not  
12 change the designation of the parent with whom the child spends the  
13 majority of time; or

14 (b) By filing a petition for modification under RCW 26.09.260 or  
15 petition to establish a parenting plan, residential schedule, or  
16 residential provisions.

17 (8) In any dispute between the persons claiming parentage of a  
18 child and a person or persons who have (a) commenced adoption  
19 proceedings or who have been granted an order of adoption, and (b)  
20 pursuant to a court order, or placement by the department of social  
21 and health services or by a licensed agency, have had actual custody  
22 of the child for a period of one year or more before court action is  
23 commenced by the persons claiming parentage, the court shall consider  
24 the best welfare and interests of the child, including the child's  
25 need for situation stability, in determining the matter of custody,  
26 and the parent or person who is more fit shall have the superior  
27 right to custody.

28 (9) In entering an order under this chapter or chapter 26.26A  
29 RCW, the court may issue any necessary continuing restraining orders,  
30 including the restraint provisions of domestic violence protection  
31 orders under chapter 26.50 RCW or antiharassment protection orders  
32 under chapter 10.14 RCW.

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

1 OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE  
2 UNDER CHAPTER 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

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

13 (12) If a restraining order issued pursuant to this section is  
14 modified or terminated, the clerk of the court shall notify the law  
15 enforcement agency specified in the order on or before the next  
16 judicial day. Upon receipt of notice that an order has been  
17 terminated, the law enforcement agency shall remove the order from  
18 any computer-based criminal intelligence system.

19 **Sec. 5029.** RCW 26.26B.040 and 2011 c 336 s 693 are each amended  
20 to read as follows:

21 A court may not order payment for support provided or expenses  
22 incurred more than five years prior to the commencement of the  
23 action. Any period of time in which the responsible party has  
24 concealed himself or herself or avoided the jurisdiction of the court  
25 under this chapter or chapter 26.26A RCW shall not be included within  
26 the five-year period.

27 **Sec. 5030.** RCW 26.26B.050 and 2000 c 119 s 23 are each amended  
28 to read as follows:

29 (1) Whenever a restraining order is issued under this chapter or  
30 chapter 26.26A RCW, and the person to be restrained knows of the  
31 order, a violation of the provisions restricting the person from acts  
32 or threats of violence or of a provision restraining the person from  
33 going onto the grounds of or entering the residence, workplace,  
34 school, or day care of another, or prohibiting the person from  
35 knowingly coming within, or knowingly remaining within, a specified  
36 distance of a location, is punishable under RCW 26.50.110.

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

- 1 (a) The person to be restrained or the person's attorney signed  
2 the order;
- 3 (b) The order recites that the person to be restrained or the  
4 person's attorney appeared in person before the court;
- 5 (c) The order was served upon the person to be restrained; or
- 6 (d) The peace officer gives the person oral or written evidence  
7 of the order by reading from it or handing to the person a certified  
8 copy of the original order, certified to be an accurate copy of the  
9 original by a notary public or by the clerk of the court.
- 10 (3) A peace officer shall verify the existence of a restraining  
11 order by:
- 12 (a) Obtaining information confirming the existence and terms of  
13 the order from a law enforcement agency; or
- 14 (b) Obtaining a certified copy of the order, certified to be an  
15 accurate copy of the original by a notary public or by the clerk of  
16 the court.
- 17 (4) A peace officer shall arrest and take into custody, pending  
18 release on bail, personal recognizance, or court order, a person  
19 without a warrant when the officer has probable cause to believe  
20 that:
- 21 (a) A restraining order has been issued under this chapter or  
22 chapter 26.26A RCW;
- 23 (b) The respondent or person to be restrained knows of the order;  
24 and
- 25 (c) The person to be arrested has violated the terms of the order  
26 restraining the person from acts or threats of violence or  
27 restraining the person from going onto the grounds of or entering the  
28 residence, workplace, school, or day care of another, or prohibiting  
29 the person from knowingly coming within, or knowingly remaining  
30 within, a specified distance of a location.
- 31 (5) It is a defense to prosecution under subsection (1) of this  
32 section that the court order was issued contrary to law or court  
33 rule.
- 34 (6) No peace officer may be held criminally or civilly liable for  
35 making an arrest under subsection (4) of this section if the officer  
36 acts in good faith and without malice.

37 **Sec. 5031.** RCW 26.26B.070 and 1997 c 58 s 939 are each amended  
38 to read as follows:

1 In all actions brought under this chapter or chapter 26.26A RCW,  
2 bills for pregnancy, childbirth, and genetic testing shall:

3 (1) Be admissible as evidence without requiring third-party  
4 foundation testimony; and

5 (2) Constitute prima facie evidence of amounts incurred for such  
6 services or for testing on behalf of the child.

7 **Sec. 5032.** RCW 26.26B.080 and 2011 c 283 s 10 are each amended  
8 to read as follows:

9 (1) If existence of the parent and child relationship is  
10 declared, or (~~paternity~~) parentage or a duty of support has been  
11 acknowledged or adjudicated under this chapter or chapter 26.26A RCW  
12 or under prior law, the obligation of the parent may be enforced in  
13 the same or other proceedings by the other parent, the child, the  
14 state of Washington, the public authority that has furnished or may  
15 furnish the reasonable expenses of pregnancy, childbirth, education,  
16 support, or funeral, or by any other person, including a private  
17 agency, to the extent he or she has furnished or is furnishing these  
18 expenses.

19 (2) The court shall order support payments to be made to the  
20 Washington state support registry, or the person entitled to receive  
21 the payments under an alternate arrangement approved by the court as  
22 provided in RCW 26.23.050(2).

23 (3) All remedies for the enforcement of judgments apply.

24 **Sec. 5033.** RCW 26.26B.100 and 2018 c 150 s 105 are each amended  
25 to read as follows:

26 (1) In entering or modifying a support order under this chapter  
27 or chapter 26.26A RCW, the court shall require either or both parents  
28 to maintain or provide health care coverage for any dependent child  
29 as provided under RCW 26.09.105.

30 (2) This section shall not be construed to limit the authority of  
31 the court to enter or modify support orders containing provisions for  
32 payment of uninsured health expenses, health costs, or insurance  
33 premiums which are in addition to and not inconsistent with this  
34 section.

35 (3) A parent ordered to provide health care coverage shall  
36 provide proof of such coverage or proof that such coverage is  
37 unavailable within twenty days of the entry of the order to:

38 (a) The physical custodian; or

1 (b) The department of social and health services if the parent  
2 has been notified or ordered to make support payments to the  
3 Washington state support registry.

4 (4) Every order requiring a parent to provide health care  
5 coverage shall be entered in compliance with RCW 26.23.050 and be  
6 subject to direct enforcement as provided under chapter 26.18 RCW.

7 **Sec. 5034.** RCW 26.33.020 and 2017 3rd sp.s. c 6 s 319 are each  
8 reenacted and amended to read as follows:

9 Unless the context clearly requires otherwise, the definitions in  
10 this section apply throughout this chapter.

11 (1) "Adoptee" means a person who is to be adopted or who has been  
12 adopted.

13 (2) "Adoptive parent" means the person or persons who seek to  
14 adopt or have adopted an adoptee.

15 (3) "Agency" means any public or private association,  
16 corporation, or individual licensed or certified by the department as  
17 a child-placing agency under chapter 74.15 RCW or as an adoption  
18 agency.

19 (4) "Alleged (~~father~~) genetic parent" (~~means a person whose~~  
20 ~~parent-child relationship has not been terminated, who is not a~~  
21 ~~presumed father under chapter 26.26 RCW, and who alleges himself or~~  
22 ~~whom a party alleges to be the father of the child. It includes a~~  
23 ~~person whose marriage to the mother was terminated more than three~~  
24 ~~hundred days before the birth of the child or who was separated from~~  
25 ~~the mother more than three hundred days before the birth of the~~  
26 ~~child)~~) has the same meaning as defined in RCW 26.26A.010.

27 (5) "Birth parent" means the (~~biological mother or biological~~)  
28 woman who gave birth to the child or alleged (~~father of a~~) genetic  
29 parent of the child, including a presumed (~~father~~) parent under  
30 chapter (~~26.26~~) 26.26A RCW, whether or not any such person's  
31 parent-child relationship has been terminated by a court of competent  
32 jurisdiction. "Birth parent" does not include a (~~biological mother~~  
33 ~~or biological~~) woman who gave birth to the child or alleged  
34 (~~father~~) genetic parent of the child, including a presumed  
35 (~~father~~) parent under chapter (~~26.26~~) 26.26A RCW, if the parent-  
36 child relationship was terminated because of an act for which the  
37 person was found guilty under chapter 9A.42 or 9A.44 RCW.

38 (6) "Child" means a person under eighteen years of age.

39 (7) "Court" means the superior court.

1 (8) "Department" means the department of children, youth, and  
2 families.

3 (9) "Guardian ad litem" means a person, not related to a party to  
4 the action, appointed by the court to represent the best interests of  
5 a party who is under a legal disability.

6 (10) "Individual approved by the court" or "qualified salaried  
7 court employee" means a person who has a master's degree in social  
8 work or a related field and one year of experience in social work, or  
9 a bachelor's degree and two years of experience in social work, and  
10 includes a person not having such qualifications only if the court  
11 makes specific findings of fact that are entered of record  
12 establishing that the person has reasonably equivalent experience.

13 (11) "Legal guardian" means the department, an agency, or a  
14 person, other than a parent or stepparent, appointed by the court to  
15 promote the child's general welfare, with the authority and duty to  
16 make decisions affecting the child's development.

17 (12) "Nonidentifying information" includes, but is not limited  
18 to, the following information about the birth parents, adoptive  
19 parents, and adoptee:

20 (a) Age in years at the time of adoption;

21 (b) Heritage, including nationality, ethnic background, and race;

22 (c) Education, including number of years of school completed at  
23 the time of adoption, but not name or location of school;

24 (d) General physical appearance, including height, weight, color  
25 of hair, eyes, and skin, or other information of a similar nature;

26 (e) Religion;

27 (f) Occupation, but not specific titles or places of employment;

28 (g) Talents, hobbies, and special interests;

29 (h) Circumstances leading to the adoption;

30 (i) Medical and genetic history of birth parents;

31 (j) First names;

32 (k) Other children of birth parents by age, sex, and medical  
33 history;

34 (l) Extended family of birth parents by age, sex, and medical  
35 history;

36 (m) The fact of the death, and age and cause, if known;

37 (n) Photographs;

38 (o) Name of agency or individual that facilitated the adoption.

