
SENATE BILL 5333

State of Washington

66th Legislature

2019 Regular Session

By Senators Pedersen and Rivers

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3 regulations of the food and drug administration, enacting a repealed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

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

18

PART 1

19

ACCESS TO COURT RECORDS

1 licensed in this state which collected(~~(, stored, or released for~~
2 ~~use~~)) the gametes used in the assisted reproduction shall make a good
3 faith effort to provide the child with identifying information of the
4 donor who provided the gametes, unless the donor signed and did not
5 withdraw a declaration under RCW 26.26A.815(2)(b). If the donor
6 signed and did not withdraw the declaration, the gamete bank or
7 fertility clinic shall make a good faith effort to notify the donor,
8 who may elect under RCW 26.26A.815(3) to withdraw the donor's
9 declaration.

10 (2) Regardless whether a donor signed a declaration under RCW
11 26.26A.815(2)(b), on request by a child conceived by assisted
12 reproduction who attains eighteen years of age, or, if the child is a
13 minor, by a parent or guardian of the child, a gamete bank or
14 fertility clinic licensed in this state which collected the gametes
15 used in the assisted reproduction shall make a good faith effort to
16 provide the child or, if the child is a minor, the parent or guardian
17 of the child, access to nonidentifying medical history of the donor.

18 (3) 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 received the gametes used in the
21 assisted reproduction from another gamete bank or fertility clinic
22 shall disclose the name, address, telephone number, and email address
23 of the gamete bank or fertility clinic from which it received the
24 gametes.

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

27 (1) A gamete bank or fertility clinic licensed in this state
28 which collects(~~(, stores, or releases~~)) gametes for use in assisted
29 reproduction shall (~~collect and~~)) maintain identifying information
30 and medical history about each gamete donor. The gamete bank or
31 fertility clinic shall (~~collect and~~)) maintain records of gamete
32 screening and testing and comply with reporting requirements, in
33 accordance with federal law and applicable law of this state other
34 than this chapter.

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

1 **PART 3**

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

3 NEW SECTION. **Sec. 3001.** A new section is added to chapter
4 26.26B RCW to read as follows:

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

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

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

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

16 (3) Before the period for a challenge to the acknowledgment or
17 denial of parentage has elapsed under RCW 26.26A.240, the petitioner
18 must specifically allege under penalty of perjury, to the best of the
19 petitioner's knowledge, that: (a) No person other than a person who
20 executed the acknowledgment of parentage is a parent of the child;
21 (b) there is not currently pending a proceeding to adjudicate the
22 parentage of the child or that another person is adjudicated the
23 child's parent; and (c) the petitioner has provided notice of the
24 proceeding to any other persons who have claimed parentage of the
25 child. Should the respondent or any other person appearing in the
26 action deny the allegations, a permanent parenting plan or
27 residential schedule may not be entered for the child without the
28 matter being converted to a proceeding to challenge the
29 acknowledgment of parentage under RCW 26.26A.240 and 26.26A.445. A
30 copy of the acknowledgment of parentage or the birth certificate
31 issued by the state in which the child was born must be filed with
32 the petition or response. The court may convert the matter to a
33 proceeding to challenge the acknowledgment on its own motion.

34 **PART 4**

35 **CORRECTING CITATIONS AND TERMINOLOGY**

36 **Sec. 4001.** RCW 4.16.360 and 1983 1st ex.s. c 41 s 13 are each
37 amended to read as follows:

1 This chapter does not limit the time in which an action for
2 determination of (~~(paternity)~~) parentage may be brought under chapter
3 (~~(26.26)~~) 26.26A or 26.26B RCW.

4 **Sec. 4002.** RCW 5.44.140 and 2002 c 302 s 701 are each amended to
5 read as follows:

6 In any proceeding regarding the determination of a family
7 relationship, including but not limited to the parent and child
8 relationship and the marriage relationship, a determination of family
9 relationships regarding any person or persons who immigrated to the
10 United States from a foreign country which was made or accepted by
11 the United States (~~(immigration and naturalization service)~~)
12 citizenship and immigration services at the time of that person or
13 persons' entry into the United States creates a rebuttable
14 presumption that the determination is valid and that the family
15 relationship under foreign law is as made or accepted at the time of
16 entry. Except as provided in RCW (~~(26.26.116(2))~~) 26.26A.115(2), the
17 presumption may be overcome by a preponderance of evidence showing
18 that a living person other than the person named by the United States
19 (~~(immigration and naturalization service)~~) citizenship and
20 immigration services is in the relationship in question.

21 **Sec. 4003.** RCW 9.41.040 and 2018 c 234 s 1 are each amended to
22 read as follows:

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

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

31 (2)(a) A person, whether an adult or juvenile, is guilty of the
32 crime of unlawful possession of a firearm in the second degree, if
33 the person does not qualify under subsection (1) of this section for
34 the crime of unlawful possession of a firearm in the first degree and
35 the person owns, has in his or her possession, or has in his or her
36 control any firearm:

37 (i) After having previously been convicted or found not guilty by
38 reason of insanity in this state or elsewhere of any felony not

1 specifically listed as prohibiting firearm possession under
2 subsection (1) of this section, or any of the following crimes when
3 committed by one family or household member against another,
4 committed on or after July 1, 1993: Assault in the fourth degree,
5 coercion, stalking, reckless endangerment, criminal trespass in the
6 first degree, or violation of the provisions of a protection order or
7 no-contact order restraining the person or excluding the person from
8 a residence (RCW 26.50.060, 26.50.070, 26.50.130, or 10.99.040);

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

13 (iii) During any period of time that the person is subject to a
14 court order issued under chapter 7.90, 7.92, 9A.46, 10.14, 10.99,
15 26.09, 26.10, (~~26.26~~) 26.26A, 26.26B, or 26.50 RCW that:

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

19 (B) Restrains the person from harassing, stalking, or threatening
20 an intimate partner of the person or child of the intimate partner or
21 person, or engaging in other conduct that would place an intimate
22 partner in reasonable fear of bodily injury to the partner or child;
23 and

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

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

29 (iv) After having previously been involuntarily committed for
30 mental health treatment under RCW 71.05.240, 71.05.320, 71.34.740,
31 71.34.750, chapter 10.77 RCW, or equivalent statutes of another
32 jurisdiction, unless his or her right to possess a firearm has been
33 restored as provided in RCW 9.41.047;

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

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

39 (b) (a)(iii) of this subsection does not apply to a sexual
40 assault protection order under chapter 7.90 RCW if the order has been

1 modified pursuant to RCW 7.90.170 to remove any restrictions on
2 firearm purchase, transfer, or possession.

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

5 (3) Notwithstanding RCW 9.41.047 or any other provisions of law,
6 as used in this chapter, a person has been "convicted," whether in an
7 adult court or adjudicated in a juvenile court, at such time as a
8 plea of guilty has been accepted, or a verdict of guilty has been
9 filed, notwithstanding the pendency of any future proceedings
10 including but not limited to sentencing or disposition, post-trial or
11 post-fact-finding motions, and appeals. Conviction includes a
12 dismissal entered after a period of probation, suspension or deferral
13 of sentence, and also includes equivalent dispositions by courts in
14 jurisdictions other than Washington state. A person shall not be
15 precluded from possession of a firearm if the conviction has been the
16 subject of a pardon, annulment, certificate of rehabilitation, or
17 other equivalent procedure based on a finding of the rehabilitation
18 of the person convicted or the conviction or disposition has been the
19 subject of a pardon, annulment, or other equivalent procedure based
20 on a finding of innocence. Where no record of the court's disposition
21 of the charges can be found, there shall be a rebuttable presumption
22 that the person was not convicted of the charge.

23 (4)(a) Notwithstanding subsection (1) or (2) of this section, a
24 person convicted or found not guilty by reason of insanity of an
25 offense prohibiting the possession of a firearm under this section
26 other than murder, manslaughter, robbery, rape, indecent liberties,
27 arson, assault, kidnapping, extortion, burglary, or violations with
28 respect to controlled substances under RCW 69.50.401 and 69.50.410,
29 who received a probationary sentence under RCW 9.95.200, and who
30 received a dismissal of the charge under RCW 9.95.240, shall not be
31 precluded from possession of a firearm as a result of the conviction
32 or finding of not guilty by reason of insanity. Notwithstanding any
33 other provisions of this section, if a person is prohibited from
34 possession of a firearm under subsection (1) or (2) of this section
35 and has not previously been convicted or found not guilty by reason
36 of insanity of a sex offense prohibiting firearm ownership under
37 subsection (1) or (2) of this section and/or any felony defined under
38 any law as a class A felony or with a maximum sentence of at least
39 twenty years, or both, the individual may petition a court of record
40 to have his or her right to possess a firearm restored:

1 (i) Under RCW 9.41.047; and/or

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

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

17 (b) An individual may petition a court of record to have his or
18 her right to possess a firearm restored under (a) of this subsection

19 (4) only at:

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

22 (ii) The superior court in the county in which the petitioner
23 resides.

24 (5) In addition to any other penalty provided for by law, if a
25 person under the age of eighteen years is found by a court to have
26 possessed a firearm in a vehicle in violation of subsection (1) or
27 (2) of this section or to have committed an offense while armed with
28 a firearm during which offense a motor vehicle served an integral
29 function, the court shall notify the department of licensing within
30 twenty-four hours and the person's privilege to drive shall be
31 revoked under RCW 46.20.265, unless the offense is the juvenile's
32 first offense in violation of this section and has not committed an
33 offense while armed with a firearm, an unlawful possession of a
34 firearm offense, or an offense in violation of chapter 66.44, 69.52,
35 69.41, or 69.50 RCW.

36 (6) Nothing in chapter 129, Laws of 1995 shall ever be construed
37 or interpreted as preventing an offender from being charged and
38 subsequently convicted for the separate felony crimes of theft of a
39 firearm or possession of a stolen firearm, or both, in addition to
40 being charged and subsequently convicted under this section for

1 unlawful possession of a firearm in the first or second degree.
2 Notwithstanding any other law, if the offender is convicted under
3 this section for unlawful possession of a firearm in the first or
4 second degree and for the felony crimes of theft of a firearm or
5 possession of a stolen firearm, or both, then the offender shall
6 serve consecutive sentences for each of the felony crimes of
7 conviction listed in this subsection.

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

10 (8) For purposes of this section, "intimate partner" includes: A
11 spouse, a domestic partner, a former spouse, a former domestic
12 partner, a person with whom the restrained person has a child in
13 common, or a person with whom the restrained person has cohabitated
14 or is cohabitating as part of a dating relationship.

15 **Sec. 4004.** RCW 9.41.070 and 2018 c 226 s 2 and 2018 c 201 s 6002
16 are each reenacted and amended to read as follows:

17 (1) The chief of police of a municipality or the sheriff of a
18 county shall within thirty days after the filing of an application of
19 any person, issue a license to such person to carry a pistol
20 concealed on his or her person within this state for five years from
21 date of issue, for the purposes of protection or while engaged in
22 business, sport, or while traveling. However, if the applicant does
23 not have a valid permanent Washington driver's license or Washington
24 state identification card or has not been a resident of the state for
25 the previous consecutive ninety days, the issuing authority shall
26 have up to sixty days after the filing of the application to issue a
27 license. The issuing authority shall not refuse to accept completed
28 applications for concealed pistol licenses during regular business
29 hours.

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

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

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

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

38 (d) He or she is subject to a court order or injunction regarding
39 firearms pursuant to chapter((s)) 7.90, 7.92, or 7.94 RCW, or RCW

1 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060,
2 26.10.040, 26.10.115, (~~26.26.130~~) 26.26B.020, 26.50.060, or
3 26.50.070 (~~, or 26.26.590~~);

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

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

9 (g) He or she has been ordered to forfeit a firearm under RCW
10 9.41.098(1)(e) within one year before filing an application to carry
11 a pistol concealed on his or her person.