39 (13) "Parent" (~~means the natural or adoptive mother or father of~~  
40 ~~a child, including a presumed father under chapter 26.26 RCW. It does~~

1 ~~not include any person whose parent-child relationship has been~~  
2 ~~terminated by a court of competent jurisdiction)) has the same~~  
3 ~~meaning as defined in RCW 26.26A.010.~~

4 (14) "Relinquish or relinquishment" means the voluntary surrender  
5 of custody of a child to the department, an agency, or prospective  
6 adoptive parents.

7 **Sec. 5035.** RCW 26.33.110 and 1995 c 270 s 5 are each amended to  
8 read as follows:

9 (1) The court shall set a time and place for a hearing on the  
10 petition for termination of the parent-child relationship, which  
11 shall not be held sooner than forty-eight hours after the child's  
12 birth. However, if the child is an Indian child, the hearing shall  
13 not be held sooner than ten days after the child's birth and the time  
14 of the hearing shall be extended up to twenty additional days from  
15 the date of the scheduled hearing upon the motion of the parent,  
16 Indian custodian, or the child's tribe.

17 (2) Notice of the hearing shall be served on the petitioner, the  
18 nonconsenting parent or alleged (~~father~~) genetic parent, the legal  
19 guardian of a party, and the guardian ad litem of a party, in the  
20 manner prescribed by RCW 26.33.310. If the child is an Indian child,  
21 notice of the hearing shall also be served on the child's tribe in  
22 the manner prescribed by 25 U.S.C. Sec. 1912(a).

23 (3) Except as otherwise provided in this section, the notice of  
24 the petition shall:

25 (a) State the date and place of birth. If the petition is filed  
26 prior to birth, the notice shall state the approximate date and  
27 location of conception of the child and the expected date of birth,  
28 and shall identify the mother;

29 (b) Inform the nonconsenting parent or alleged (~~father~~) genetic  
30 parent that: (i) He or she has a right to be represented by counsel  
31 and that counsel will be appointed for an indigent person who  
32 requests counsel; and (ii) failure to respond to the termination  
33 action within twenty days of service if served within the state or  
34 thirty days if served outside of this state, will result in the  
35 termination of his or her parent-child relationship with respect to  
36 the child;

37 (c) Inform an alleged (~~father~~) genetic parent that failure to  
38 file a claim of (~~paternity~~) parentage under chapter (~~26.26~~)  
39 26.26A or 26.26B RCW or to respond to the petition, within twenty

1 days of the date of service of the petition is grounds to terminate  
2 his or her parent-child relationship with respect to the child;

3 (d) Inform an alleged (~~(father)~~) genetic parent of an Indian  
4 child that if he or she acknowledges (~~(paternity)~~) parentage of the  
5 child or if his or her (~~(paternity)~~) parentage of the child is  
6 established prior to the termination of the parent-child  
7 relationship, that his or her parental rights may not be terminated  
8 unless he or she: (i) Gives valid consent to termination, or (ii) his  
9 or her parent-child relationship is terminated involuntarily pursuant  
10 to chapter 26.33 or 13.34 RCW.

11 **Sec. 5036.** RCW 26.50.025 and 1995 c 246 s 2 are each amended to  
12 read as follows:

13 (1) Any order available under this chapter may be issued in  
14 actions under chapter 26.09, 26.10, (~~(or 26.26)~~) 26.26A, or 26.26B  
15 RCW. If an order for protection is issued in an action under chapter  
16 26.09, 26.10, (~~(or 26.26)~~) 26.26A, or 26.26B RCW, the order shall be  
17 issued on the forms mandated by RCW 26.50.035(1). An order issued in  
18 accordance with this subsection is fully enforceable and shall be  
19 enforced under the provisions of this chapter.

20 (2) If a party files an action under chapter 26.09, 26.10, (~~(or~~  
21 ~~26.26)~~) 26.26A, or 26.26B RCW, an order issued previously under this  
22 chapter between the same parties may be consolidated by the court  
23 under that action and cause number. Any order issued under this  
24 chapter after consolidation shall contain the original cause number  
25 and the cause number of the action under chapter 26.09, 26.10, (~~(or~~  
26 ~~26.26)~~) 26.26A, or 26.26B RCW. Relief under this chapter shall not be  
27 denied or delayed on the grounds that the relief is available in  
28 another action.

29 **Sec. 5037.** RCW 26.50.035 and 2005 c 282 s 40 are each amended to  
30 read as follows:

31 (1) The administrative office of the courts shall develop and  
32 prepare instructions and informational brochures required under RCW  
33 26.50.030(4), standard petition and order for protection forms, and a  
34 court staff handbook on domestic violence and the protection order  
35 process. The standard petition and order for protection forms must be  
36 used after September 1, 1994, for all petitions filed and orders  
37 issued under this chapter. The instructions, brochures, forms, and  
38 handbook shall be prepared in consultation with interested persons,

1 including a representative of the state domestic violence coalition,  
2 judges, and law enforcement personnel.

3 (a) The instructions shall be designed to assist petitioners in  
4 completing the petition, and shall include a sample of standard  
5 petition and order for protection forms.

6 (b) The informational brochure shall describe the use of and the  
7 process for obtaining, modifying, and terminating a domestic violence  
8 protection order as provided under this chapter, an antiharassment  
9 no-contact order as provided under chapter 9A.46 RCW, a domestic  
10 violence no-contact order as provided under chapter 10.99 RCW, a  
11 restraining order as provided under chapters 26.09, 26.10, (~~26.26~~)  
12 26.26A, 26.26B, and 26.44 RCW, an antiharassment protection order as  
13 provided by chapter 10.14 RCW, and a foreign protection order as  
14 defined in chapter 26.52 RCW.

15 (c) The order for protection form shall include, in a conspicuous  
16 location, notice of criminal penalties resulting from violation of  
17 the order, and the following statement: "You can be arrested even if  
18 the person or persons who obtained the order invite or allow you to  
19 violate the order's prohibitions. The respondent has the sole  
20 responsibility to avoid or refrain from violating the order's  
21 provisions. Only the court can change the order upon written  
22 application."

23 (d) The court staff handbook shall allow for the addition of a  
24 community resource list by the court clerk.

25 (2) All court clerks shall obtain a community resource list from  
26 a domestic violence program, defined in RCW 70.123.020, serving the  
27 county in which the court is located. The community resource list  
28 shall include the names and telephone numbers of domestic violence  
29 programs serving the community in which the court is located,  
30 including law enforcement agencies, domestic violence agencies,  
31 sexual assault agencies, legal assistance programs, interpreters,  
32 multicultural programs, and batterers' treatment programs. The court  
33 shall make the community resource list available as part of or in  
34 addition to the informational brochures described in subsection (1)  
35 of this section.

36 (3) The administrative office of the courts shall distribute a  
37 master copy of the petition and order forms, instructions, and  
38 informational brochures to all court clerks and shall distribute a  
39 master copy of the petition and order forms to all superior,  
40 district, and municipal courts.

1 (4) For purposes of this section, "court clerks" means court  
2 administrators in courts of limited jurisdiction and elected court  
3 clerks.

4 (5) The administrative office of the courts shall determine the  
5 significant non-English-speaking or limited English-speaking  
6 populations in the state. The administrator shall then arrange for  
7 translation of the instructions and informational brochures required  
8 by this section, which shall contain a sample of the standard  
9 petition and order for protection forms, into the languages spoken by  
10 those significant non-English-speaking populations and shall  
11 distribute a master copy of the translated instructions and  
12 informational brochures to all court clerks by January 1, 1997.

13 (6) The administrative office of the courts shall update the  
14 instructions, brochures, standard petition and order for protection  
15 forms, and court staff handbook when changes in the law make an  
16 update necessary.

17 **Sec. 5038.** RCW 26.50.060 and 2018 c 84 s 1 are each amended to  
18 read as follows:

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

21 (a) Restrain the respondent from committing acts of domestic  
22 violence;

23 (b) Exclude the respondent from the dwelling that the parties  
24 share, from the residence, workplace, or school of the petitioner, or  
25 from the day care or school of a child;

26 (c) Prohibit the respondent from knowingly coming within, or  
27 knowingly remaining within, a specified distance from a specified  
28 location;

29 (d) On the same basis as is provided in chapter 26.09 RCW, the  
30 court shall make residential provision with regard to minor children  
31 of the parties. However, parenting plans as specified in chapter  
32 26.09 RCW shall not be required under this chapter;

33 (e) Order the respondent to participate in a domestic violence  
34 perpetrator treatment program approved under RCW 26.50.150;

35 (f) Order other relief as it deems necessary for the protection  
36 of the petitioner and other family or household members sought to be  
37 protected, including orders or directives to a peace officer, as  
38 allowed under this chapter;

1 (g) Require the respondent to pay the administrative court costs  
2 and service fees, as established by the county or municipality  
3 incurring the expense and to reimburse the petitioner for costs  
4 incurred in bringing the action, including reasonable attorneys' fees  
5 or limited license legal technician fees when such fees are incurred  
6 by a person licensed and practicing in accordance with the state  
7 supreme court's admission to practice rule 28, the limited practice  
8 rule for limited license legal technicians;

9 (h) Restrain the respondent from having any contact with the  
10 victim of domestic violence or the victim's children or members of  
11 the victim's household;

12 (i) Restrain the respondent from harassing, following, keeping  
13 under physical or electronic surveillance, cyberstalking as defined  
14 in RCW 9.61.260, and using telephonic, audiovisual, or other  
15 electronic means to monitor the actions, location, or communication  
16 of a victim of domestic violence, the victim's children, or members  
17 of the victim's household. For the purposes of this subsection,  
18 "communication" includes both "wire communication" and "electronic  
19 communication" as defined in RCW 9.73.260;

20 (j) Require the respondent to submit to electronic monitoring.  
21 The order shall specify who shall provide the electronic monitoring  
22 services and the terms under which the monitoring must be performed.  
23 The order also may include a requirement that the respondent pay the  
24 costs of the monitoring. The court shall consider the ability of the  
25 respondent to pay for electronic monitoring;

26 (k) Consider the provisions of RCW 9.41.800;

27 (l) Order possession and use of essential personal effects. The  
28 court shall list the essential personal effects with sufficient  
29 specificity to make it clear which property is included. Personal  
30 effects may include pets. The court may order that a petitioner be  
31 granted the exclusive custody or control of any pet owned, possessed,  
32 leased, kept, or held by the petitioner, respondent, or minor child  
33 residing with either the petitioner or respondent and may prohibit  
34 the respondent from interfering with the petitioner's efforts to  
35 remove the pet. The court may also prohibit the respondent from  
36 knowingly coming within, or knowingly remaining within, a specified  
37 distance of specified locations where the pet is regularly found; and

38 (m) Order use of a vehicle.

39 (2) If a protection order restrains the respondent from  
40 contacting the respondent's minor children the restraint shall be for

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

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

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

1 section. The court may award court costs, service fees, and  
2 reasonable attorneys' fees as provided in subsection (1)(g) of this  
3 section.

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

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

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

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

25 **Sec. 5039.** RCW 26.50.110 and 2017 c 230 s 9 are each amended to  
26 read as follows:

27 (1)(a) Whenever an order is granted under this chapter, chapter  
28 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10,  
29 (~~26.26~~) 26.26A, 26.26B, or 74.34 RCW, any temporary order for  
30 protection granted under chapter 7.40 RCW pursuant to chapter 74.34  
31 RCW, or there is a valid foreign protection order as defined in RCW  
32 26.52.020, and the respondent or person to be restrained knows of the  
33 order, a violation of any of the following provisions of the order is  
34 a gross misdemeanor, except as provided in subsections (4) and (5) of  
35 this section:

36 (i) The restraint provisions prohibiting acts or threats of  
37 violence against, or stalking of, a protected party, or restraint  
38 provisions prohibiting contact with a protected party;

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

3 (iii) A provision prohibiting a person from knowingly coming  
4 within, or knowingly remaining within, a specified distance of a  
5 location;

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

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

12 (b) Upon conviction, and in addition to any other penalties  
13 provided by law, the court:

14 (i) May require that the respondent submit to electronic  
15 monitoring. The court shall specify who shall provide the electronic  
16 monitoring services, and the terms under which the monitoring shall  
17 be performed. The order also may include a requirement that the  
18 respondent pay the costs of the monitoring. The court shall consider  
19 the ability of the convicted person to pay for electronic monitoring.

20 (ii) Shall impose a fine of fifteen dollars, in addition to any  
21 penalty or fine imposed, for a violation of a domestic violence  
22 protection order issued under this chapter. Revenue from the fifteen  
23 dollar fine must be remitted monthly to the state treasury for  
24 deposit in the domestic violence prevention account.

25 (2) A peace officer shall arrest without a warrant and take into  
26 custody a person whom the peace officer has probable cause to believe  
27 has violated an order issued under this chapter, chapter 7.92, 7.90,  
28 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10, (~~26.26~~) 26.26A,  
29 26.26B, or 74.34 RCW, any temporary order for protection granted  
30 under chapter 7.40 RCW pursuant to chapter 74.34 RCW, or a valid  
31 foreign protection order as defined in RCW 26.52.020, that restrains  
32 the person or excludes the person from a residence, workplace,  
33 school, or day care, or prohibits the person from knowingly coming  
34 within, or knowingly remaining within, a specified distance of a  
35 location, if the person restrained knows of the order. Presence of  
36 the order in the law enforcement computer-based criminal intelligence  
37 information system is not the only means of establishing knowledge of  
38 the order.

39 (3) A violation of an order issued under this chapter, chapter  
40 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10,

1 ((~~26.26~~)) 26.26A, 26.26B, or 74.34 RCW, or of a valid foreign  
2 protection order as defined in RCW 26.52.020, shall also constitute  
3 contempt of court, and is subject to the penalties prescribed by law.

4 (4) Any assault that is a violation of an order issued under this  
5 chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99,  
6 26.09, 26.10, ((~~26.26~~)) 26.26A, 26.26B, or 74.34 RCW, or of a valid  
7 foreign protection order as defined in RCW 26.52.020, and that does  
8 not amount to assault in the first or second degree under RCW  
9 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in  
10 violation of such an order that is reckless and creates a substantial  
11 risk of death or serious physical injury to another person is a class  
12 C felony.

13 (5) A violation of a court order issued under this chapter,  
14 chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10,  
15 ((~~26.26~~)) 26.26A, 26.26B, or 74.34 RCW, or of a valid foreign  
16 protection order as defined in RCW 26.52.020, is a class C felony if  
17 the offender has at least two previous convictions for violating the  
18 provisions of an order issued under this chapter, chapter 7.90,  
19 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10, ((~~26.26~~)) 26.26A,  
20 26.26B, or 74.34 RCW, or a valid foreign protection order as defined  
21 in RCW 26.52.020. The previous convictions may involve the same  
22 victim or other victims specifically protected by the orders the  
23 offender violated.

24 (6) Upon the filing of an affidavit by the petitioner or any  
25 peace officer alleging that the respondent has violated an order  
26 granted under this chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88,  
27 9.94A, 10.99, 26.09, 26.10, ((~~26.26~~)) 26.26A, 26.26B, or 74.34 RCW,  
28 or a valid foreign protection order as defined in RCW 26.52.020, the  
29 court may issue an order to the respondent, requiring the respondent  
30 to appear and show cause within fourteen days why the respondent  
31 should not be found in contempt of court and punished accordingly.  
32 The hearing may be held in the court of any county or municipality in  
33 which the petitioner or respondent temporarily or permanently resides  
34 at the time of the alleged violation.

35 **Sec. 5040.** RCW 26.50.160 and 2017 3rd sp.s. c 6 s 335 are each  
36 amended to read as follows:

37 To prevent the issuance of competing protection orders in  
38 different courts and to give courts needed information for issuance  
39 of orders, the judicial information system shall be available in each

1 district, municipal, and superior court by July 1, 1997, and shall  
2 include a database containing the following information:

3 (1) The names of the parties and the cause number for every order  
4 of protection issued under this title, every sexual assault  
5 protection order issued under chapter 7.90 RCW, every criminal no-  
6 contact order issued under chapters 9A.46 and 10.99 RCW, every  
7 antiharassment order issued under chapter 10.14 RCW, every  
8 dissolution action under chapter 26.09 RCW, every third-party custody  
9 action under chapter 26.10 RCW, every parentage action under chapter  
10 (~~26.26~~) 26.26A or 26.26B RCW, every restraining order issued on  
11 behalf of an abused child or adult dependent person under chapter  
12 26.44 RCW, every foreign protection order filed under chapter 26.52  
13 RCW, and every order for protection of a vulnerable adult under  
14 chapter 74.34 RCW. When a guardian or the department of social and  
15 health services or department of children, youth, and families has  
16 petitioned for relief on behalf of an abused child, adult dependent  
17 person, or vulnerable adult, the name of the person on whose behalf  
18 relief was sought shall be included in the database as a party rather  
19 than the guardian or appropriate department;

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

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

24 **Sec. 5041.** RCW 36.28A.410 and 2017 c 261 s 5 are each amended to  
25 read as follows:

26 (1)(a) Subject to the availability of amounts appropriated for  
27 this specific purpose, the Washington association of sheriffs and  
28 police chiefs shall create and operate a statewide automated  
29 protected person notification system to automatically notify a  
30 registered person via the registered person's choice of telephone or  
31 email when a respondent subject to a court order specified in (b) of  
32 this subsection has attempted to purchase or acquire a firearm and  
33 been denied based on a background check or completed and submitted  
34 firearm purchase or transfer application that indicates the  
35 respondent is ineligible to possess a firearm under state or federal  
36 law. The system must permit a person to register for notification, or  
37 a registered person to update the person's registration information,  
38 for the statewide automated protected person notification system by

1 calling a toll-free telephone number or by accessing a public web  
2 site.

3 (b) The notification requirements of this section apply to any  
4 court order issued under chapter 7.92 RCW and RCW 7.90.090,  
5 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060,  
6 26.10.040, 26.10.115, ((~~26.26.130, 26.26.590~~)) 26.26A.470,  
7 26.26B.020, 26.50.060, or 26.50.070, and any foreign protection order  
8 filed with a Washington court pursuant to chapter 26.52 RCW, where  
9 the order prohibits the respondent from possessing firearms or where  
10 by operation of law the respondent is ineligible to possess firearms  
11 during the term of the order. The notification requirements of this  
12 section apply even if the respondent has notified the Washington  
13 state patrol that he or she has appealed a background check denial  
14 under RCW 43.43.823.

15 (2) An appointed or elected official, public employee, or public  
16 agency as defined in RCW 4.24.470, or combination of units of  
17 government and its employees, as provided in RCW 36.28A.010, are  
18 immune from civil liability for damages for any release of  
19 information or the failure to release information related to the  
20 statewide automated protected person notification system in this  
21 section, so long as the release or failure to release was without  
22 gross negligence. The immunity provided under this subsection applies  
23 to the release of relevant and necessary information to other public  
24 officials, public employees, or public agencies, and to the general  
25 public.

26 (3) Information and records prepared, owned, used, or retained by  
27 the Washington association of sheriffs and police chiefs pursuant to  
28 chapter 261, Laws of 2017, including information a person submits to  
29 register and participate in the statewide automated protected person  
30 notification system, are exempt from public inspection and copying  
31 under chapter 42.56 RCW.

32 **Sec. 5042.** RCW 59.18.575 and 2009 c 395 s 2 are each amended to  
33 read as follows:

34 (1)(a) If a tenant notifies the landlord in writing that he or  
35 she or a household member was a victim of an act that constitutes a  
36 crime of domestic violence, sexual assault, unlawful harassment, or  
37 stalking, and either (a)(i) or (ii) of this subsection applies, then  
38 subsection (2) of this section applies:

1 (i) The tenant or the household member has a valid order for  
2 protection under one or more of the following: Chapter 7.90, 26.50,  
3 (~~or 26.26~~) 26.26A, or 26.26B RCW or RCW 9A.46.040, 9A.46.050,  
4 10.14.080, 10.99.040 (2) or (3), or 26.09.050; or

5 (ii) The tenant or the household member has reported the domestic  
6 violence, sexual assault, unlawful harassment, or stalking to a  
7 qualified third party acting in his or her official capacity and the  
8 qualified third party has provided the tenant or the household member  
9 a written record of the report signed by the qualified third party.