12 No person convicted of a felony may have his or her right to
13 possess firearms restored or his or her privilege to carry a
14 concealed pistol restored, unless the person has been granted relief
15 from disabilities by the attorney general under 18 U.S.C. Sec.
16 925(c), or RCW 9.41.040 (3) or (4) applies.

17 (2)(a) The issuing authority shall conduct a check through the
18 national instant criminal background check system, the Washington
19 state patrol electronic database, the health care authority
20 electronic database, and with other agencies or resources as
21 appropriate, to determine whether the applicant is ineligible under
22 RCW 9.41.040 or 9.41.045 to possess a firearm, or is prohibited from
23 possessing a firearm under federal law, and therefore ineligible for
24 a concealed pistol license.

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

28 (c) This subsection applies whether the applicant is applying for
29 a new concealed pistol license or to renew a concealed pistol
30 license.

31 (3) Any person whose firearms rights have been restricted and who
32 has been granted relief from disabilities by the attorney general
33 under 18 U.S.C. Sec. 925(c) or who is exempt under 18 U.S.C. Sec.
34 921(a)(20)(A) shall have his or her right to acquire, receive,
35 transfer, ship, transport, carry, and possess firearms in accordance
36 with Washington state law restored except as otherwise prohibited by
37 this chapter.

38 (4) The license application shall bear the full name, residential
39 address, telephone number at the option of the applicant, email
40 address at the option of the applicant, date and place of birth,

1 race, gender, description, a complete set of fingerprints, and
2 signature of the licensee, and the licensee's driver's license number
3 or state identification card number if used for identification in
4 applying for the license. A signed application for a concealed pistol
5 license shall constitute a waiver of confidentiality and written
6 request that the health care authority, mental health institutions,
7 and other health care facilities release information relevant to the
8 applicant's eligibility for a concealed pistol license to an
9 inquiring court or law enforcement agency.

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

12 The license and application shall contain a warning substantially
13 as follows:

14 CAUTION: Although state and local laws do not differ, federal
15 law and state law on the possession of firearms differ. If
16 you are prohibited by federal law from possessing a firearm,
17 you may be prosecuted in federal court. A state license is
18 not a defense to a federal prosecution.

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

23 The application shall contain questions about the applicant's
24 eligibility under RCW 9.41.040 and federal law to possess a pistol,
25 the applicant's place of birth, and whether the applicant is a United
26 States citizen. If the applicant is not a United States citizen, the
27 applicant must provide the applicant's country of citizenship, United
28 States issued alien number or admission number, and the basis on
29 which the applicant claims to be exempt from federal prohibitions on
30 firearm possession by aliens. The applicant shall not be required to
31 produce a birth certificate or other evidence of citizenship. A
32 person who is not a citizen of the United States shall, if
33 applicable, meet the additional requirements of RCW 9.41.173 and
34 produce proof of compliance with RCW 9.41.173 upon application. The
35 license may be in triplicate or in a form to be prescribed by the
36 department of licensing.

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

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

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

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

14 The fee shall be distributed as follows:

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

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

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

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

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

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

28 The renewal fee shall be distributed as follows:

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

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

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

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

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

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

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

8 (i) Three dollars shall be deposited in the state wildlife
9 account and used exclusively first for the printing and distribution
10 of a pamphlet on the legal limits of the use of firearms, firearms
11 safety, and the preemptive nature of state law, and subsequently the
12 support of volunteer instructors in the basic firearms safety
13 training program conducted by the department of fish and wildlife.
14 The pamphlet shall be given to each applicant for a license; and

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

17 (b) Beginning with concealed pistol licenses that expire on or
18 after August 1, 2018, the department of licensing shall mail a
19 renewal notice approximately ninety days before the license
20 expiration date to the licensee at the address listed on the
21 concealed pistol license application, or to the licensee's new
22 address if the licensee has notified the department of licensing of a
23 change of address. Alternatively, if the licensee provides an email
24 address at the time of license application, the department of
25 licensing may send the renewal notice to the licensee's email
26 address. The notice must contain the date the concealed pistol
27 license will expire, the amount of renewal fee, the penalty for late
28 renewal, and instructions on how to renew the license.

29 (10) Notwithstanding the requirements of subsections (1) through
30 (9) of this section, the chief of police of the municipality or the
31 sheriff of the county of the applicant's residence may issue a
32 temporary emergency license for good cause pending review under
33 subsection (1) of this section. However, a temporary emergency
34 license issued under this subsection shall not exempt the holder of
35 the license from any records check requirement. Temporary emergency
36 licenses shall be easily distinguishable from regular licenses.

37 (11) A political subdivision of the state shall not modify the
38 requirements of this section or chapter, nor may a political
39 subdivision ask the applicant to voluntarily submit any information
40 not required by this section.

1 (12) A person who knowingly makes a false statement regarding
2 citizenship or identity on an application for a concealed pistol
3 license is guilty of false swearing under RCW 9A.72.040. In addition
4 to any other penalty provided for by law, the concealed pistol
5 license of a person who knowingly makes a false statement shall be
6 revoked, and the person shall be permanently ineligible for a
7 concealed pistol license.

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

9 (a) To the municipality or to the county in which the applicant
10 resides if the applicant resides in a municipality;

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

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

14 (14) Any person who, as a member of the armed forces, including
15 the national guard and armed forces reserves, is unable to renew his
16 or her license under subsections (6) and (9) of this section because
17 of the person's assignment, reassignment, or deployment for out-of-
18 state military service may renew his or her license within ninety
19 days after the person returns to this state from out-of-state
20 military service, if the person provides the following to the issuing
21 authority no later than ninety days after the person's date of
22 discharge or assignment, reassignment, or deployment back to this
23 state: (a) A copy of the person's original order designating the
24 specific period of assignment, reassignment, or deployment for out-
25 of-state military service, and (b) if appropriate, a copy of the
26 person's discharge or amended or subsequent assignment, reassignment,
27 or deployment order back to this state. A license so renewed under
28 this subsection (14) shall take effect on the expiration date of the
29 prior license. A licensee renewing after the expiration date of the
30 license under this subsection (14) shall pay only the renewal fee
31 specified in subsection (6) of this section and shall not be required
32 to pay a late renewal penalty in addition to the renewal fee.

33 **Sec. 4005.** RCW 9.41.173 and 2018 c 201 s 6006 are each amended
34 to read as follows:

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

38 (2) The sheriff of the county shall within sixty days after the
39 filing of an application of a nonimmigrant alien residing in the

1 state of Washington, issue an alien firearm license to such person to
2 carry or possess a firearm for the purposes of hunting and sport
3 shooting. The license shall be good for two years. The issuing
4 authority shall not refuse to accept completed applications for alien
5 firearm licenses during regular business hours. An application for a
6 license may not be denied, unless the applicant's alien firearm
7 license is in a revoked status, or the applicant:

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

10 (b) Is subject to a court order or injunction regarding firearms
11 pursuant to RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045,
12 26.09.050, 26.09.060, 26.10.040, 26.10.115, (~~26.26.130~~) 26.26B.020,
13 26.50.060, or 26.50.070 (~~(, or 26.26.590)~~);

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

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

18 No license application shall be granted to a nonimmigrant alien
19 convicted of a felony unless the person has been granted relief from
20 disabilities by the attorney general under 18 U.S.C. Sec. 925(c), or
21 unless RCW 9.41.040 (3) or (4) applies.

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

27 (4) The license application shall bear the full name, residential
28 address, telephone number at the option of the applicant, date and
29 place of birth, race, gender, description, a complete set of
30 fingerprints, and signature of the applicant, a copy of the
31 applicant's passport and visa showing the applicant is in the country
32 legally, and a valid Washington hunting license or documentation that
33 the applicant is a member of a sport shooting club.

34 A signed application for an alien firearm license shall
35 constitute a waiver of confidentiality and written request that the
36 health care authority, mental health institutions, and other health
37 care facilities release information relevant to the applicant's
38 eligibility for an alien firearm license to an inquiring court or law
39 enforcement agency.

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

3 The license and application shall contain a warning substantially
4 as follows:

5 CAUTION: Although state and local laws do not differ, federal
6 law and state law on the possession of firearms differ. If
7 you are prohibited by federal law from possessing a firearm,
8 you may be prosecuted in federal court. A state license is
9 not a defense to a federal prosecution.

10 The license shall contain a description of the major differences
11 between state and federal law and an explanation of the fact that
12 local laws and ordinances on firearms are preempted by state law and
13 must be consistent with state law. The application shall contain
14 questions about the applicant's eligibility under RCW 9.41.040 to
15 possess a firearm. The nonimmigrant alien applicant shall be required
16 to produce a passport and visa as evidence of being in the country
17 legally.

18 The license may be in triplicate or in a form to be prescribed by
19 the department of licensing. The original thereof shall be delivered
20 to the licensee, the duplicate shall within seven days be sent to the
21 director of licensing and the triplicate shall be preserved for six
22 years, by the authority issuing the license.

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

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

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

36 (7) A political subdivision of the state shall not modify the
37 requirements of this section, nor may a political subdivision ask the
38 applicant to voluntarily submit any information not required by this
39 section.

1 (8) A person who knowingly makes a false statement regarding
2 citizenship or identity on an application for an alien firearm
3 license is guilty of false swearing under RCW 9A.72.040. In addition
4 to any other penalty provided for by law, the alien firearm license
5 of a person who knowingly makes a false statement shall be revoked,
6 and the person shall be permanently ineligible for an alien firearm
7 license.

8 **Sec. 4006.** RCW 9.41.800 and 2014 c 111 s 2 are each amended to
9 read as follows:

10 (1) Any court when entering an order authorized under chapter
11 7.92 RCW, RCW 7.90.090, 9A.46.080, 10.14.080, 10.99.040, 10.99.045,
12 26.09.050, 26.09.060, 26.10.040, 26.10.115, (~~(26.26.130)~~) 26.26B.020,
13 26.50.060, or 26.50.070 (~~(, or 26.26.590)~~) shall, upon a showing by
14 clear and convincing evidence, that a party has: Used, displayed, or
15 threatened to use a firearm or other dangerous weapon in a felony, or
16 previously committed any offense that makes him or her ineligible to
17 possess a 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 any 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 (2) Any court when entering an order authorized under chapter
27 7.92 RCW, RCW 7.90.090, 9A.46.080, 10.14.080, 10.99.040, 10.99.045,
28 26.09.050, 26.09.060, 26.10.040, 26.10.115, (~~(26.26.130)~~) 26.26B.020,
29 26.50.060, or 26.50.070 (~~(, or 26.26.590)~~) may, upon a showing by a
30 preponderance of the evidence but not by clear and convincing
31 evidence, that a party has: Used, displayed, or threatened to use a
32 firearm or other dangerous weapon in a felony, or previously
33 committed any offense that makes him or her ineligible to possess a
34 firearm under the provisions of RCW 9.41.040:

35 (a) Require the party to surrender any firearm or other dangerous
36 weapon;

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

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

3 (d) Prohibit the party from obtaining or possessing a concealed
4 pistol license.

5 (3) During any period of time that the person is subject to a
6 court order issued under chapter 7.90, 7.92, 9A.46, 10.14, 10.99,
7 26.09, 26.10, (~~26.26~~) 26.26A, 26.26B, or 26.50 RCW that:

8 (a) Was issued after a hearing of which the person received
9 actual notice, and at which the person had an opportunity to
10 participate;

11 (b) Restrains the person from harassing, stalking, or threatening
12 an intimate partner of the person or child of the intimate partner or
13 person, or engaging in other conduct that would place an intimate
14 partner in reasonable fear of bodily injury to the partner or child;
15 and

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

18 (ii) By its terms, explicitly prohibits the use, attempted use,
19 or threatened use of physical force against the intimate partner or
20 child that would reasonably be expected to cause bodily injury, the
21 court shall:

22 (A) Require the party to surrender any firearm or other dangerous
23 weapon;

24 (B) Require the party to surrender a concealed pistol license
25 issued under RCW 9.41.070;

26 (C) Prohibit the party from obtaining or possessing a firearm or
27 other dangerous weapon; and

28 (D) Prohibit the party from obtaining or possessing a concealed
29 pistol license.

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

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

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

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

11 **Sec. 4007.** RCW 9.94A.030 and 2018 c 166 s 3 are each amended to
12 read as follows:

13 Unless the context clearly requires otherwise, the definitions in
14 this section apply throughout this chapter.

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

17 (2) "Collect," or any derivative thereof, "collect and remit," or
18 "collect and deliver," when used with reference to the department,
19 means that the department, either directly or through a collection
20 agreement authorized by RCW 9.94A.760, is responsible for monitoring
21 and enforcing the offender's sentence with regard to the legal
22 financial obligation, receiving payment thereof from the offender,
23 and, consistent with current law, delivering daily the entire payment
24 to the superior court clerk without depositing it in a departmental
25 account.

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

27 (4) "Community corrections officer" means an employee of the
28 department who is responsible for carrying out specific duties in
29 supervision of sentenced offenders and monitoring of sentence
30 conditions.

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

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

1 (7) "Community restitution" means compulsory service, without
2 compensation, performed for the benefit of the community by the
3 offender.

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

5 (9) "Conviction" means an adjudication of guilt pursuant to Title
6 10 or 13 RCW and includes a verdict of guilty, a finding of guilty,
7 and acceptance of a plea of guilty.

8 (10) "Crime-related prohibition" means an order of a court
9 prohibiting conduct that directly relates to the circumstances of the
10 crime for which the offender has been convicted, and shall not be
11 construed to mean orders directing an offender affirmatively to
12 participate in rehabilitative programs or to otherwise perform
13 affirmative conduct. However, affirmative acts necessary to monitor
14 compliance with the order of a court may be required by the
15 department.

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

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

24 (b) A conviction may be removed from a defendant's criminal
25 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,
26 9.95.240, or a similar out-of-state statute, or if the conviction has
27 been vacated pursuant to a governor's pardon.

28 (c) The determination of a defendant's criminal history is
29 distinct from the determination of an offender score. A prior
30 conviction that was not included in an offender score calculated
31 pursuant to a former version of the sentencing reform act remains
32 part of the defendant's criminal history.

33 (12) "Criminal street gang" means any ongoing organization,
34 association, or group of three or more persons, whether formal or
35 informal, having a common name or common identifying sign or symbol,
36 having as one of its primary activities the commission of criminal
37 acts, and whose members or associates individually or collectively
38 engage in or have engaged in a pattern of criminal street gang
39 activity. This definition does not apply to employees engaged in
40 concerted activities for their mutual aid and protection, or to the

1 activities of labor and bona fide nonprofit organizations or their
2 members or agents.

3 (13) "Criminal street gang associate or member" means any person
4 who actively participates in any criminal street gang and who
5 intentionally promotes, furthers, or assists in any criminal act by
6 the criminal street gang.

7 (14) "Criminal street gang-related offense" means any felony or
8 misdemeanor offense, whether in this state or elsewhere, that is
9 committed for the benefit of, at the direction of, or in association
10 with any criminal street gang, or is committed with the intent to
11 promote, further, or assist in any criminal conduct by the gang, or
12 is committed for one or more of the following reasons:

- 13 (a) To gain admission, prestige, or promotion within the gang;
- 14 (b) To increase or maintain the gang's size, membership,
15 prestige, dominance, or control in any geographical area;
- 16 (c) To exact revenge or retribution for the gang or any member of
17 the gang;
- 18 (d) To obstruct justice, or intimidate or eliminate any witness
19 against the gang or any member of the gang;
- 20 (e) To directly or indirectly cause any benefit, aggrandizement,
21 gain, profit, or other advantage for the gang, its reputation,
22 influence, or membership; or
- 23 (f) To provide the gang with any advantage in, or any control or
24 dominance over any criminal market sector, including, but not limited
25 to, manufacturing, delivering, or selling any controlled substance
26 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
27 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88
28 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual
29 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter
30 9.68 RCW).

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

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

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

1 (18) "Determinate sentence" means a sentence that states with
2 exactitude the number of actual years, months, or days of total
3 confinement, of partial confinement, of community custody, the number
4 of actual hours or days of community restitution work, or dollars or
5 terms of a legal financial obligation. The fact that an offender
6 through earned release can reduce the actual period of confinement
7 shall not affect the classification of the sentence as a determinate
8 sentence.

9 (19) "Disposable earnings" means that part of the earnings of an
10 offender remaining after the deduction from those earnings of any
11 amount required by law to be withheld. For the purposes of this
12 definition, "earnings" means compensation paid or payable for
13 personal services, whether denominated as wages, salary, commission,
14 bonuses, or otherwise, and, notwithstanding any other provision of
15 law making the payments exempt from garnishment, attachment, or other
16 process to satisfy a court-ordered legal financial obligation,
17 specifically includes periodic payments pursuant to pension or
18 retirement programs, or insurance policies of any type, but does not
19 include payments made under Title 50 RCW, except as provided in RCW
20 50.40.020 and 50.40.050, or Title 74 RCW.

21 (20) "Domestic violence" has the same meaning as defined in RCW
22 10.99.020 and 26.50.010.

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

27 (22) "Drug offense" means:

28 (a) Any felony violation of chapter 69.50 RCW except possession
29 of a controlled substance (RCW 69.50.4013) or forged prescription for
30 a controlled substance (RCW 69.50.403);

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

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

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

39 (24) "Electronic monitoring" means tracking the location of an
40 individual, whether pretrial or posttrial, through the use of

1 technology that is capable of determining or identifying the
2 monitored individual's presence or absence at a particular location
3 including, but not limited to:

4 (a) Radio frequency signaling technology, which detects if the
5 monitored individual is or is not at an approved location and
6 notifies the monitoring agency of the time that the monitored
7 individual either leaves the approved location or tampers with or
8 removes the monitoring device; or

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

12 (25) "Escape" means:

13 (a) Sexually violent predator escape (RCW 9A.76.115), escape in
14 the first degree (RCW 9A.76.110), escape in the second degree (RCW
15 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
16 willful failure to return from work release (RCW 72.65.070), or
17 willful failure to be available for supervision by the department
18 while in community custody (RCW 72.09.310); or

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

22 (26) "Felony traffic offense" means:

23 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
24 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-
25 run injury-accident (RCW 46.52.020(4)), felony driving while under
26 the influence of intoxicating liquor or any drug (RCW 46.61.502(6)),
27 or felony physical control of a vehicle while under the influence of
28 intoxicating liquor or any drug (RCW 46.61.504(6)); or

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

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

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

38 (29) "Home detention" is a subset of electronic monitoring and
39 means a program of partial confinement available to offenders wherein
40 the offender is confined in a private residence twenty-four hours a

1 day, unless an absence from the residence is approved, authorized, or
2 otherwise permitted in the order by the court or other supervising
3 agency that ordered home detention, and the offender is subject to
4 electronic monitoring.

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

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

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

12 (c) A private residence where the individual stays as a transient
13 invitee.

14 (31) "Legal financial obligation" means a sum of money that is
15 ordered by a superior court of the state of Washington for legal
16 financial obligations which may include restitution to the victim,
17 statutorily imposed crime victims' compensation fees as assessed
18 pursuant to RCW 7.68.035, court costs, county or interlocal drug
19 funds, court-appointed attorneys' fees, and costs of defense, fines,
20 and any other financial obligation that is assessed to the offender
21 as a result of a felony conviction. Upon conviction for vehicular
22 assault while under the influence of intoxicating liquor or any drug,
23 RCW 46.61.522(1)(b), or vehicular homicide while under the influence
24 of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal
25 financial obligations may also include payment to a public agency of
26 the expense of an emergency response to the incident resulting in the
27 conviction, subject to RCW 38.52.430.

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

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

33 (a) Any felony defined under any law as a class A felony or
34 criminal solicitation of or criminal conspiracy to commit a class A
35 felony;

36 (b) Assault in the second degree;

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

38 (d) Child molestation in the second degree;

39 (e) Controlled substance homicide;

40 (f) Extortion in the first degree;

1 (g) Incest when committed against a child under age fourteen;
2 (h) Indecent liberties;
3 (i) Kidnapping in the second degree;
4 (j) Leading organized crime;
5 (k) Manslaughter in the first degree;
6 (l) Manslaughter in the second degree;
7 (m) Promoting prostitution in the first degree;
8 (n) Rape in the third degree;
9 (o) Robbery in the second degree;
10 (p) Sexual exploitation;
11 (q) Vehicular assault, when caused by the operation or driving of
12 a vehicle by a person while under the influence of intoxicating
13 liquor or any drug or by the operation or driving of a vehicle in a
14 reckless manner;
15 (r) Vehicular homicide, when proximately caused by the driving of
16 any vehicle by any person while under the influence of intoxicating
17 liquor or any drug as defined by RCW 46.61.502, or by the operation
18 of any vehicle in a reckless manner;
19 (s) Any other class B felony offense with a finding of sexual
20 motivation;
21 (t) Any other felony with a deadly weapon verdict under RCW
22 9.94A.825;
23 (u) Any felony offense in effect at any time prior to December 2,
24 1993, that is comparable to a most serious offense under this
25 subsection, or any federal or out-of-state conviction for an offense
26 that under the laws of this state would be a felony classified as a
27 most serious offense under this subsection;
28 (v) (i) A prior conviction for indecent liberties under RCW
29 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex.
30 sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b),
31 and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW
32 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986,
33 until July 1, 1988;
34 (ii) A prior conviction for indecent liberties under RCW
35 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
36 if: (A) The crime was committed against a child under the age of
37 fourteen; or (B) the relationship between the victim and perpetrator
38 is included in the definition of indecent liberties under RCW
39 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27,

1 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25,
2 1993, through July 27, 1997;

3 (w) Any out-of-state conviction for a felony offense with a
4 finding of sexual motivation if the minimum sentence imposed was ten
5 years or more; provided that the out-of-state felony offense must be
6 comparable to a felony offense under this title and Title 9A RCW and
7 the out-of-state definition of sexual motivation must be comparable
8 to the definition of sexual motivation contained in this section.

9 (34) "Nonviolent offense" means an offense which is not a violent
10 offense.

11 (35) "Offender" means a person who has committed a felony
12 established by state law and is eighteen years of age or older or is
13 less than eighteen years of age but whose case is under superior
14 court jurisdiction under RCW 13.04.030 or has been transferred by the
15 appropriate juvenile court to a criminal court pursuant to RCW
16 13.40.110. In addition, for the purpose of community custody
17 requirements under this chapter, "offender" also means a misdemeanor
18 or gross misdemeanor probationer ordered by a superior court to
19 probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and
20 supervised by the department pursuant to RCW 9.94A.501 and
21 9.94A.5011. Throughout this chapter, the terms "offender" and
22 "defendant" are used interchangeably.

23 (36) "Partial confinement" means confinement for no more than one
24 year in a facility or institution operated or utilized under contract
25 by the state or any other unit of government, or, if home detention,
26 electronic monitoring, or work crew has been ordered by the court or
27 home detention has been ordered by the department as part of the
28 parenting program or the graduated reentry program, in an approved
29 residence, for a substantial portion of each day with the balance of
30 the day spent in the community. Partial confinement includes work
31 release, home detention, work crew, electronic monitoring, and a
32 combination of work crew, electronic monitoring, and home detention.