10 (b) When a copy of a valid order for protection or a written  
11 record of a report signed by a qualified third party, as required  
12 under (a) of this subsection, is made available to the landlord, the  
13 tenant may terminate the rental agreement and quit the premises  
14 without further obligation under the rental agreement or under this  
15 chapter (~~59.18 RCW~~). However, the request to terminate the rental  
16 agreement must occur within ninety days of the reported act, event,  
17 or circumstance that gave rise to the protective order or report to a  
18 qualified third party. A record of the report to a qualified third  
19 party that is provided to the tenant or household member shall  
20 consist of a document signed and dated by the qualified third party  
21 stating: (i) That the tenant or the household member notified him or  
22 her that he or she was a victim of an act or acts that constitute a  
23 crime of domestic violence, sexual assault, unlawful harassment, or  
24 stalking; (ii) the time and date the act or acts occurred; (iii) the  
25 location where the act or acts occurred; (iv) a brief description of  
26 the act or acts of domestic violence, sexual assault, unlawful  
27 harassment, or stalking; and (v) that the tenant or household member  
28 informed him or her of the name of the alleged perpetrator of the act  
29 or acts. The record of the report provided to the tenant or household  
30 member shall not include the name of the alleged perpetrator of the  
31 act or acts of domestic violence, sexual assault, unlawful  
32 harassment, or stalking. The qualified third party shall keep a copy  
33 of the record of the report and shall note on the retained copy the  
34 name of the alleged perpetrator of the act or acts of domestic  
35 violence, sexual assault, unlawful harassment, or stalking. The  
36 record of the report to a qualified third party may be accomplished  
37 by completion of a form provided by the qualified third party, in  
38 substantially the following form:

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.....  
[Name of organization, agency, clinic, professional service  
provider]

I and/or my . . . . . (household member) am/is a victim  
of

. . . domestic violence as defined by RCW  
26.50.010.

. . . sexual assault as defined by RCW  
70.125.030.

. . . stalking as defined by RCW 9A.46.110.

. . . unlawful harassment as defined by RCW  
59.18.570.

Briefly describe the incident of domestic violence,  
sexual assault, unlawful harassment, or stalking: . . . . .  
.....

The incident(s) that I rely on in support of this  
declaration occurred on the following date(s) and time(s)  
and at the following location(s): . . . . .

The incident(s) that I rely on in support of this  
declaration were committed by the following person(s): . . .  
.....

I state under penalty of perjury under the laws of the  
state of Washington that the foregoing is true and correct.  
Dated at . . . . . (city) . ., Washington, this . . . day  
of . . . ., (~~20--~~)      (year)

.....  
Signature of Tenant or  
Household Member

I verify that I have provided to the person whose  
signature appears above the statutes cited in RCW  
59.18.575 and that the individual was a victim of an act that  
constitutes a crime of domestic violence, sexual assault,  
unlawful harassment, or stalking, and that the individual  
informed me of the name of the alleged perpetrator of the  
act.

Dated this . . . day of . . . ., (~~20--~~)      (year)

.....  
Signature of authorized  
officer/employee of  
(Organization, agency, clinic,  
professional service provider)

(2) A tenant who terminates a rental agreement under this section is discharged from the payment of rent for any period following the last day of the month of the quitting date. The tenant shall remain liable for the rent for the month in which he or she terminated the rental agreement unless the termination is in accordance with RCW 59.18.200(1). Notwithstanding lease provisions that allow for forfeiture of a deposit for early termination, a tenant who terminates under this section is entitled to the return of the full deposit, subject to RCW 59.18.020 and 59.18.280. Other tenants who are parties to the rental agreement, except household members who are the victims of sexual assault, stalking, unlawful harassment, or domestic violence, are not released from their obligations under the rental agreement or other obligations under this chapter.

(3)(a) Notwithstanding any other provision under this section, if a tenant or a household member is a victim of sexual assault, stalking, or unlawful harassment by a landlord, the tenant may terminate the rental agreement and quit the premises without further obligation under the rental agreement or under this chapter prior to making a copy of a valid order for protection or a written record of a report signed by a qualified third party available to the landlord, provided that:

(i) The tenant must deliver a copy of a valid order for protection or written record of a report signed by a qualified third party to the landlord by mail, fax, or personal delivery by a third party within seven days of quitting the tenant's dwelling unit; and

(ii) A written record of a report signed by the qualified third party must be substantially in the form specified under subsection (1)(b) of this section. The record of the report provided to the landlord must not include the name of the alleged perpetrator of the act. On written request by the landlord, the qualified third party shall, within seven days, provide the name of the alleged perpetrator of the act to the landlord only if the alleged perpetrator was a person meeting the definition of the term "landlord" under RCW 59.18.570.

1 (b) A tenant who terminates his or her rental agreement under  
2 this subsection is discharged from the payment of rent for any period  
3 following the latter of: (i) The date the tenant vacates the unit; or  
4 (ii) the date the record of the report of the qualified third party  
5 and the written notice that the tenant has vacated are delivered to  
6 the landlord by mail, fax, or personal delivery by a third party. The  
7 tenant is entitled to a pro rata refund of any prepaid rent and must  
8 receive a full and specific statement of the basis for retaining any  
9 of the deposit together with any refund due in accordance with RCW  
10 59.18.280.

11 (4) If a tenant or a household member is a victim of sexual  
12 assault, stalking, or unlawful harassment by a landlord, the tenant  
13 may change or add locks to the tenant's dwelling unit at the tenant's  
14 expense. If a tenant exercises his or her rights to change or add  
15 locks, the following rules apply:

16 (a) Within seven days of changing or adding locks, the tenant  
17 must deliver to the landlord by mail, fax, or personal delivery by a  
18 third party: (i) Written notice that the tenant has changed or added  
19 locks; and (ii) a copy of a valid order for protection or a written  
20 record of a report signed by a qualified third party. A written  
21 record of a report signed by a qualified third party must be  
22 substantially in the form specified under subsection (1)(b) of this  
23 section. The record of the report provided to the landlord must not  
24 include the name of the alleged perpetrator of the act. On written  
25 request by the landlord, the qualified third party shall, within  
26 seven days, provide the name of the alleged perpetrator to the  
27 landlord only if the alleged perpetrator was a person meeting the  
28 definition of the term "landlord" under RCW 59.18.570.

29 (b) After the tenant provides notice to the landlord that the  
30 tenant has changed or added locks, the tenant's rental agreement  
31 shall terminate on the ninetieth day after providing such notice,  
32 unless:

33 (i) Within sixty days of providing notice that the tenant has  
34 changed or added locks, the tenant notifies the landlord in writing  
35 that the tenant does not wish to terminate his or her rental  
36 agreement. If the perpetrator has been identified by the qualified  
37 third party and is no longer an employee or agent of the landlord or  
38 owner and does not reside at the property, the tenant shall provide  
39 the owner or owner's designated agent with a copy of the key to the  
40 new locks at the same time as providing notice that the tenant does

1 not wish to terminate his or her rental agreement. A tenant who has a  
2 valid protection, antiharassment, or other protective order against  
3 the owner of the premises or against an employee or agent of the  
4 landlord or owner is not required to provide a key to the new locks  
5 until the protective order expires or the tenant vacates; or

6 (ii) The tenant exercises his or her rights to terminate the  
7 rental agreement under subsection (3) of this section within sixty  
8 days of providing notice that the tenant has changed or added locks.

9 (c) After a landlord receives notice that a tenant has changed or  
10 added locks to his or her dwelling unit under (a) of this subsection,  
11 the landlord may not enter the tenant's dwelling unit except as  
12 follows:

13 (i) In the case of an emergency, the landlord may enter the unit  
14 if accompanied by a law enforcement or fire official acting in his or  
15 her official capacity. If the landlord reasonably concludes that the  
16 circumstances require immediate entry into the unit, the landlord  
17 may, after notifying emergency services, use such force as necessary  
18 to enter the unit if the tenant is not present; or

19 (ii) The landlord complies with the requirements of RCW 59.18.150  
20 and clearly specifies in writing the time and date that the landlord  
21 intends to enter the unit and the purpose for entering the unit. The  
22 tenant must make arrangements to permit access by the landlord.

23 (d) The exercise of rights to change or add locks under this  
24 subsection does not discharge the tenant from the payment of rent  
25 until the rental agreement is terminated and the tenant vacates the  
26 unit.

27 (e) The tenant may not change any locks to common areas and must  
28 make keys for new locks available to other household members.

29 (f) Upon vacating the dwelling unit, the tenant must deliver the  
30 key and all copies of the key to the landlord by mail or personal  
31 delivery by a third party.

32 (5) A tenant's remedies under this section do not preempt any  
33 other legal remedy available to the tenant.

34 (6) The provision of verification of a report under subsection  
35 (1)(b) of this section does not waive the confidential or privileged  
36 nature of the communication between a victim of domestic violence,  
37 sexual assault, or stalking with a qualified third party pursuant to  
38 RCW 5.60.060, 70.123.075, or 70.125.065. No record or evidence  
39 obtained from such disclosure may be used in any civil,  
40 administrative, or criminal proceeding against the victim unless a

1 written waiver of applicable evidentiary privilege is obtained,  
2 except that the verification itself, and no other privileged  
3 information, under subsection (1)(b) of this section may be used in  
4 civil proceedings brought under this section.

5 **Sec. 5043.** RCW 72.09.712 and 2009 c 521 s 166 and 2009 c 400 s 1  
6 are each reenacted and amended to read as follows:

7 (1) At the earliest possible date, and in no event later than  
8 thirty days before release except in the event of escape or emergency  
9 furloughs as defined in RCW 72.66.010, the department of corrections  
10 shall send written notice of parole, release, community custody, work  
11 release placement, furlough, or escape about a specific inmate  
12 convicted of a violent offense, a sex offense as defined by RCW  
13 9.94A.030, a domestic violence court order violation pursuant to RCW  
14 10.99.040, 10.99.050, 26.09.300, 26.10.220, (~~26.26.138~~) 26.26B.050,  
15 26.50.110, 26.52.070, or 74.34.145, or a felony harassment offense as  
16 defined by RCW 9A.46.060 or 9A.46.110, to the following:

17 (a) The chief of police of the city, if any, in which the inmate  
18 will reside or in which placement will be made in a work release  
19 program; and

20 (b) The sheriff of the county in which the inmate will reside or  
21 in which placement will be made in a work release program.

22 The sheriff of the county where the offender was convicted shall  
23 be notified if the department does not know where the offender will  
24 reside. The department shall notify the state patrol of the release  
25 of all sex offenders, and that information shall be placed in the  
26 Washington crime information center for dissemination to all law  
27 enforcement.