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

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

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

1 (ii) Any "violent" offense as defined by this section, excluding
2 Assault of a Child 2 (RCW 9A.36.130);
3 (iii) Deliver or Possession with Intent to Deliver a Controlled
4 Substance (chapter 69.50 RCW);
5 (iv) Any violation of the firearms and dangerous weapon act
6 (chapter 9.41 RCW);
7 (v) Theft of a Firearm (RCW 9A.56.300);
8 (vi) Possession of a Stolen Firearm (RCW 9A.56.310);
9 (vii) Malicious Harassment (RCW 9A.36.080);
10 (viii) Harassment where a subsequent violation or deadly threat
11 is made (RCW 9A.46.020(2)(b));
12 (ix) Criminal Gang Intimidation (RCW 9A.46.120);
13 (x) Any felony conviction by a person eighteen years of age or
14 older with a special finding of involving a juvenile in a felony
15 offense under RCW 9.94A.833;
16 (xi) Residential Burglary (RCW 9A.52.025);
17 (xii) Burglary 2 (RCW 9A.52.030);
18 (xiii) Malicious Mischief 1 (RCW 9A.48.070);
19 (xiv) Malicious Mischief 2 (RCW 9A.48.080);
20 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);
21 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);
22 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW
23 9A.56.070);
24 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
25 9A.56.075);
26 (xix) Extortion 1 (RCW 9A.56.120);
27 (xx) Extortion 2 (RCW 9A.56.130);
28 (xxi) Intimidating a Witness (RCW 9A.72.110);
29 (xxii) Tampering with a Witness (RCW 9A.72.120);
30 (xxiii) Reckless Endangerment (RCW 9A.36.050);
31 (xxiv) Coercion (RCW 9A.36.070);
32 (xxv) Harassment (RCW 9A.46.020); or
33 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);
34 (b) That at least one of the offenses listed in (a) of this
35 subsection shall have occurred after July 1, 2008;
36 (c) That the most recent committed offense listed in (a) of this
37 subsection occurred within three years of a prior offense listed in
38 (a) of this subsection; and

1 (d) Of the offenses that were committed in (a) of this
2 subsection, the offenses occurred on separate occasions or were
3 committed by two or more persons.

4 (38) "Persistent offender" is an offender who:

5 (a) (i) Has been convicted in this state of any felony considered
6 a most serious offense; and

7 (ii) Has, before the commission of the offense under (a) of this
8 subsection, been convicted as an offender on at least two separate
9 occasions, whether in this state or elsewhere, of felonies that under
10 the laws of this state would be considered most serious offenses and
11 would be included in the offender score under RCW 9.94A.525; provided
12 that of the two or more previous convictions, at least one conviction
13 must have occurred before the commission of any of the other most
14 serious offenses for which the offender was previously convicted; or

15 (b) (i) Has been convicted of: (A) Rape in the first degree, rape
16 of a child in the first degree, child molestation in the first
17 degree, rape in the second degree, rape of a child in the second
18 degree, or indecent liberties by forcible compulsion; (B) any of the
19 following offenses with a finding of sexual motivation: Murder in the
20 first degree, murder in the second degree, homicide by abuse,
21 kidnapping in the first degree, kidnapping in the second degree,
22 assault in the first degree, assault in the second degree, assault of
23 a child in the first degree, assault of a child in the second degree,
24 or burglary in the first degree; or (C) an attempt to commit any
25 crime listed in this subsection (38) (b) (i); and

26 (ii) Has, before the commission of the offense under (b) (i) of
27 this subsection, been convicted as an offender on at least one
28 occasion, whether in this state or elsewhere, of an offense listed in
29 (b) (i) of this subsection or any federal or out-of-state offense or
30 offense under prior Washington law that is comparable to the offenses
31 listed in (b) (i) of this subsection. A conviction for rape of a child
32 in the first degree constitutes a conviction under (b) (i) of this
33 subsection only when the offender was sixteen years of age or older
34 when the offender committed the offense. A conviction for rape of a
35 child in the second degree constitutes a conviction under (b) (i) of
36 this subsection only when the offender was eighteen years of age or
37 older when the offender committed the offense.

38 (39) "Predatory" means: (a) The perpetrator of the crime was a
39 stranger to the victim, as defined in this section; (b) the
40 perpetrator established or promoted a relationship with the victim

1 prior to the offense and the victimization of the victim was a
2 significant reason the perpetrator established or promoted the
3 relationship; or (c) the perpetrator was: (i) A teacher, counselor,
4 volunteer, or other person in authority in any public or private
5 school and the victim was a student of the school under his or her
6 authority or supervision. For purposes of this subsection, "school"
7 does not include home-based instruction as defined in RCW
8 28A.225.010; (ii) a coach, trainer, volunteer, or other person in
9 authority in any recreational activity and the victim was a
10 participant in the activity under his or her authority or
11 supervision; (iii) a pastor, elder, volunteer, or other person in
12 authority in any church or religious organization, and the victim was
13 a member or participant of the organization under his or her
14 authority; or (iv) a teacher, counselor, volunteer, or other person
15 in authority providing home-based instruction and the victim was a
16 student receiving home-based instruction while under his or her
17 authority or supervision. For purposes of this subsection: (A) "Home-
18 based instruction" has the same meaning as defined in RCW
19 28A.225.010; and (B) "teacher, counselor, volunteer, or other person
20 in authority" does not include the parent or legal guardian of the
21 victim.

22 (40) "Private school" means a school regulated under chapter
23 28A.195 or 28A.205 RCW.

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

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

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

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

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

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

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

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

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

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

9 (45) "Serious traffic offense" means:

10 (a) Nonfelony driving while under the influence of intoxicating
11 liquor or any drug (RCW 46.61.502), nonfelony actual physical control
12 while under the influence of intoxicating liquor or any drug (RCW
13 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an
14 attended vehicle (RCW 46.52.020(5)); or

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

18 (46) "Serious violent offense" is a subcategory of violent
19 offense and means:

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

21 (ii) Homicide by abuse;

22 (iii) Murder in the second degree;

23 (iv) Manslaughter in the first degree;

24 (v) Assault in the first degree;

25 (vi) Kidnapping in the first degree;

26 (vii) Rape in the first degree;

27 (viii) Assault of a child in the first degree; or

28 (ix) An attempt, criminal solicitation, or criminal conspiracy to
29 commit one of these felonies; or

30 (b) 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
32 serious violent offense under (a) of this subsection.

33 (47) "Sex offense" means:

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

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

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

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

4 (v) A felony violation of RCW 9A.44.132(1) (failure to register
5 as a sex offender) if the person has been convicted of violating RCW
6 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130
7 prior to June 10, 2010, on at least one prior occasion;

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

11 (c) A felony with a finding of sexual motivation under RCW
12 9.94A.835 or 13.40.135; or

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

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

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

21 (50) "Statutory maximum sentence" means the maximum length of
22 time for which an offender may be confined as punishment for a crime
23 as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute
24 defining the crime, or other statute defining the maximum penalty for
25 a crime.

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

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

32 (53) "Transition training" means written and verbal instructions
33 and assistance provided by the department to the offender during the
34 two weeks prior to the offender's successful completion of the work
35 ethic camp program. The transition training shall include
36 instructions in the offender's requirements and obligations during
37 the offender's period of community custody.

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

1 (55) "Violent offense" means:
2 (a) Any of the following felonies:
3 (i) Any felony defined under any law as a class A felony or an
4 attempt to commit a class A felony;
5 (ii) Criminal solicitation of or criminal conspiracy to commit a
6 class A felony;
7 (iii) Manslaughter in the first degree;
8 (iv) Manslaughter in the second degree;
9 (v) Indecent liberties if committed by forcible compulsion;
10 (vi) Kidnapping in the second degree;
11 (vii) Arson in the second degree;
12 (viii) Assault in the second degree;
13 (ix) Assault of a child in the second degree;
14 (x) Extortion in the first degree;
15 (xi) Robbery in the second degree;
16 (xii) Drive-by shooting;
17 (xiii) Vehicular assault, when caused by the operation or driving
18 of a vehicle by a person while under the influence of intoxicating
19 liquor or any drug or by the operation or driving of a vehicle in a
20 reckless manner; and
21 (xiv) Vehicular homicide, when proximately caused by the driving
22 of any vehicle by any person while under the influence of
23 intoxicating liquor or any drug as defined by RCW 46.61.502, or by
24 the operation of any vehicle in a reckless manner;
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 violent offense in (a) of this subsection; and
28 (c) Any federal or out-of-state conviction for an offense that
29 under the laws of this state would be a felony classified as a
30 violent offense under (a) or (b) of this subsection.
31 (56) "Work crew" means a program of partial confinement
32 consisting of civic improvement tasks for the benefit of the
33 community that complies with RCW 9.94A.725.
34 (57) "Work ethic camp" means an alternative incarceration program
35 as provided in RCW 9.94A.690 designed to reduce recidivism and lower
36 the cost of corrections by requiring offenders to complete a
37 comprehensive array of real-world job and vocational experiences,
38 character-building work ethics training, life management skills
39 development, substance abuse rehabilitation, counseling, literacy
40 training, and basic adult education.

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

4 **Sec. 4008.** RCW 9.94A.411 and 2017 c 272 s 2 and 2017 c 266 s 5
5 are each reenacted and amended to read as follows:

6 (1) Decision not to prosecute.

7 STANDARD: A prosecuting attorney may decline to prosecute, even
8 though technically sufficient evidence to prosecute exists, in
9 situations where prosecution would serve no public purpose, would
10 defeat the underlying purpose of the law in question or would result
11 in decreased respect for the law.

12 GUIDELINE/COMMENTARY:

13 Examples

14 The following are examples of reasons not to prosecute which
15 could satisfy the standard.

16 (a) Contrary to Legislative Intent - It may be proper to decline
17 to charge where the application of criminal sanctions would be
18 clearly contrary to the intent of the legislature in enacting the
19 particular statute.

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

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

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

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

27 (iv) The statute has not been recently reconsidered by the
28 legislature.

29 This reason is not to be construed as the basis for declining
30 cases because the law in question is unpopular or because it is
31 difficult to enforce.

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

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

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

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

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

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

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

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

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

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

17 (f) High Disproportionate Cost of Prosecution - It may be proper
18 to decline to charge where the cost of locating or transporting, or
19 the burden on, prosecution witnesses is highly disproportionate to
20 the importance of prosecuting the offense in question. This reason
21 should be limited to minor cases and should not be relied upon in
22 serious cases.

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

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

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

37 (i) Assault cases where the victim has suffered little or no
38 injury;

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

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

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

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

7 Notification

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

11 (2) Decision to prosecute.

12 (a) STANDARD:

13 Crimes against persons will be filed if sufficient admissible
14 evidence exists, which, when considered with the most plausible,
15 reasonably foreseeable defense that could be raised under the
16 evidence, would justify conviction by a reasonable and objective fact
17 finder. With regard to offenses prohibited by RCW 9A.44.040,
18 9A.44.050, 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086,
19 9A.44.089, and 9A.64.020 the prosecutor should avoid prefilng
20 agreements or diversions intended to place the accused in a program
21 of treatment or counseling, so that treatment, if determined to be
22 beneficial, can be provided pursuant to RCW 9.94A.670.