28 (2) The same notice as required by subsection (1) of this section  
29 shall be sent to the following if such notice has been requested in  
30 writing about a specific inmate convicted of a violent offense, a sex  
31 offense as defined by RCW 9.94A.030, a domestic violence court order  
32 violation pursuant to RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220,  
33 (~~26.26.138~~) 26.26B.050, 26.50.110, 26.52.070, or 74.34.145, or a  
34 felony harassment offense as defined by RCW 9A.46.060 or 9A.46.110:

35 (a) The victim of the crime for which the inmate was convicted or  
36 the victim's next of kin if the crime was a homicide;

37 (b) Any witnesses who testified against the inmate in any court  
38 proceedings involving the violent offense;

1 (c) Any person specified in writing by the prosecuting attorney;  
2 and

3 (d) Any person who requests such notice about a specific inmate  
4 convicted of a sex offense as defined by RCW 9.94A.030 from the  
5 department of corrections at least sixty days prior to the expected  
6 release date of the offender.

7 Information regarding victims, next of kin, or witnesses  
8 requesting the notice, information regarding any other person  
9 specified in writing by the prosecuting attorney to receive the  
10 notice, and the notice are confidential and shall not be available to  
11 the inmate. Whenever the department of corrections mails notice  
12 pursuant to this subsection and the notice is returned as  
13 undeliverable, the department shall attempt alternative methods of  
14 notification, including a telephone call to the person's last known  
15 telephone number.

16 (3) The existence of the notice requirements contained in  
17 subsections (1) and (2) of this section shall not require an  
18 extension of the release date in the event that the release plan  
19 changes after notification.

20 (4) If an inmate convicted of a violent offense, a sex offense as  
21 defined by RCW 9.94A.030, a domestic violence court order violation  
22 pursuant to RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220,  
23 (~~26.26.138~~) 26.26B.050, 26.50.110, 26.52.070, or 74.34.145, or a  
24 felony harassment offense as defined by RCW 9A.46.060 or 9A.46.110,  
25 escapes from a correctional facility, the department of corrections  
26 shall immediately notify, by the most reasonable and expedient means  
27 available, the chief of police of the city and the sheriff of the  
28 county in which the inmate resided immediately before the inmate's  
29 arrest and conviction. If previously requested, the department shall  
30 also notify the witnesses and the victim of the crime for which the  
31 inmate was convicted or the victim's next of kin if the crime was a  
32 homicide. If the inmate is recaptured, the department shall send  
33 notice to the persons designated in this subsection as soon as  
34 possible but in no event later than two working days after the  
35 department learns of such recapture.

36 (5) If the victim, the victim's next of kin, or any witness is  
37 under the age of sixteen, the notice required by this section shall  
38 be sent to the parents or legal guardian of the child.

39 (6) The department of corrections shall send the notices required  
40 by this chapter to the last address provided to the department by the

1 requesting party. The requesting party shall furnish the department  
2 with a current address.

3 (7) The department of corrections shall keep, for a minimum of  
4 two years following the release of an inmate, the following:

5 (a) A document signed by an individual as proof that that person  
6 is registered in the victim or witness notification program; and

7 (b) A receipt showing that an individual registered in the victim  
8 or witness notification program was mailed a notice, at the  
9 individual's last known address, upon the release or movement of an  
10 inmate.

11 (8) For purposes of this section the following terms have the  
12 following meanings:

13 (a) "Violent offense" means a violent offense under RCW  
14 9.94A.030;

15 (b) "Next of kin" means a person's spouse, state registered  
16 domestic partner, parents, siblings and children.

17 (9) Nothing in this section shall impose any liability upon a  
18 chief of police of a city or sheriff of a county for failing to  
19 request in writing a notice as provided in subsection (1) of this  
20 section.

21 **Sec. 5044.** RCW 72.09.714 and 2009 c 400 s 2 and 2009 c 28 s 37  
22 are each reenacted and amended to read as follows:

23 The department of corrections shall provide the victims,  
24 witnesses, and next of kin in the case of a homicide and victims and  
25 witnesses involved in violent offense cases, sex offenses as defined  
26 by RCW 9.94A.030, a domestic violence court order violation pursuant  
27 to RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, (~~26.26.138~~)  
28 26.26B.050, 26.50.110, 26.52.070, or 74.34.145, or a felony  
29 harassment pursuant to RCW 9A.46.060 or 9A.46.110, a statement of the  
30 rights of victims and witnesses to request and receive notification  
31 under RCW 72.09.712 and 72.09.716.

32 **Sec. 5045.** RCW 74.13.031 and 2018 c 284 s 37, 2018 c 80 s 1, and  
33 2018 c 34 s 5 are each reenacted and amended to read as follows:

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

1           (2) Within available resources, the department shall recruit an  
2 adequate number of prospective adoptive and foster homes, both  
3 regular and specialized, i.e. homes for children of ethnic minority,  
4 including Indian homes for Indian children, sibling groups,  
5 handicapped and emotionally disturbed, teens, pregnant and parenting  
6 teens, and the department shall annually report to the governor and  
7 the legislature concerning the department's success in: (a) Meeting  
8 the need for adoptive and foster home placements; (b) reducing the  
9 foster parent turnover rate; (c) completing home studies for legally  
10 free children; and (d) implementing and operating the passport  
11 program required by RCW 74.13.285. The report shall include a section  
12 entitled "Foster Home Turn-Over, Causes and Recommendations."

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

27           (4) As provided in RCW 26.44.030(11), the department may respond  
28 to a report of child abuse or neglect by using the family assessment  
29 response.

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

32           (6) The department shall monitor placements of children in out-  
33 of-home care and in-home dependencies to assure the safety, well-  
34 being, and quality of care being provided is within the scope of the  
35 intent of the legislature as defined in RCW 74.13.010 and 74.15.010.  
36 Under this section children in out-of-home care and in-home  
37 dependencies and their caregivers shall receive a private and  
38 individual face-to-face visit each month. The department shall  
39 randomly select no less than ten percent of the caregivers currently  
40 providing care to receive one unannounced face-to-face visit in the

1 caregiver's home per year. No caregiver will receive an unannounced  
2 visit through the random selection process for two consecutive years.  
3 If the caseworker makes a good faith effort to conduct the  
4 unannounced visit to a caregiver and is unable to do so, that month's  
5 visit to that caregiver need not be unannounced. The department is  
6 encouraged to group monthly visits to caregivers by geographic area  
7 so that in the event an unannounced visit cannot be completed, the  
8 caseworker may complete other required monthly visits. The department  
9 shall use a method of random selection that does not cause a fiscal  
10 impact to the department.

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

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

24 (8) The department shall have authority to provide temporary  
25 shelter to children who have run away from home and who are admitted  
26 to crisis residential centers.

27 (9) The department shall have authority to purchase care for  
28 children.

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

36 (11)(a) The department shall provide continued extended foster  
37 care services to nonminor dependents who are:

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

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

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

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

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

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

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

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

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

38 (12) The department shall have authority to provide adoption  
39 support benefits, or relative guardianship subsidies on behalf of  
40 youth ages eighteen to twenty-one years who achieved permanency

1 through adoption or a relative guardianship at age sixteen or older  
2 and who meet the criteria described in subsection (11) of this  
3 section.

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

13 (14) The department shall have authority within funds  
14 appropriated for foster care services to purchase care for Indian  
15 children who are in the custody of a federally recognized Indian  
16 tribe or tribally licensed child-placing agency pursuant to parental  
17 consent, tribal court order, or state juvenile court order. The  
18 purchase of such care is exempt from the requirements of chapter  
19 74.13B RCW and may be purchased from the federally recognized Indian  
20 tribe or tribally licensed child-placing agency, and shall be subject  
21 to the same eligibility standards and rates of support applicable to  
22 other children for whom the department purchases care.

23 Notwithstanding any other provision of RCW 13.32A.170 through  
24 13.32A.200, 43.185C.295, 74.13.035, and 74.13.036, or of this section  
25 all services to be provided by the department under subsections (4),  
26 (7), and (8) of this section, subject to the limitations of these  
27 subsections, may be provided by any program offering such services  
28 funded pursuant to Titles II and III of the federal juvenile justice  
29 and delinquency prevention act of 1974.

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

34 (16) The department shall have authority to provide independent  
35 living services to youths, including individuals who have attained  
36 eighteen years of age, and have not attained twenty-one years of age  
37 who are or have been in foster care.

38 (17) The department shall consult at least quarterly with foster  
39 parents, including members of the foster parent association of  
40 Washington state, for the purpose of receiving information and

1 comment regarding how the department is performing the duties and  
2 meeting the obligations specified in this section and RCW 74.13.250  
3 regarding the recruitment of foster homes, reducing foster parent  
4 turnover rates, providing effective training for foster parents, and  
5 administering a coordinated and comprehensive plan that strengthens  
6 services for the protection of children. Consultation shall occur at  
7 the regional and statewide levels.

8 (18)(a) The department shall, within current funding levels,  
9 place on its public web site a document listing the duties and  
10 responsibilities the department has to a child subject to a  
11 dependency petition including, but not limited to, the following:

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

14 (ii) Sibling visits subject to the restrictions in RCW  
15 13.34.136(2)(b)(ii);

16 (iii) Parent-child visits;

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

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

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

24 (19)(a) The department shall have the authority to purchase legal  
25 representation for parents or kinship caregivers, or both, of  
26 children who are at risk of being dependent, or who are dependent, to  
27 establish or modify a parenting plan under RCW 13.34.155 or chapter  
28 26.09 (~~or 26.26~~), 26.26A, or 26.26B RCW or secure orders  
29 establishing other relevant civil legal relationships authorized by  
30 law, when it is necessary for the child's safety, permanence, or  
31 well-being. The department's purchase of legal representation for  
32 kinship caregivers must be within the department's appropriations.  
33 This subsection does not create an entitlement to legal  
34 representation purchased by the department and does not create  
35 judicial authority to order the department to purchase legal  
36 representation for a parent or kinship caregiver. Such determinations  
37 are solely within the department's discretion. The term "kinship  
38 caregiver" as used in this section means a caregiver who meets the  
39 definition of "kin" in RCW 74.13.600(1), unless the child is an  
40 Indian child as defined in RCW 13.38.040 and 25 U.S.C. Sec. 1903. For

1 an Indian child as defined in RCW 13.38.040 and 25 U.S.C. Sec. 1903,  
2 the term "kinship caregiver" as used in this section means a  
3 caregiver who is an "extended family member" as defined in RCW  
4 13.38.040(8).