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

28 See table below for the crimes within these categories.

29 CATEGORIZATION OF CRIMES FOR PROSECUTING STANDARDS

30 CRIMES AGAINST PERSONS

31 Aggravated Murder (RCW 10.95.020)

32 1st Degree Murder (RCW 9A.32.030)

33 2nd Degree Murder (RCW 9A.32.050)

34 1st Degree Manslaughter (RCW 9A.32.060)

35 2nd Degree Manslaughter (RCW 9A.32.070)

36 1st Degree Kidnapping (RCW 9A.40.020)

37 2nd Degree Kidnapping (RCW 9A.40.030)

38 1st Degree Assault (RCW 9A.36.011)

39 2nd Degree Assault (RCW 9A.36.021)

1 3rd Degree Assault (RCW 9A.36.031)
2 4th Degree Assault (if a violation of RCW 9A.36.041(3))
3 1st Degree Assault of a Child (RCW 9A.36.120)
4 2nd Degree Assault of a Child (RCW 9A.36.130)
5 3rd Degree Assault of a Child (RCW 9A.36.140)
6 1st Degree Rape (RCW 9A.44.040)
7 2nd Degree Rape (RCW 9A.44.050)
8 3rd Degree Rape (RCW 9A.44.060)
9 1st Degree Rape of a Child (RCW 9A.44.073)
10 2nd Degree Rape of a Child (RCW 9A.44.076)
11 3rd Degree Rape of a Child (RCW 9A.44.079)
12 1st Degree Robbery (RCW 9A.56.200)
13 2nd Degree Robbery (RCW 9A.56.210)
14 1st Degree Arson (RCW 9A.48.020)
15 1st Degree Burglary (RCW 9A.52.020)
16 1st Degree Identity Theft (RCW 9.35.020(2))
17 2nd Degree Identity Theft (RCW 9.35.020(3))
18 1st Degree Extortion (RCW 9A.56.120)
19 2nd Degree Extortion (RCW 9A.56.130)
20 1st Degree Criminal Mistreatment (RCW 9A.42.020)
21 2nd Degree Criminal Mistreatment (RCW 9A.42.030)
22 1st Degree Theft from a Vulnerable Adult (RCW 9A.56.400(1))
23 2nd Degree Theft from a Vulnerable Adult (RCW 9A.56.400(2))
24 Indecent Liberties (RCW 9A.44.100)
25 Incest (RCW 9A.64.020)
26 Vehicular Homicide (RCW 46.61.520)
27 Vehicular Assault (RCW 46.61.522)
28 1st Degree Child Molestation (RCW 9A.44.083)
29 2nd Degree Child Molestation (RCW 9A.44.086)
30 3rd Degree Child Molestation (RCW 9A.44.089)
31 1st Degree Promoting Prostitution (RCW 9A.88.070)
32 Intimidating a Juror (RCW 9A.72.130)
33 Communication with a Minor (RCW 9.68A.090)
34 Intimidating a Witness (RCW 9A.72.110)
35 Intimidating a Public Servant (RCW 9A.76.180)
36 Bomb Threat (if against person) (RCW 9.61.160)
37 Unlawful Imprisonment (RCW 9A.40.040)
38 Promoting a Suicide Attempt (RCW 9A.36.060)
39 Criminal Mischief (if against person) (RCW 9A.84.010)
40 Stalking (RCW 9A.46.110)

1 Custodial Assault (RCW 9A.36.100)
2 Domestic Violence Court Order Violation (RCW 10.99.040,
3 10.99.050, 26.09.300, 26.10.220, (~~26.26.138~~) 26.26B.050, 26.50.110,
4 26.52.070, or 74.34.145)
5 Counterfeiting (if a violation of RCW 9.16.035(4))
6 Felony Driving a Motor Vehicle While Under the Influence of
7 Intoxicating Liquor or Any Drug (RCW 46.61.502(6))
8 Felony Physical Control of a Motor Vehicle While Under the
9 Influence of Intoxicating Liquor or Any Drug (RCW 46.61.504(6))
10 CRIMES AGAINST PROPERTY/OTHER CRIMES
11 2nd Degree Arson (RCW 9A.48.030)
12 1st Degree Escape (RCW 9A.76.110)
13 2nd Degree Escape (RCW 9A.76.120)
14 2nd Degree Burglary (RCW 9A.52.030)
15 1st Degree Theft (RCW 9A.56.030)
16 2nd Degree Theft (RCW 9A.56.040)
17 1st Degree Perjury (RCW 9A.72.020)
18 2nd Degree Perjury (RCW 9A.72.030)
19 1st Degree Introducing Contraband (RCW 9A.76.140)
20 2nd Degree Introducing Contraband (RCW 9A.76.150)
21 1st Degree Possession of Stolen Property (RCW 9A.56.150)
22 2nd Degree Possession of Stolen Property (RCW 9A.56.160)
23 Bribery (RCW 9A.68.010)
24 Bribing a Witness (RCW 9A.72.090)
25 Bribe received by a Witness (RCW 9A.72.100)
26 Bomb Threat (if against property) (RCW 9.61.160)
27 1st Degree Malicious Mischief (RCW 9A.48.070)
28 2nd Degree Malicious Mischief (RCW 9A.48.080)
29 1st Degree Reckless Burning (RCW 9A.48.040)
30 Taking a Motor Vehicle without Authorization (RCW 9A.56.070 and
31 9A.56.075)
32 Forgery (RCW 9A.60.020)
33 2nd Degree Promoting Prostitution (RCW 9A.88.080)
34 Tampering with a Witness (RCW 9A.72.120)
35 Trading in Public Office (RCW 9A.68.040)
36 Trading in Special Influence (RCW 9A.68.050)
37 Receiving/Granting Unlawful Compensation (RCW 9A.68.030)
38 Bigamy (RCW 9A.64.010)
39 Eluding a Pursuing Police Vehicle (RCW 46.61.024)

1 Willful Failure to Return from Furlough
2 Escape from Community Custody
3 Criminal Mischief (if against property) (RCW 9A.84.010)
4 1st Degree Theft of Livestock (RCW 9A.56.080)
5 2nd Degree Theft of Livestock (RCW 9A.56.083)

6 ALL OTHER UNCLASSIFIED FELONIES

7 Selection of Charges/Degree of Charge

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

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

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

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

16 (A) Charging a higher degree;

17 (B) Charging additional counts.

18 This standard is intended to direct prosecutors to charge those
19 crimes which demonstrate the nature and seriousness of a defendant's
20 criminal conduct, but to decline to charge crimes which are not
21 necessary to such an indication. Crimes which do not merge as a
22 matter of law, but which arise from the same course of conduct, do
23 not all have to be charged.

24 (b) GUIDELINES/COMMENTARY:

25 (i) Police Investigation

26 A prosecuting attorney is dependent upon law enforcement agencies
27 to conduct the necessary factual investigation which must precede the
28 decision to prosecute. The prosecuting attorney shall ensure that a
29 thorough factual investigation has been conducted before a decision
30 to prosecute is made. In ordinary circumstances the investigation
31 should include the following:

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

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

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

37 If the initial investigation is incomplete, a prosecuting
38 attorney should insist upon further investigation before a decision

1 to prosecute is made, and specify what the investigation needs to
2 include.

3 (ii) Exceptions

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

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

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

10 (C) The arrest of the suspect is necessary to complete the
11 investigation of the crime.

12 In the event that the exception to the standard is applied, the
13 prosecuting attorney shall obtain a commitment from the law
14 enforcement agency involved to complete the investigation in a timely
15 manner. If the subsequent investigation does not produce sufficient
16 evidence to meet the normal charging standard, the complaint should
17 be dismissed.

18 (iii) Investigation Techniques

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

21 (A) Polygraph testing;

22 (B) Hypnosis;

23 (C) Electronic surveillance;

24 (D) Use of informants.

25 (iv) Prefiling Discussions with Defendant

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

29 (v) Prefiling Discussions with Victim(s)

30 Discussions with the victim(s) or victims' representatives
31 regarding the selection or disposition of charges may occur before
32 the filing of charges. The discussions may be considered by the
33 prosecutor in charging and disposition decisions, and should be
34 considered before reaching any agreement with the defendant regarding
35 these decisions.

36 **Sec. 4009.** RCW 9.94A.515 and 2018 c 236 s 721 and 2018 c 7 s 7
37 are each reenacted and amended to read as follows:

38

TABLE 2

1		CRIMES INCLUDED WITHIN EACH
2		SERIOUSNESS LEVEL
3	XVI	Aggravated Murder 1 (RCW 10.95.020)
4	XV	Homicide by abuse (RCW 9A.32.055)
5		Malicious explosion 1 (RCW
6		70.74.280(1))
7		Murder 1 (RCW 9A.32.030)
8	XIV	Murder 2 (RCW 9A.32.050)
9		Trafficking 1 (RCW 9A.40.100(1))
10	XIII	Malicious explosion 2 (RCW
11		70.74.280(2))
12		Malicious placement of an explosive 1
13		(RCW 70.74.270(1))
14	XII	Assault 1 (RCW 9A.36.011)
15		Assault of a Child 1 (RCW 9A.36.120)
16		Malicious placement of an imitation
17		device 1 (RCW 70.74.272(1)(a))
18		Promoting Commercial Sexual Abuse of
19		a Minor (RCW 9.68A.101)
20		Rape 1 (RCW 9A.44.040)
21		Rape of a Child 1 (RCW 9A.44.073)
22		Trafficking 2 (RCW 9A.40.100(3))
23	XI	Manslaughter 1 (RCW 9A.32.060)
24		Rape 2 (RCW 9A.44.050)
25		Rape of a Child 2 (RCW 9A.44.076)
26		Vehicular Homicide, by being under the
27		influence of intoxicating liquor or
28		any drug (RCW 46.61.520)
29		Vehicular Homicide, by the operation of
30		any vehicle in a reckless manner
31		(RCW 46.61.520)
32	X	Child Molestation 1 (RCW 9A.44.083)
33		Criminal Mistreatment 1 (RCW
34		9A.42.020)

1 Indecent Liberties (with forcible
2 compulsion) (RCW
3 9A.44.100(1)(a))
4 Kidnapping 1 (RCW 9A.40.020)
5 Leading Organized Crime (RCW
6 9A.82.060(1)(a))
7 Malicious explosion 3 (RCW
8 70.74.280(3))
9 Sexually Violent Predator Escape (RCW
10 9A.76.115)
11 IX Abandonment of Dependent Person 1
12 (RCW 9A.42.060)
13 Assault of a Child 2 (RCW 9A.36.130)
14 Explosive devices prohibited (RCW
15 70.74.180)
16 Hit and Run—Death (RCW
17 46.52.020(4)(a))
18 Homicide by Watercraft, by being under
19 the influence of intoxicating liquor
20 or any drug (RCW 79A.60.050)
21 Inciting Criminal Profiteering (RCW
22 9A.82.060(1)(b))
23 Malicious placement of an explosive 2
24 (RCW 70.74.270(2))
25 Robbery 1 (RCW 9A.56.200)
26 Sexual Exploitation (RCW 9.68A.040)
27 VIII Arson 1 (RCW 9A.48.020)
28 Commercial Sexual Abuse of a Minor
29 (RCW 9.68A.100)
30 Homicide by Watercraft, by the
31 operation of any vessel in a reckless
32 manner (RCW 79A.60.050)
33 Manslaughter 2 (RCW 9A.32.070)
34 Promoting Prostitution 1 (RCW
35 9A.88.070)

1 Theft of Ammonia (RCW 69.55.010)
2 VII Air bag diagnostic systems (causing
3 bodily injury or death) (RCW
4 46.37.660(2)(b))
5 Air bag replacement requirements
6 (causing bodily injury or death)
7 (RCW 46.37.660(1)(b))
8 Burglary 1 (RCW 9A.52.020)
9 Child Molestation 2 (RCW 9A.44.086)
10 Civil Disorder Training (RCW
11 9A.48.120)
12 Dealing in depictions of minor engaged
13 in sexually explicit conduct 1
14 (RCW 9.68A.050(1))
15 Drive-by Shooting (RCW 9A.36.045)
16 Homicide by Watercraft, by disregard
17 for the safety of others (RCW
18 79A.60.050)
19 Indecent Liberties (without forcible
20 compulsion) (RCW 9A.44.100(1)
21 (b) and (c))
22 Introducing Contraband 1 (RCW
23 9A.76.140)
24 Malicious placement of an explosive 3
25 (RCW 70.74.270(3))
26 Manufacture or import counterfeit,
27 nonfunctional, damaged, or
28 previously deployed air bag
29 (causing bodily injury or death)
30 (RCW 46.37.650(1)(b))
31 Negligently Causing Death By Use of a
32 Signal Preemption Device (RCW
33 46.37.675)

1 Sell, install, or reinstall counterfeit,
2 nonfunctional, damaged, or
3 previously deployed airbag (RCW
4 46.37.650(2)(b))
5 Sending, bringing into state depictions
6 of minor engaged in sexually
7 explicit conduct 1 (RCW
8 9.68A.060(1))
9 Unlawful Possession of a Firearm in the
10 first degree (RCW 9.41.040(1))
11 Use of a Machine Gun or Bump-fire
12 Stock in Commission of a Felony
13 (RCW 9.41.225)
14 Vehicular Homicide, by disregard for
15 the safety of others (RCW
16 46.61.520)
17 VI Bail Jumping with Murder 1 (RCW
18 9A.76.170(3)(a))
19 Bribery (RCW 9A.68.010)
20 Incest 1 (RCW 9A.64.020(1))
21 Intimidating a Judge (RCW 9A.72.160)
22 Intimidating a Juror/Witness (RCW
23 9A.72.110, 9A.72.130)
24 Malicious placement of an imitation
25 device 2 (RCW 70.74.272(1)(b))
26 Possession of Depictions of a Minor
27 Engaged in Sexually Explicit
28 Conduct 1 (RCW 9.68A.070(1))
29 Rape of a Child 3 (RCW 9A.44.079)
30 Theft of a Firearm (RCW 9A.56.300)
31 Theft from a Vulnerable Adult 1 (RCW
32 9A.56.400(1))
33 Unlawful Storage of Ammonia (RCW
34 69.55.020)
35 V Abandonment of Dependent Person 2
36 (RCW 9A.42.070)

1 Advancing money or property for
2 extortionate extension of credit
3 (RCW 9A.82.030)

4 Air bag diagnostic systems (RCW
5 46.37.660(2)(c))

6 Air bag replacement requirements
7 (RCW 46.37.660(1)(c))

8 Bail Jumping with class A Felony
9 (RCW 9A.76.170(3)(b))

10 Child Molestation 3 (RCW 9A.44.089)

11 Criminal Mistreatment 2 (RCW
12 9A.42.030)

13 Custodial Sexual Misconduct 1 (RCW
14 9A.44.160)

15 Dealing in Depictions of Minor
16 Engaged in Sexually Explicit
17 Conduct 2 (RCW 9.68A.050(2))

18 Domestic Violence Court Order
19 Violation (RCW 10.99.040,
20 10.99.050, 26.09.300, 26.10.220,
21 ((~~26.26.138~~) 26.26B.050,
22 26.50.110, 26.52.070, or 74.34.145)

23 Extortion 1 (RCW 9A.56.120)

24 Extortionate Extension of Credit (RCW
25 9A.82.020)

26 Extortionate Means to Collect
27 Extensions of Credit (RCW
28 9A.82.040)

29 Incest 2 (RCW 9A.64.020(2))

30 Kidnapping 2 (RCW 9A.40.030)

31 Manufacture or import counterfeit,
32 nonfunctional, damaged, or
33 previously deployed air bag (RCW
34 46.37.650(1)(c))

35 Perjury 1 (RCW 9A.72.020)

1 Persistent prison misbehavior (RCW
2 9.94.070)
3 Possession of a Stolen Firearm (RCW
4 9A.56.310)
5 Rape 3 (RCW 9A.44.060)
6 Rendering Criminal Assistance 1 (RCW
7 9A.76.070)
8 Sell, install, or reinstall counterfeit,
9 nonfunctional, damaged, or
10 previously deployed airbag (RCW
11 46.37.650(2)(c))
12 Sending, Bringing into State Depictions
13 of Minor Engaged in Sexually
14 Explicit Conduct 2 (RCW
15 9.68A.060(2))
16 Sexual Misconduct with a Minor 1
17 (RCW 9A.44.093)
18 Sexually Violating Human Remains
19 (RCW 9A.44.105)
20 Stalking (RCW 9A.46.110)
21 Taking Motor Vehicle Without
22 Permission 1 (RCW 9A.56.070)
23 IV Arson 2 (RCW 9A.48.030)
24 Assault 2 (RCW 9A.36.021)
25 Assault 3 (of a Peace Officer with a
26 Projectile Stun Gun) (RCW
27 9A.36.031(1)(h))
28 Assault 4 (third domestic violence
29 offense) (RCW 9A.36.041(3))
30 Assault by Watercraft (RCW
31 79A.60.060)
32 Bribing a Witness/Bribe Received by
33 Witness (RCW 9A.72.090,
34 9A.72.100)
35 Cheating 1 (RCW 9.46.1961)
36 Commercial Bribery (RCW 9A.68.060)

1 Counterfeiting (RCW 9.16.035(4))
2 Driving While Under the Influence
3 (RCW 46.61.502(6))
4 Endangerment with a Controlled
5 Substance (RCW 9A.42.100)
6 Escape 1 (RCW 9A.76.110)
7 Hit and Run—Injury (RCW
8 46.52.020(4)(b))
9 Hit and Run with Vessel—Injury
10 Accident (RCW 79A.60.200(3))
11 Identity Theft 1 (RCW 9.35.020(2))
12 Indecent Exposure to Person Under Age
13 Fourteen (subsequent sex offense)
14 (RCW 9A.88.010)
15 Influencing Outcome of Sporting Event
16 (RCW 9A.82.070)
17 Malicious Harassment (RCW
18 9A.36.080)
19 Physical Control of a Vehicle While
20 Under the Influence (RCW
21 46.61.504(6))
22 Possession of Depictions of a Minor
23 Engaged in Sexually Explicit
24 Conduct 2 (RCW 9.68A.070(2))
25 Residential Burglary (RCW 9A.52.025)
26 Robbery 2 (RCW 9A.56.210)
27 Theft of Livestock 1 (RCW 9A.56.080)
28 Threats to Bomb (RCW 9.61.160)
29 Trafficking in Stolen Property 1 (RCW
30 9A.82.050)
31 Unlawful factoring of a credit card or
32 payment card transaction (RCW
33 9A.56.290(4)(b))

1 Unlawful transaction of health coverage
2 as a health care service contractor
3 (RCW 48.44.016(3))
4 Unlawful transaction of health coverage
5 as a health maintenance
6 organization (RCW 48.46.033(3))
7 Unlawful transaction of insurance
8 business (RCW 48.15.023(3))
9 Unlicensed practice as an insurance
10 professional (RCW 48.17.063(2))
11 Use of Proceeds of Criminal
12 Profiteering (RCW 9A.82.080 (1)
13 and (2))
14 Vehicle Prowling 2 (third or subsequent
15 offense) (RCW 9A.52.100(3))
16 Vehicular Assault, by being under the
17 influence of intoxicating liquor or
18 any drug, or by the operation or
19 driving of a vehicle in a reckless
20 manner (RCW 46.61.522)
21 Viewing of Depictions of a Minor
22 Engaged in Sexually Explicit
23 Conduct 1 (RCW 9.68A.075(1))
24 Willful Failure to Return from Furlough
25 (RCW 72.66.060)
26 III Animal Cruelty 1 (Sexual Conduct or
27 Contact) (RCW 16.52.205(3))
28 Assault 3 (Except Assault 3 of a Peace
29 Officer With a Projectile Stun Gun)
30 (RCW 9A.36.031 except subsection
31 (1)(h))
32 Assault of a Child 3 (RCW 9A.36.140)
33 Bail Jumping with class B or C Felony
34 (RCW 9A.76.170(3)(c))
35 Burglary 2 (RCW 9A.52.030)

1 Communication with a Minor for
2 Immoral Purposes (RCW
3 9.68A.090)
4 Criminal Gang Intimidation (RCW
5 9A.46.120)
6 Custodial Assault (RCW 9A.36.100)
7 Cyberstalking (subsequent conviction or
8 threat of death) (RCW 9.61.260(3))
9 Escape 2 (RCW 9A.76.120)
10 Extortion 2 (RCW 9A.56.130)
11 Harassment (RCW 9A.46.020)
12 Intimidating a Public Servant (RCW
13 9A.76.180)
14 Introducing Contraband 2 (RCW
15 9A.76.150)
16 Malicious Injury to Railroad Property
17 (RCW 81.60.070)
18 Mortgage Fraud (RCW 19.144.080)
19 Negligently Causing Substantial Bodily
20 Harm By Use of a Signal
21 Preemption Device (RCW
22 46.37.674)
23 Organized Retail Theft 1 (RCW
24 9A.56.350(2))
25 Perjury 2 (RCW 9A.72.030)
26 Possession of Incendiary Device (RCW
27 9.40.120)
28 Possession of Machine Gun, Bump-fire
29 Stock, or Short-Barreled Shotgun or
30 Rifle (RCW 9.41.190)
31 Promoting Prostitution 2 (RCW
32 9A.88.080)
33 Retail Theft with Special Circumstances
34 1 (RCW 9A.56.360(2))

1 Securities Act violation (RCW
2 21.20.400)
3 Tampering with a Witness (RCW
4 9A.72.120)
5 Telephone Harassment (subsequent
6 conviction or threat of death) (RCW
7 9.61.230(2))
8 Theft of Livestock 2 (RCW 9A.56.083)
9 Theft with the Intent to Resell 1 (RCW
10 9A.56.340(2))
11 Trafficking in Stolen Property 2 (RCW
12 9A.82.055)
13 Unlawful Hunting of Big Game 1 (RCW
14 77.15.410(3)(b))
15 Unlawful Imprisonment (RCW
16 9A.40.040)
17 Unlawful Misbranding of ~~((Food))~~ Fish
18 or Shellfish 1 (RCW 77.140.060(3))
19 Unlawful possession of firearm in the
20 second degree (RCW 9.41.040(2))
21 Unlawful Taking of Endangered Fish or
22 Wildlife 1 (RCW 77.15.120(3)(b))
23 Unlawful Trafficking in Fish, Shellfish,
24 or Wildlife 1 (RCW
25 77.15.260(3)(b))
26 Unlawful Use of a Nondesignated
27 Vessel (RCW 77.15.530(4))
28 Vehicular Assault, by the operation or
29 driving of a vehicle with disregard
30 for the safety of others (RCW
31 46.61.522)
32 Willful Failure to Return from Work
33 Release (RCW 72.65.070)
34 II Commercial Fishing Without a License
35 1 (RCW 77.15.500(3)(b))
36 Computer Trespass 1 (RCW 9A.90.040)

1 Counterfeiting (RCW 9.16.035(3))
2 Electronic Data Service Interference
3 (RCW 9A.90.060)
4 Electronic Data Tampering 1 (RCW
5 9A.90.080)
6 Electronic Data Theft (RCW 9A.90.100)
7 Engaging in Fish Dealing Activity
8 Unlicensed 1 (RCW 77.15.620(3))
9 Escape from Community Custody
10 (RCW 72.09.310)
11 Failure to Register as a Sex Offender
12 (second or subsequent offense)
13 (RCW 9A.44.130 prior to June 10,
14 2010, and RCW 9A.44.132)
15 Health Care False Claims (RCW
16 48.80.030)
17 Identity Theft 2 (RCW 9.35.020(3))
18 Improperly Obtaining Financial
19 Information (RCW 9.35.010)
20 Malicious Mischief 1 (RCW 9A.48.070)
21 Organized Retail Theft 2 (RCW
22 9A.56.350(3))
23 Possession of Stolen Property 1 (RCW
24 9A.56.150)
25 Possession of a Stolen Vehicle (RCW
26 9A.56.068)
27 Retail Theft with Special Circumstances
28 2 (RCW 9A.56.360(3))
29 Scrap Processing, Recycling, or
30 Supplying Without a License
31 (second or subsequent offense)
32 (RCW 19.290.100)
33 Theft 1 (RCW 9A.56.030)
34 Theft of a Motor Vehicle (RCW
35 9A.56.065)

1 Theft of Rental, Leased, Lease-
2 purchased, or Loaned Property
3 (valued at five thousand dollars or
4 more) (RCW 9A.56.096(5)(a))
5 Theft with the Intent to Resell 2 (RCW
6 9A.56.340(3))
7 Trafficking in Insurance Claims (RCW
8 48.30A.015)
9 Unlawful factoring of a credit card or
10 payment card transaction (RCW
11 9A.56.290(4)(a))
12 Unlawful Participation of Non-Indians
13 in Indian Fishery (RCW
14 77.15.570(2))
15 Unlawful Practice of Law (RCW
16 2.48.180)
17 Unlawful Purchase or Use of a License
18 (RCW 77.15.650(3)(b))
19 Unlawful Trafficking in Fish, Shellfish,
20 or Wildlife 2 (RCW
21 77.15.260(3)(a))
22 Unlicensed Practice of a Profession or
23 Business (RCW 18.130.190(7))
24 Voyeurism 1 (RCW 9A.44.115)
25 I Attempting to Elude a Pursuing Police
26 Vehicle (RCW 46.61.024)
27 False Verification for Welfare (RCW
28 74.08.055)
29 Forgery (RCW 9A.60.020)
30 Fraudulent Creation or Revocation of a
31 Mental Health Advance Directive
32 (RCW 9A.60.060)
33 Malicious Mischief 2 (RCW 9A.48.080)
34 Mineral Trespass (RCW 78.44.330)
35 Possession of Stolen Property 2 (RCW
36 9A.56.160)