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

10 **Sec. 5046.** RCW 74.20.040 and 2012 1st sp.s. c 4 s 1 are each  
11 amended to read as follows:

12 (1) Whenever the department receives an application for public  
13 assistance on behalf of a child, the department shall take  
14 appropriate action under the provisions of this chapter, chapter  
15 74.20A RCW, or other appropriate statutes of this state to establish  
16 or enforce support obligations against the parent or other persons  
17 owing a duty to pay support moneys.

18 (2) The secretary may accept a request for support enforcement  
19 services on behalf of persons who are not recipients of public  
20 assistance and may take appropriate action to establish or enforce  
21 support obligations against the parent or other persons owing a duty  
22 to pay moneys. Requests accepted under this subsection may be  
23 conditioned upon the payment of a fee as required by subsection (6)  
24 of this section or through regulation issued by the secretary. The  
25 secretary may establish by regulation, reasonable standards and  
26 qualifications for support enforcement services under this  
27 subsection.

28 (3) The secretary may accept requests for support enforcement  
29 services from child support enforcement agencies in other states  
30 operating child support programs under Title IV-D of the social  
31 security act or from foreign countries, and may take appropriate  
32 action to establish and enforce support obligations, or to enforce  
33 subpoenas, information requests, orders for genetic testing, and  
34 collection actions issued by the other agency against the parent or  
35 other person owing a duty to pay support moneys, the parent or other  
36 person's employer, or any other person or entity properly subject to  
37 child support collection or information-gathering processes. The  
38 request shall contain and be accompanied by such information and  
39 documentation as the secretary may by rule require, and be signed by

1 an authorized representative of the agency. The secretary may adopt  
2 rules setting forth the duration and nature of services provided  
3 under this subsection.

4 (4) The department may take action to establish, enforce, and  
5 collect a support obligation, including performing related services,  
6 under this chapter and chapter 74.20A RCW, or through the attorney  
7 general or prosecuting attorney for action under chapter 26.09,  
8 26.18, 26.20, 26.21A, (~~or 26.26~~) 26.26A, or 26.26B RCW or other  
9 appropriate statutes or the common law of this state.

10 (5) Whenever a support order is filed with the Washington state  
11 support registry under chapter 26.23 RCW, the department may take  
12 appropriate action under the provisions of this chapter, chapter  
13 26.23 or 74.20A RCW, or other appropriate law of this state to  
14 establish or enforce the support obligations contained in that order  
15 against the responsible parent or other persons owing a duty to pay  
16 support moneys.

17 (6) The secretary, in the case of an individual who has never  
18 received assistance under a state program funded under part A and for  
19 whom the state has collected at least five hundred dollars of  
20 support, shall impose an annual fee of twenty-five dollars for each  
21 case in which services are furnished, which shall be retained by the  
22 state from support collected on behalf of the individual, but not  
23 from the first five hundred dollars of support. The secretary may, on  
24 showing of necessity, waive or defer any such fee or cost.

25 (7) Fees, due and owing, may be retained from support payments  
26 directly or collected as delinquent support moneys utilizing any of  
27 the remedies in this chapter (~~(74.20 RCW)~~), chapter 74.20A RCW,  
28 chapter 26.21A RCW, or any other remedy at law or equity available to  
29 the department or any agencies with whom it has a cooperative or  
30 contractual arrangement to establish, enforce, or collect support  
31 moneys or support obligations.

32 (8) The secretary may waive the fee, or any portion thereof, as a  
33 part of a compromise of disputed claims or may grant partial or total  
34 charge off of said fee if the secretary finds there are no available,  
35 practical, or lawful means by which said fee may be collected or to  
36 facilitate payment of the amount of delinquent support moneys or fees  
37 owed.

38 (9) The secretary shall adopt rules conforming to federal laws,  
39 including but not limited to complying with section 7310 of the  
40 federal deficit reduction act of 2005, 42 U.S.C. Sec. 654, and rules

1 and regulations required to be observed in maintaining the state  
2 child support enforcement program required under Title IV-D of the  
3 federal social security act. The adoption of these rules shall be  
4 calculated to promote the cost-effective use of the agency's  
5 resources and not otherwise cause the agency to divert its resources  
6 from its essential functions.

7 **Sec. 5047.** RCW 74.20.225 and 1997 c 58 s 898 are each amended to  
8 read as follows:

9 In carrying out the provisions of this chapter or chapters 26.18,  
10 26.23, (~~26.26~~) 26.26A, 26.26B, and 74.20A RCW, the secretary and  
11 other duly authorized officers of the department may subpoena  
12 witnesses, take testimony, and compel the production of such papers,  
13 books, records, and documents as they may deem relevant to the  
14 performance of their duties. The division of child support may  
15 enforce subpoenas issued under this power according to RCW  
16 74.20A.350.

17 **Sec. 5048.** RCW 74.20.310 and 2002 c 302 s 705 are each amended  
18 to read as follows:

19 (1) The provisions of RCW (~~26.26.555~~) 26.26A.485 requiring  
20 appointment of a guardian ad litem to represent the child in an  
21 action brought to determine the parent and child relationship do not  
22 apply to actions brought under chapter (~~26.26~~) 26.26A or 26.26B RCW  
23 if:

24 (a) The action is brought by the attorney general on behalf of  
25 the department of social and health services and the child; or

26 (b) The action is brought by any prosecuting attorney on behalf  
27 of the state and the child when referral has been made to the  
28 prosecuting attorney by the department of social and health services  
29 requesting such action.

30 (2) On the issue of parentage, the attorney general or  
31 prosecuting attorney functions as the child's guardian ad litem  
32 provided the interests of the state and the child are not in  
33 conflict.

34 (3) The court, on its own motion or on motion of a party, may  
35 appoint a guardian ad litem when necessary.

36 (4) The summons shall contain a notice to the parents that  
37 pursuant to RCW (~~26.26.555~~) 26.26A.485 the parents have a right to  
38 move the court for a guardian ad litem for the child other than the

1 prosecuting attorney or the attorney general subject to subsection  
2 (2) of this section.

3 **Sec. 5049.** RCW 74.20.350 and 1979 ex.s. c 171 s 19 are each  
4 amended to read as follows:

5 In order to facilitate and ensure compliance with Title IV-D of  
6 the federal social security act, now existing or hereafter amended,  
7 wherein the state is required to undertake to establish (~~(paternity)~~)  
8 parentage of such children as are born out of wedlock, the secretary  
9 of social and health services may pay the reasonable and proper fees  
10 of attorneys admitted to practice before the courts of this state,  
11 who are engaged in private practice for the purpose of maintaining  
12 actions under chapter (~~(26.26)~~) 26.26A or 26.26B RCW on behalf of  
13 such children, to the end that parent and child relationships be  
14 determined and financial support obligations be established by  
15 superior court order. The secretary or the secretary's designee shall  
16 make the determination in each case as to which cases shall be  
17 referred for representation by such private attorneys. The secretary  
18 may advance, pay, or reimburse for payment of, such reasonable costs  
19 as may be attendant to an action under chapter (~~(26.26)~~) 26.26A or  
20 26.26B RCW. The representation by a private attorney shall be only on  
21 behalf of the subject child, the custodial natural parent, and the  
22 child's personal representative or guardian ad litem, and shall not  
23 in any manner be, or be construed to be, in representation of the  
24 department of social and health services or the state of Washington,  
25 such representation being restricted to that provided pursuant to  
26 chapters 43.10 and 36.27 RCW.

27 **Sec. 5050.** RCW 74.20.360 and 2002 c 302 s 706 are each amended  
28 to read as follows:

29 (1) The division of child support may issue an order for genetic  
30 testing when providing services under this chapter and Title IV-D of  
31 the federal social security act if genetic testing:

32 (a) Is appropriate in an action under chapter (~~(26.26)~~) 26.26A  
33 RCW, the uniform parentage act;

34 (b) Is appropriate in an action to establish support under RCW  
35 74.20A.056; or

36 (c) Would assist the parties or the division of child support in  
37 determining whether it is appropriate to proceed with an action to  
38 establish or disestablish (~~(paternity)~~) parentage.

1 (2) The order for genetic testing shall be served on the alleged  
2 genetic parent or parents and the legal parent by personal service or  
3 by any form of mail requiring a return receipt.

4 (3) Within twenty days of the date of service of an order for  
5 genetic testing, any party required to appear for genetic testing,  
6 the child, or a guardian on the child's behalf, may petition in  
7 superior court under chapter ((26.26)) 26.26A RCW to bar or postpone  
8 genetic testing.

9 (4) The order for genetic testing shall contain:

10 (a) An explanation of the right to proceed in superior court  
11 under subsection (3) of this section;

12 (b) Notice that if no one proceeds under subsection (3) of this  
13 section, the agency issuing the order will schedule genetic testing  
14 and will notify the parties of the time and place of testing by  
15 regular mail;

16 (c) Notice that the parties must keep the agency issuing the  
17 order for genetic testing informed of their residence address and  
18 that mailing a notice of time and place for genetic testing to the  
19 last known address of the parties by regular mail constitutes valid  
20 service of the notice of time and place;

21 (d) Notice that the order for genetic testing may be enforced  
22 through:

23 (i) Public assistance grant reduction for noncooperation,  
24 pursuant to agency rule, if the child and custodian are receiving  
25 public assistance;

26 (ii) Termination of support enforcement services under Title IV-D  
27 of the federal social security act if the child and custodian are not  
28 receiving public assistance;

29 (iii) A referral to superior court for an appropriate action  
30 under chapter ((26.26)) 26.26A RCW; or

31 (iv) A referral to superior court for remedial sanctions under  
32 RCW 7.21.060.

33 (5) The department may advance the costs of genetic testing under  
34 this section.

35 (6) If an action is pending under chapter ((26.26)) 26.26A RCW, a  
36 judgment for reimbursement of the cost of genetic testing may be  
37 awarded under RCW ((26.26.570)) 26.26A.330.

38 (7) If no action is pending in superior court, the department may  
39 impose an obligation to reimburse costs of genetic testing according  
40 to rules adopted by the department to implement RCW 74.20A.056.

1           **Sec. 5051.** RCW 74.20A.030 and 2007 c 143 s 7 are each amended to  
2 read as follows:

3           (1) The department shall be subrogated to the right of any  
4 dependent child or children or person having the care, custody, and  
5 control of said child or children, if public assistance money is paid  
6 to or for the benefit of the child, or for the care and maintenance  
7 of a child, including a child with a developmental disability if the  
8 child has been placed into care as a result of an action under  
9 chapter 13.34 RCW, under a state-funded program, or a program funded  
10 under Title IV-A or IV-E of the federal social security act as  
11 amended by the personal responsibility and work opportunity  
12 reconciliation act of 1996, and the federal deficit reduction act of  
13 2005, to prosecute or maintain any support action or execute any  
14 administrative remedy existing under the laws of the state of  
15 Washington to obtain reimbursement of moneys expended, based on the  
16 support obligation of the responsible parent established by a child  
17 support order. Distribution of any support moneys shall be made in  
18 accordance with RCW 26.23.035.