1 Reckless Burning 1 (RCW 9A.48.040)
2 Spotlighting Big Game 1 (RCW
3 77.15.450(3)(b))
4 Suspension of Department Privileges 1
5 (RCW 77.15.670(3)(b))
6 Taking Motor Vehicle Without
7 Permission 2 (RCW 9A.56.075)
8 Theft 2 (RCW 9A.56.040)
9 Theft from a Vulnerable Adult 2 (RCW
10 9A.56.400(2))
11 Theft of Rental, Leased, Lease-
12 purchased, or Loaned Property
13 (valued at seven hundred fifty
14 dollars or more but less than five
15 thousand dollars) (RCW
16 9A.56.096(5)(b))
17 Transaction of insurance business
18 beyond the scope of licensure
19 (RCW 48.17.063)
20 Unlawful Fish and Shellfish Catch
21 Accounting (RCW 77.15.630(3)(b))
22 Unlawful Issuance of Checks or Drafts
23 (RCW 9A.56.060)
24 Unlawful Possession of Fictitious
25 Identification (RCW 9A.56.320)
26 Unlawful Possession of Instruments of
27 Financial Fraud (RCW 9A.56.320)
28 Unlawful Possession of Payment
29 Instruments (RCW 9A.56.320)
30 Unlawful Possession of a Personal
31 Identification Device (RCW
32 9A.56.320)
33 Unlawful Production of Payment
34 Instruments (RCW 9A.56.320)

1 Unlawful Releasing, Planting,
2 Possessing, or Placing Deleterious
3 Exotic Wildlife (RCW
4 77.15.250(2)(b))
5 Unlawful Trafficking in Food Stamps
6 (RCW 9.91.142)
7 Unlawful Use of Food Stamps (RCW
8 9.91.144)
9 Unlawful Use of Net to Take Fish 1
10 (RCW 77.15.580(3)(b))
11 Unlawful Use of Prohibited Aquatic
12 Animal Species (RCW
13 77.15.253(3))
14 Vehicle Prowl 1 (RCW 9A.52.095)
15 Violating Commercial Fishing Area or
16 Time 1 (RCW 77.15.550(3)(b))

17 **Sec. 4010.** RCW 9.96.060 and 2017 c 336 s 2, 2017 c 272 s 9, and
18 2017 c 128 s 1 are each reenacted and amended to read as follows:

19 (1) Every person convicted of a misdemeanor or gross misdemeanor
20 offense who has completed all of the terms of the sentence for the
21 misdemeanor or gross misdemeanor offense may apply to the sentencing
22 court for a vacation of the applicant's record of conviction for the
23 offense. If the court finds the applicant meets the tests prescribed
24 in subsection (2) of this section, the court may in its discretion
25 vacate the record of conviction by: (a) (i) Permitting the applicant
26 to withdraw the applicant's plea of guilty and to enter a plea of not
27 guilty; or (ii) if the applicant has been convicted after a plea of
28 not guilty, the court setting aside the verdict of guilty; and (b)
29 the court dismissing the information, indictment, complaint, or
30 citation against the applicant and vacating the judgment and
31 sentence.

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

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

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

3 (c) The offense was a violation of RCW 46.61.502 (driving while
4 under the influence), 46.61.504 (actual physical control while under
5 the influence), 9.91.020 (operating a railroad, etc. while
6 intoxicated), or the offense is considered a "prior offense" under
7 RCW 46.61.5055 and the applicant has had a subsequent alcohol or drug
8 violation within ten years of the date of arrest for the prior
9 offense or less than ten years has elapsed since the date of the
10 arrest for the prior offense;

11 (d) The offense was any misdemeanor or gross misdemeanor
12 violation, including attempt, of chapter 9.68 RCW (obscenity and
13 pornography), chapter 9.68A RCW (sexual exploitation of children), or
14 chapter 9A.44 RCW (sex offenses);

15 (e) The applicant was convicted of a misdemeanor or gross
16 misdemeanor offense as defined in RCW 10.99.020, or the court
17 determines after a review of the court file that the offense was
18 committed by one family member or household member against another,
19 or the court, after considering the damage to person or property that
20 resulted in the conviction, any prior convictions for crimes defined
21 in RCW 10.99.020, or for comparable offenses in another state or in
22 federal court, and the totality of the records under review by the
23 court regarding the conviction being considered for vacation,
24 determines that the offense involved domestic violence, and any one
25 of the following factors exist:

26 (i) The applicant has not provided written notification of the
27 vacation petition to the prosecuting attorney's office that
28 prosecuted the offense for which vacation is sought, or has not
29 provided that notification to the court;

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

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

39 (iv) Less than five years have elapsed since the person completed
40 the terms of the original conditions of the sentence, including any

1 financial obligations and successful completion of any treatment
2 ordered as a condition of sentencing;

3 (f) For any offense other than those described in (e) of this
4 subsection, less than three years have passed since the person
5 completed the terms of the sentence, including any financial
6 obligations;

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

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

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

16 (3) Subject to RCW 9.96.070, every person convicted of
17 prostitution under RCW 9A.88.030 who committed the offense as a
18 result of being a victim of trafficking, RCW 9A.40.100, promoting
19 prostitution in the first degree, RCW 9A.88.070, promoting commercial
20 sexual abuse of a minor, RCW 9.68A.101, or trafficking in persons
21 under the trafficking victims protection act of 2000, 22 U.S.C. Sec.
22 7101 et seq. may apply to the sentencing court for vacation of the
23 applicant's record of conviction for the prostitution offense. An
24 applicant may not have the record of conviction for prostitution
25 vacated if any one of the following is present:

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

29 (b) The offender has been convicted of another crime, except
30 prostitution, in this state, another state, or federal court since
31 the date of conviction. The limitation in this subsection (3)(b) does
32 not apply to convictions where the offender proves by a preponderance
33 of the evidence that he or she committed the crime as a result of
34 being a victim of trafficking, RCW 9A.40.100, promoting prostitution
35 in the first degree, RCW 9A.88.070, promoting commercial sexual abuse
36 of a minor, RCW 9.68A.101, or trafficking in persons under the
37 trafficking victims protection act of 2000, 22 U.S.C. Sec. 7101 et
38 seq., according to the requirements provided in RCW 9.96.070 for each
39 respective conviction.

1 (4) Every person convicted prior to January 1, 1975, of violating
2 any statute or rule regarding the regulation of fishing activities,
3 including, but not limited to, RCW 75.08.260, 75.12.060, 75.12.070,
4 75.12.160, 77.16.020, 77.16.030, 77.16.040, 77.16.060, and 77.16.240
5 who claimed to be exercising a treaty Indian fishing right, may apply
6 to the sentencing court for vacation of the applicant's record of the
7 misdemeanor, gross misdemeanor, or felony conviction for the offense.
8 If the person is deceased, a member of the person's family or an
9 official representative of the tribe of which the person was a member
10 may apply to the court on behalf of the deceased person.
11 Notwithstanding the requirements of RCW 9.94A.640, the court shall
12 vacate the record of conviction if:

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

15 (b) The state has been enjoined from taking enforcement action of
16 the statute or rule to the extent that it interferes with a treaty
17 Indian fishing right as determined under *United States v. Washington*,
18 384 F. Supp. 312 (W.D. Wash. 1974), or *Sohappy v. Smith*, 302 F. Supp.
19 899 (D. Oregon 1969), and any posttrial orders of those courts, or
20 any other state supreme court or federal court decision.

21 (5) (a) Once the court vacates a record of conviction under this
22 section, the person shall be released from all penalties and
23 disabilities resulting from the offense and the fact that the person
24 has been convicted of the offense shall not be included in the
25 person's criminal history for purposes of determining a sentence in
26 any subsequent conviction. For all purposes, including responding to
27 questions on employment or housing applications, a person whose
28 conviction has been vacated under this section may state that he or
29 she has never been convicted of that crime. Except as provided in (b)
30 of this subsection, nothing in this section affects or prevents the
31 use of an offender's prior conviction in a later criminal
32 prosecution.

33 (b) When a court vacates a record of domestic violence as defined
34 in RCW 10.99.020 under this section, the state may not use the
35 vacated conviction in a later criminal prosecution unless the
36 conviction was for: (i) Violating the provisions of a restraining
37 order, no-contact order, or protection order restraining or enjoining
38 the person or restraining the person from going on to the grounds of
39 or entering a residence, workplace, school, or day care, or
40 prohibiting the person from knowingly coming within, or knowingly

1 remaining within, a specified distance of a location (RCW 10.99.040,
2 10.99.050, 26.09.300, 26.10.220, (~~26.26.138~~) 26.26B.050, 26.44.063,
3 26.44.150, 26.50.060, 26.50.070, 26.50.130, 26.52.070, or 74.34.145);
4 or (ii) stalking (RCW 9A.46.110). A vacated conviction under this
5 section is not considered a conviction of such an offense for the
6 purposes of 27 C.F.R. 478.11.

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

11 (7) The clerk of the court in which the vacation order is entered
12 shall immediately transmit the order vacating the conviction to the
13 Washington state patrol identification section and to the local
14 police agency, if any, which holds criminal history information for
15 the person who is the subject of the conviction. The Washington state
16 patrol and any such local police agency shall immediately update
17 their records to reflect the vacation of the conviction, and shall
18 transmit the order vacating the conviction to the federal bureau of
19 investigation. A conviction that has been vacated under this section
20 may not be disseminated or disclosed by the state patrol or local law
21 enforcement agency to any person, except other criminal justice
22 enforcement agencies.

23 **Sec. 4011.** RCW 10.14.080 and 2011 c 307 s 3 are each amended to
24 read as follows:

25 (1) Upon filing a petition for a civil antiharassment protection
26 order under this chapter, the petitioner may obtain an ex parte
27 temporary antiharassment protection order. An ex parte temporary
28 antiharassment protection order may be granted with or without notice
29 upon the filing of an affidavit which, to the satisfaction of the
30 court, shows reasonable proof of unlawful harassment of the
31 petitioner by the respondent and that great or irreparable harm will
32 result to the petitioner if the temporary antiharassment protection
33 order is not granted.

34 (2) An ex parte temporary antiharassment protection order shall
35 be effective for a fixed period not to exceed fourteen days or
36 twenty-four days if the court has permitted service by publication
37 under RCW 10.14.085. The ex parte order may be reissued. A full
38 hearing, as provided in this chapter, shall be set for not later than
39 fourteen days from the issuance of the temporary order or not later

1 than twenty-four days if service by publication is permitted. Except
2 as provided in RCW 10.14.070 and 10.14.085, the respondent shall be
3 personally served with a copy of the ex parte order along with a copy
4 of the petition and notice of the date set for the hearing. The ex
5 parte order and notice of hearing shall include at a minimum the date
6 and time of the hearing set by the court to determine if the
7 temporary order should be made effective for one year or more, and
8 notice that if the respondent should fail to appear or otherwise not
9 respond, an order for protection will be issued against the
10 respondent pursuant to the provisions of this chapter, for a minimum
11 of one year from the date of the hearing. The notice shall also
12 include a brief statement of the provisions of the ex parte order and
13 notify the respondent that a copy of the ex parte order and notice of
14 hearing has been filed with the clerk of the court.