19           (2) The department may initiate, continue, maintain, or execute  
20 an action to establish, enforce, and collect a support obligation,  
21 including establishing (~~(paternity)~~) parentage and performing related  
22 services, under this chapter and chapter 74.20 RCW, or through the  
23 attorney general or prosecuting attorney under chapter 26.09, 26.18,  
24 26.20, 26.21A, 26.23, (~~(or 26.26)~~) 26.26A, or 26.26B RCW or other  
25 appropriate statutes or the common law of this state, for so long as  
26 and under such conditions as the department may establish by  
27 regulation.

28           (3) Public assistance moneys shall be exempt from collection  
29 action under this chapter except as provided in RCW 74.20A.270.

30           (4) No collection action shall be taken against parents of  
31 children eligible for admission to, or children who have been  
32 discharged from, a residential habilitation center as defined by RCW  
33 71A.10.020(~~((8))~~) unless the child with a developmental disability is  
34 placed as a result of an action under chapter 13.34 RCW. The child  
35 support obligation shall be calculated pursuant to chapter 26.19 RCW.

36           **Sec. 5052.** RCW 74.20A.055 and 2018 c 150 s 107 are each amended  
37 to read as follows:

38           (1) The secretary may, if there is no order that establishes the  
39 responsible parent's support obligation or specifically relieves the

1 responsible parent of a support obligation or pursuant to an  
2 establishment of ((paternity)) parentage under chapter ((26.26))  
3 26.26A or 26.26B RCW, serve on the responsible parent or parents and  
4 custodial parent a notice and finding of financial responsibility  
5 requiring the parents to appear and show cause in an adjudicative  
6 proceeding why the finding of responsibility and/or the amount  
7 thereof is incorrect, should not be finally ordered, but should be  
8 rescinded or modified. This notice and finding shall relate to the  
9 support debt accrued and/or accruing under this chapter and/or RCW  
10 26.16.205, including periodic payments to be made in the future. The  
11 hearing shall be held pursuant to this section, chapter 34.05 RCW,  
12 the Administrative Procedure Act, and the rules of the department. A  
13 custodian who has physical custody of a child has the same rights  
14 that a custodial parent has under this section.

15 (2) The notice and finding of financial responsibility shall be  
16 served in the same manner prescribed for the service of a summons in  
17 a civil action or may be served on the responsible parent by  
18 certified mail, return receipt requested. The receipt shall be prima  
19 facie evidence of service. The notice shall be served upon the debtor  
20 within sixty days from the date the state assumes responsibility for  
21 the support of the dependent child or children on whose behalf  
22 support is sought. If the notice is not served within sixty days from  
23 such date, the department shall lose the right to reimbursement of  
24 payments made after the sixty-day period and before the date of  
25 notification: PROVIDED, That if the department exercises reasonable  
26 efforts to locate the debtor and is unable to do so the entire sixty-  
27 day period is tolled until such time as the debtor can be located.  
28 The notice may be served upon the custodial parent who is the  
29 nonassistance applicant or public assistance recipient by first-class  
30 mail to the last known address. If the custodial parent is not the  
31 nonassistance applicant or public assistance recipient, service shall  
32 be in the same manner as for the responsible parent.

33 (3) The notice and finding of financial responsibility shall set  
34 forth the amount the department has determined the responsible parent  
35 owes, the support debt accrued and/or accruing, and periodic payments  
36 to be made in the future. The notice and finding shall also include:

37 (a) A statement of the name of the custodial parent and the name  
38 of the child or children for whom support is sought;

39 (b) A statement of the amount of periodic future support payments  
40 as to which financial responsibility is alleged;

1 (c) A statement that the responsible parent or custodial parent  
2 may object to all or any part of the notice and finding, and file an  
3 application for an adjudicative proceeding to show cause why the  
4 terms set forth in the notice should not be ordered;

5 (d) A statement that, if neither the responsible parent nor the  
6 custodial parent files in a timely fashion an application for an  
7 adjudicative proceeding, the support debt and payments stated in the  
8 notice and finding, including periodic support payments in the  
9 future, shall be assessed and determined and ordered by the  
10 department and that this debt and amounts due under the notice shall  
11 be subject to collection action;

12 (e) A statement that the property of the debtor, without further  
13 advance notice or hearing, will be subject to lien and foreclosure,  
14 distraint, seizure and sale, order to withhold and deliver, notice of  
15 payroll deduction or other collection action to satisfy the debt and  
16 enforce the support obligation established under the notice;

17 (f) A statement that one or both parents are responsible for  
18 either:

19 (i) Providing health care coverage for the child if accessible  
20 coverage that can cover the child:

21 (A) Is available through health insurance or public health care  
22 coverage; or

23 (B) Is or becomes available to the parent through that parent's  
24 employment or union; or

25 (ii) Paying a monthly payment toward the premium if no such  
26 coverage is available, as provided under RCW 26.09.105.

27 (4) A responsible parent or custodial parent who objects to the  
28 notice and finding of financial responsibility may file an  
29 application for an adjudicative proceeding within twenty days of the  
30 date of service of the notice or thereafter as provided under this  
31 subsection.

32 (a) If the responsible parent or custodial parent files the  
33 application within twenty days, the office of administrative hearings  
34 shall schedule an adjudicative proceeding to hear the parent's or  
35 parents' objection and determine the support obligation for the  
36 entire period covered by the notice and finding of financial  
37 responsibility. The filing of the application stays collection action  
38 pending the entry of a final administrative order;

39 (b) If both the responsible parent and the custodial parent fail  
40 to file an application within twenty days, the notice and finding

1 shall become a final administrative order. The amounts for current  
2 and future support and the support debt stated in the notice are  
3 final and subject to collection, except as provided under (c) and (d)  
4 of this subsection;

5 (c) If the responsible parent or custodial parent files the  
6 application more than twenty days after, but within one year of the  
7 date of service, the office of administrative hearings shall schedule  
8 an adjudicative proceeding to hear the parent's or parents' objection  
9 and determine the support obligation for the entire period covered by  
10 the notice and finding of financial responsibility. The filing of the  
11 application does not stay further collection action, pending the  
12 entry of a final administrative order, and does not affect any prior  
13 collection action;

14 (d) If the responsible parent or custodial parent files the  
15 application more than one year after the date of service, the office  
16 of administrative hearings shall schedule an adjudicative proceeding  
17 at which the parent who requested the late hearing must show good  
18 cause for failure to file a timely application. The filing of the  
19 application does not stay future collection action and does not  
20 affect prior collection action:

21 (i) If the presiding officer finds that good cause exists, the  
22 presiding officer shall proceed to hear the parent's objection to the  
23 notice and determine the support obligation;

24 (ii) If the presiding officer finds that good cause does not  
25 exist, the presiding officer shall treat the application as a  
26 petition for prospective modification of the amount for current and  
27 future support established under the notice and finding. In the  
28 modification proceeding, the presiding officer shall set current and  
29 future support under chapter 26.19 RCW. The petitioning parent need  
30 show neither good cause nor a substantial change of circumstances to  
31 justify modification of current and future support;

32 (e) If the responsible parent's support obligation was based upon  
33 imputed median net income, the grant standard, or the family need  
34 standard, the division of child support may file an application for  
35 adjudicative proceeding more than twenty days after the date of  
36 service of the notice. The office of administrative hearings shall  
37 schedule an adjudicative proceeding and provide notice of the hearing  
38 to the responsible parent and the custodial parent. The presiding  
39 officer shall determine the support obligation for the entire period  
40 covered by the notice, based upon credible evidence presented by the

1 division of child support, the responsible parent, or the custodial  
2 parent, or may determine that the support obligation set forth in the  
3 notice is correct. The division of child support demonstrates good  
4 cause by showing that the responsible parent's support obligation was  
5 based upon imputed median net income, the grant standard, or the  
6 family need standard. The filing of the application by the division  
7 of child support does not stay further collection action, pending the  
8 entry of a final administrative order, and does not affect any prior  
9 collection action.

10 (f) The department shall retain and/or shall not refund support  
11 money collected more than twenty days after the date of service of  
12 the notice. Money withheld as the result of collection action shall  
13 be delivered to the department. The department shall distribute such  
14 money, as provided in published rules.

15 (5) If an application for an adjudicative proceeding is filed,  
16 the presiding or reviewing officer shall determine the past liability  
17 and responsibility, if any, of the alleged responsible parent and  
18 shall also determine the amount of periodic payments to be made in  
19 the future, which amount is not limited by the amount of any public  
20 assistance payment made to or for the benefit of the child. If  
21 deviating from the child support schedule in making these  
22 determinations, the presiding or reviewing officer shall apply the  
23 standards contained in the child support schedule and enter written  
24 findings of fact supporting the deviation.

25 (6) If either the responsible parent or the custodial parent  
26 fails to attend or participate in the hearing or other stage of an  
27 adjudicative proceeding, upon a showing of valid service, the  
28 presiding officer shall enter an order of default against each party  
29 who did not appear and may enter an administrative order declaring  
30 the support debt and payment provisions stated in the notice and  
31 finding of financial responsibility to be assessed and determined and  
32 subject to collection action. The parties who appear may enter an  
33 agreed settlement or consent order, which may be different than the  
34 terms of the department's notice. Any party who appears may choose to  
35 proceed to the hearing, after the conclusion of which the presiding  
36 officer or reviewing officer may enter an order that is different  
37 than the terms stated in the notice, if the obligation is supported  
38 by credible evidence presented by any party at the hearing.

39 (7) The final administrative order establishing liability and/or  
40 future periodic support payments shall be superseded upon entry of a

1 superior court order for support to the extent the superior court  
2 order is inconsistent with the administrative order.

3 (8) Debts determined pursuant to this section, accrued and not  
4 paid, are subject to collection action under this chapter without  
5 further necessity of action by a presiding or reviewing officer.

6 (9) The department has rule-making authority to enact rules  
7 consistent with 42 U.S.C. Sec. 652(f) and 42 U.S.C. Sec. 666(a)(19)  
8 as amended by section 7307 of the deficit reduction act of 2005.  
9 Additionally, the department has rule-making authority to implement  
10 regulations required under 45 C.F.R. Parts 302, 303, 304, 305, and  
11 308.

12 **Sec. 5053.** RCW 74.20A.056 and 2018 c 150 s 108 are each amended  
13 to read as follows:

14 ~~(1) ((If an alleged father has signed an affidavit acknowledging~~  
15 ~~paternity which has been filed with the state registrar of vital~~  
16 ~~statistics before July 1, 1997, the division of child support may~~  
17 ~~serve a notice and finding of parental responsibility on him and the~~  
18 ~~custodial parent. Procedures for and responsibility resulting from~~  
19 ~~acknowledgments filed after July 1, 1997, are in subsections (8) and~~  
20 ~~(9) of this section. Service of the notice shall be in the same~~  
21 ~~manner as a summons in a civil action or by certified mail, return~~  
22 ~~receipt requested, on the alleged father. The custodial parent shall~~  
23 ~~be served by first-class mail to the last known address. If the~~  
24 ~~custodial parent is not the nonassistance applicant or public~~  
25 ~~assistance recipient, service shall be in the same manner as for the~~  
26 ~~responsible parent. The notice shall have attached to it a copy of~~  
27 ~~the affidavit or certification of birth record information advising~~  
28 ~~of the existence of a filed affidavit, provided by the state~~  
29 ~~registrar of vital statistics, and shall state that:~~

30 ~~(a) Either or both parents are responsible for providing health~~  
31 ~~care coverage for their child either through health insurance or~~  
32 ~~public health care coverage, which is accessible to the child, or~~  
33 ~~through coverage that if coverage that can be extended to cover the~~  
34 ~~child is or becomes available to the parent through employment or is~~  
35 ~~union-related, or for paying a monthly payment toward the premium if~~  
36 ~~no such coverage is available, as provided under RCW 26.09.105;~~

37 ~~(b) The alleged father or custodial parent may file an~~  
38 ~~application for an adjudicative proceeding at which they both will be~~

1 required to appear and show cause why the amount stated in the notice  
2 as to support is incorrect and should not be ordered;

3 (c) An alleged father or mother, if she is also the custodial  
4 parent, may request that a blood or genetic test be administered to  
5 determine whether such test would exclude him from being a natural  
6 parent and, if not excluded, may subsequently request that the  
7 division of child support initiate an action in superior court to  
8 determine the existence of the parent-child relationship; and

9 (d) If neither the alleged father nor the custodial parent  
10 requests that a blood or genetic test be administered or files an  
11 application for an adjudicative proceeding, the amount of support  
12 stated in the notice and finding of parental responsibility shall  
13 become final, subject only to a subsequent determination under RCW  
14 26.26.500 through 26.26.630 that the parent-child relationship does  
15 not exist.

16 (2) An alleged father or custodial parent who objects to the  
17 amount of support requested in the notice may file an application for  
18 an adjudicative proceeding up to twenty days after the date the  
19 notice was served. An application for an adjudicative proceeding may  
20 be filed within one year of service of the notice and finding of  
21 parental responsibility without the necessity for a showing of good  
22 cause or upon a showing of good cause thereafter. An adjudicative  
23 proceeding under this section shall be pursuant to RCW 74.20A.055.  
24 The only issues shall be the amount of the accrued debt, the amount  
25 of the current and future support obligation, and the reimbursement  
26 of the costs of blood or genetic tests if advanced by the department.  
27 A custodian who is not the parent of a child and who has physical  
28 custody of a child has the same notice and hearing rights that a  
29 custodial parent has under this section.

30 (3) If the application for an adjudicative proceeding is filed  
31 within twenty days of service of the notice, collection action shall  
32 be stayed pending a final decision by the department. If no  
33 application is filed within twenty days:

34 (a) The amounts in the notice shall become final and the debt  
35 created therein shall be subject to collection action; and

36 (b) Any amounts so collected shall neither be refunded nor  
37 returned if the alleged father is later found not to be a responsible  
38 parent.

39 (4) An alleged father or the mother, if she is also the custodial  
40 parent, may request that a blood or genetic test be administered at

1 any time. The request for testing shall be in writing, or as the  
2 department may specify by rule, and served on the division of child  
3 support. If a request for testing is made, the department shall  
4 arrange for the test and, pursuant to rules adopted by the  
5 department, may advance the cost of such testing. The department  
6 shall mail a copy of the test results by certified mail, return  
7 receipt requested, to the alleged father's and mother's, if she is  
8 also the custodial parent, last known address.

9 (5) If the test excludes the alleged father from being a natural  
10 parent, the division of child support shall file a copy of the  
11 results with the state registrar of vital statistics and shall  
12 dismiss any pending administrative collection proceedings based upon  
13 the affidavit in issue. The state registrar of vital statistics shall  
14 remove the alleged father's name from the birth certificate and  
15 change the child's surname to be the same as the mother's maiden name  
16 as stated on the birth certificate, or any other name which the  
17 mother may select.

18 (6) The alleged father or mother, if she is also the custodial  
19 parent, may, within twenty days after the date of receipt of the test  
20 results, request the division of child support to initiate an action  
21 under RCW 26.26.500 through 26.26.630 to determine the existence of  
22 the parent-child relationship. If the division of child support  
23 initiates a superior court action at the request of the alleged  
24 father or mother and the decision of the court is that the alleged  
25 father is a natural parent, the parent who requested the test shall  
26 be liable for court costs incurred.

27 (7) If the alleged father or mother, if she is also the custodial  
28 parent, does not request the division of child support to initiate a  
29 superior court action, or fails to appear and cooperate with blood or  
30 genetic testing, the notice of parental responsibility shall become  
31 final for all intents and purposes and may be overturned only by a  
32 subsequent superior court order entered under RCW 26.26.500 through  
33 26.26.630.

34 (8) (a) Subsections (1) through (7) of this section do not apply  
35 to acknowledgments of paternity filed with the state registrar of  
36 vital statistics after July 1, 1997.

37 (b)) (a) If an acknowledged ((father)) parent has signed an  
38 acknowledgment of ((paternity)) parentage that has been filed with  
39 the state registrar of vital statistics ((after July 1, 1997)):

1 (i) The division of child support may serve a notice and finding  
2 of financial responsibility under RCW 74.20A.055 based on the  
3 acknowledgment. The division of child support shall attach a copy of  
4 the acknowledgment or certification of the birth record information  
5 advising of the existence of a filed acknowledgment of (~~paternity~~)  
6 parentage to the notice;

7 (ii) The notice shall include a statement that the acknowledged  
8 (~~father~~) parent or any other signatory may commence a proceeding in  
9 court to rescind or challenge the acknowledgment or denial of  
10 (~~paternity~~) parentage under RCW (~~(26.26.330)~~) 26.26A.235 and  
11 (~~(26.26.335)~~) 26.26A.240;

12 (iii) A statement that either or both parents are responsible for  
13 providing health care coverage for the child if accessible coverage  
14 that can be extended to cover the child is or becomes available to  
15 the parent through employment or is union-related as provided under  
16 RCW 26.09.105; and

17 (iv) The party commencing the action to rescind or challenge the  
18 acknowledgment or denial must serve notice on the division of child  
19 support and the office of the prosecuting attorney in the county in  
20 which the proceeding is commenced. Commencement of a proceeding to  
21 rescind or challenge the acknowledgment or denial stays the  
22 establishment of the notice and finding of financial responsibility,  
23 if the notice has not yet become a final order.

24 (~~(e)~~) (b) If neither the acknowledged (~~father~~) parent nor the  
25 other party to the notice files an application for an adjudicative  
26 proceeding or the signatories to the acknowledgment or denial do not  
27 commence a proceeding to rescind or challenge the acknowledgment of  
28 (~~paternity~~) parentage, the amount of support stated in the notice  
29 and finding of financial responsibility becomes final, subject only  
30 to a subsequent determination under RCW (~~(26.26.500)~~) 26.26A.400  
31 through (~~(26.26.630)~~) 26.26A.515 that the parent-child relationship  
32 does not exist. The division of child support does not refund nor  
33 return any amounts collected under a notice that becomes final under  
34 this section or RCW 74.20A.055, even if a court later determines that  
35 the acknowledgment is void.

36 (~~(d)~~) (c) An acknowledged (~~father~~) parent or other party to  
37 the notice who objects to the amount of support requested in the  
38 notice may file an application for an adjudicative proceeding up to  
39 twenty days after the date the notice was served. An application for  
40 an adjudicative proceeding may be filed within one year of service of

1 the notice and finding of parental responsibility without the  
2 necessity for a showing of good cause or upon a showing of good cause  
3 thereafter. An adjudicative proceeding under this section shall be  
4 pursuant to RCW 74.20A.055. The only issues shall be the amount of  
5 the accrued debt and the amount of the current and future support  
6 obligation.

7 (i) If the application for an adjudicative proceeding is filed  
8 within twenty days of service of the notice, collection action shall  
9 be stayed pending a final decision by the department.

10 (ii) If the application for an adjudicative proceeding is not  
11 filed within twenty days of the service of the notice, any amounts  
12 collected under the notice shall be neither refunded nor returned if  
13 the alleged ~~((father))~~ genetic parent is later found not to be a  
14 responsible parent.

15 ~~((e))~~ (d) If neither the acknowledged ~~((father))~~ parent nor the  
16 custodial parent requests an adjudicative proceeding, or if no timely  
17 action is brought to rescind or challenge the acknowledgment or  
18 denial after service of the notice, the notice of financial  
19 responsibility becomes final for all intents and purposes and may be  
20 overturned only by a subsequent superior court order entered under  
21 RCW ~~((26.26.500))~~ 26.26A.400 through ~~((26.26.630))~~ 26.26A.515.

22 ~~((9))~~ (2) Acknowledgments of ~~((paternity that are filed after~~  
23 ~~July 1, 1997,))~~ parentage are subject to requirements of chapters  
24 ~~((26.26, the uniform parentage act))~~ 26.26A, 26.26B, and 70.58 RCW.

25 ~~((10))~~ (3) The department and the department of health may  
26 adopt rules to implement the requirements under this section.

27 ~~((11))~~ (4) The department has rule-making authority to enact  
28 rules consistent with 42 U.S.C. Sec. 652(f) and 42 U.S.C. Sec.  
29 666(a)(19) as amended by section 7307 of the deficit reduction act of  
30 2005. Additionally, the department has rule-making authority to  
31 implement regulations required under 45 C.F.R. Parts 302, 303, 304,  
32 305, and 308.

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