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

18 (4) An order issued under this chapter shall be effective for not
19 more than one year unless the court finds that the respondent is
20 likely to resume unlawful harassment of the petitioner when the order
21 expires. If so, the court may enter an order for a fixed time
22 exceeding one year or may enter a permanent antiharassment protection
23 order. The court shall not enter an order that is effective for more
24 than one year if the order restrains the respondent from contacting
25 the respondent's minor children. This limitation is not applicable to
26 civil antiharassment protection orders issued under chapter 26.09,
27 26.10, (~~or 26.26~~) 26.26A, or 26.26B RCW. If the petitioner seeks
28 relief for a period longer than one year on behalf of the
29 respondent's minor children, the court shall advise the petitioner
30 that the petitioner may apply for renewal of the order as provided in
31 this chapter or if appropriate may seek relief pursuant to chapter
32 26.09 or 26.10 RCW.

33 (5) At any time within the three months before the expiration of
34 the order, the petitioner may apply for a renewal of the order by
35 filing a petition for renewal. The petition for renewal shall state
36 the reasons why the petitioner seeks to renew the protection order.
37 Upon receipt of the petition for renewal, the court shall order a
38 hearing which shall be not later than fourteen days from the date of
39 the order. Except as provided in RCW 10.14.085, personal service
40 shall be made upon the respondent not less than five days before the

1 hearing. If timely service cannot be made the court shall set a new
2 hearing date and shall either require additional attempts at
3 obtaining personal service or permit service by publication as
4 provided by RCW 10.14.085. If the court permits service by
5 publication, the court shall set the new hearing date not later than
6 twenty-four days from the date of the order. If the order expires
7 because timely service cannot be made the court shall grant an ex
8 parte order of protection as provided in this section. The court
9 shall grant the petition for renewal unless the respondent proves by
10 a preponderance of the evidence that the respondent will not resume
11 harassment of the petitioner when the order expires. The court may
12 renew the protection order for another fixed time period or may enter
13 a permanent order as provided in subsection (4) of this section.

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

18 (a) Restraining the respondent from making any attempts to
19 contact the petitioner;

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

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

24 (d) Considering the provisions of RCW 9.41.800.

25 (7) The court in granting an ex parte temporary antiharassment
26 protection order or a civil antiharassment protection order((~~7~~))
27 shall not prohibit the respondent from exercising constitutionally
28 protected free speech. Nothing in this section prohibits the
29 petitioner from utilizing other civil or criminal remedies to
30 restrain conduct or communications not otherwise constitutionally
31 protected.

32 (8) The court in granting an ex parte temporary antiharassment
33 protection order or a civil antiharassment protection order((~~7~~))
34 shall not prohibit the respondent from the use or enjoyment of real
35 property to which the respondent has a cognizable claim unless that
36 order is issued under chapter 26.09 RCW or under a separate action
37 commenced with a summons and complaint to determine title or
38 possession of real property.

39 (9) The court in granting an ex parte temporary antiharassment
40 protection order or a civil antiharassment protection order((~~7~~))

1 shall not limit the respondent's right to care, control, or custody
2 of the respondent's minor child, unless that order is issued under
3 chapter 13.32A, 26.09, 26.10, (~~or 26.26~~) 26.26A, or 26.26B RCW.

4 (10) A petitioner may not obtain an ex parte temporary
5 antiharassment protection order against a respondent if the
6 petitioner has previously obtained two such ex parte orders against
7 the same respondent but has failed to obtain the issuance of a civil
8 antiharassment protection order unless good cause for such failure
9 can be shown.

10 (11) The court order shall specify the date an order issued
11 pursuant to subsections (4) and (5) of this section expires if any.
12 The court order shall also state whether the court issued the
13 protection order following personal service or service by publication
14 and whether the court has approved service by publication of an order
15 issued under this section.

16 **Sec. 4012.** RCW 10.14.200 and 1999 c 397 s 4 are each amended to
17 read as follows:

18 Any order available under this chapter may be issued in actions
19 under chapter 13.32A, 26.09, 26.10, (~~or 26.26~~) 26.26A, or 26.26B
20 RCW. An order available under this chapter that is issued under those
21 chapters shall be fully enforceable and shall be enforced pursuant to
22 the provisions of this chapter.

23 **Sec. 4013.** RCW 10.31.100 and 2017 c 336 s 3 and 2017 c 223 s 1
24 are each reenacted and amended to read as follows:

25 A police officer having probable cause to believe that a person
26 has committed or is committing a felony shall have the authority to
27 arrest the person without a warrant. A police officer may arrest a
28 person without a warrant for committing a misdemeanor or gross
29 misdemeanor only when the offense is committed in the presence of an
30 officer, except as provided in subsections (1) through (11) of this
31 section.

32 (1) Any police officer having probable cause to believe that a
33 person has committed or is committing a misdemeanor or gross
34 misdemeanor, involving physical harm or threats of harm to any person
35 or property or the unlawful taking of property or involving the use
36 or possession of cannabis, or involving the acquisition, possession,
37 or consumption of alcohol by a person under the age of twenty-one
38 years under RCW 66.44.270, or involving criminal trespass under RCW

1 9A.52.070 or 9A.52.080, shall have the authority to arrest the
2 person.

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

7 (a) An order has been issued of which the person has knowledge
8 under RCW 26.44.063, or chapter 7.92, 7.90, 9A.46, 10.99, 26.09,
9 26.10, (~~26.26~~) 26.26A, 26.26B, 26.50, or 74.34 RCW restraining the
10 person and the person has violated the terms of the order restraining
11 the person from acts or threats of violence, or restraining the
12 person from going onto the grounds of or entering a residence,
13 workplace, school, or day care, or prohibiting the person from
14 knowingly coming within, or knowingly remaining within, a specified
15 distance of a location or, in the case of an order issued under RCW
16 26.44.063, imposing any other restrictions or conditions upon the
17 person; or

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

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

1 determination, the officer shall make every reasonable effort to
2 consider: (A) The intent to protect victims of domestic violence
3 under RCW 10.99.010; (B) the comparative extent of injuries inflicted
4 or serious threats creating fear of physical injury; and (C) the
5 history of domestic violence of each person involved, including
6 whether the conduct was part of an ongoing pattern of abuse.

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

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

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

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

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

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

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

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

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

29 (5)(a) A law enforcement officer investigating at the scene of a
30 motor vessel accident may arrest the operator of a motor vessel
31 involved in the accident if the officer has probable cause to believe
32 that the operator has committed, in connection with the accident, a
33 criminal violation of chapter 79A.60 RCW.

34 (b) A law enforcement officer investigating at the scene of a
35 motor vessel accident may issue a citation for an infraction to the
36 operator of a motor vessel involved in the accident if the officer
37 has probable cause to believe that the operator has committed, in
38 connection with the accident, a violation of any boating safety law
39 of chapter 79A.60 RCW.

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

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

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

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

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

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

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

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

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

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

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

4 (16)(a) Except as provided in (b) of this subsection, a police
5 officer shall arrest and keep in custody, until release by a judicial
6 officer on bail, personal recognizance, or court order, a person
7 without a warrant when the officer has probable cause to believe that
8 the person has violated RCW 46.61.502 or 46.61.504 or an equivalent
9 local ordinance and the police officer: (i) Has knowledge that the
10 person has a prior offense as defined in RCW 46.61.5055 within ten
11 years; or (ii) has knowledge, based on a review of the information
12 available to the officer at the time of arrest, that the person is
13 charged with or is awaiting arraignment for an offense that would
14 qualify as a prior offense as defined in RCW 46.61.5055 if it were a
15 conviction.

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

19 **Sec. 4014.** RCW 10.99.020 and 2004 c 18 s 2 are each amended to
20 read as follows:

21 Unless the context clearly requires otherwise, the definitions in
22 this section apply throughout this chapter.

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

25 (2) "Association" means the Washington association of sheriffs
26 and police chiefs.

27 (3) "Family or household members" means spouses, former spouses,
28 persons who have a child in common regardless of whether they have
29 been married or have lived together at any time, adult persons
30 related by blood or marriage, adult persons who are presently
31 residing together or who have resided together in the past, persons
32 sixteen years of age or older who are presently residing together or
33 who have resided together in the past and who have or have had a
34 dating relationship, persons sixteen years of age or older with whom
35 a person sixteen years of age or older has or has had a dating
36 relationship, and persons who have a biological or legal parent-child
37 relationship, including stepparents and stepchildren and grandparents
38 and grandchildren.

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

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

- 6 (a) Assault in the first degree (RCW 9A.36.011);
- 7 (b) Assault in the second degree (RCW 9A.36.021);
- 8 (c) Assault in the third degree (RCW 9A.36.031);
- 9 (d) Assault in the fourth degree (RCW 9A.36.041);
- 10 (e) Drive-by shooting (RCW 9A.36.045);
- 11 (f) Reckless endangerment (RCW 9A.36.050);
- 12 (g) Coercion (RCW 9A.36.070);
- 13 (h) Burglary in the first degree (RCW 9A.52.020);
- 14 (i) Burglary in the second degree (RCW 9A.52.030);
- 15 (j) Criminal trespass in the first degree (RCW 9A.52.070);
- 16 (k) Criminal trespass in the second degree (RCW 9A.52.080);
- 17 (l) Malicious mischief in the first degree (RCW 9A.48.070);
- 18 (m) Malicious mischief in the second degree (RCW 9A.48.080);
- 19 (n) Malicious mischief in the third degree (RCW 9A.48.090);
- 20 (o) Kidnapping in the first degree (RCW 9A.40.020);
- 21 (p) Kidnapping in the second degree (RCW 9A.40.030);
- 22 (q) Unlawful imprisonment (RCW 9A.40.040);
- 23 (r) Violation of the provisions of a restraining order, no-
24 contact order, or protection order restraining or enjoining the
25 person or restraining the person from going onto the grounds of or
26 entering a residence, workplace, school, or day care, or prohibiting
27 the person from knowingly coming within, or knowingly remaining
28 within, a specified distance of a location (RCW 10.99.040, 10.99.050,
29 26.09.300, 26.10.220, (~~26.26.138~~) 26.26B.050, 26.44.063, 26.44.150,
30 26.50.060, 26.50.070, 26.50.130, 26.52.070, or 74.34.145);
- 31 (s) Rape in the first degree (RCW 9A.44.040);
- 32 (t) Rape in the second degree (RCW 9A.44.050);
- 33 (u) Residential burglary (RCW 9A.52.025);
- 34 (v) Stalking (RCW 9A.46.110); and
- 35 (w) Interference with the reporting of domestic violence (RCW
36 9A.36.150).

37 (6) "Employee" means any person currently employed with an
38 agency.

39 (7) "Sworn employee" means a general authority Washington peace
40 officer as defined in RCW 10.93.020, any person appointed under RCW

1 35.21.333, and any person appointed or elected to carry out the
2 duties of the sheriff under chapter 36.28 RCW.

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

5 **Sec. 4015.** RCW 13.04.030 and 2018 c 162 s 2 are each amended to
6 read as follows:

7 (1) Except as provided in this section, the juvenile courts in
8 this state shall have exclusive original jurisdiction over all
9 proceedings:

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

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

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

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

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

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

23 (ii) The statute of limitations applicable to adult prosecution
24 for the offense, traffic or civil infraction, or violation has
25 expired;

26 (iii) The alleged offense or infraction is a traffic, fish,
27 boating, or game offense, or traffic or civil infraction committed by
28 a juvenile sixteen years of age or older and would, if committed by
29 an adult, be tried or heard in a court of limited jurisdiction, in
30 which instance the appropriate court of limited jurisdiction shall
31 have jurisdiction over the alleged offense or infraction, and no
32 guardian ad litem is required in any such proceeding due to the
33 juvenile's age. If such an alleged offense or infraction and an
34 alleged offense or infraction subject to juvenile court jurisdiction
35 arise out of the same event or incident, the juvenile court may have
36 jurisdiction of both matters. The jurisdiction under this subsection
37 does not constitute "transfer" or a "decline" for purposes of RCW
38 13.40.110 (1) or (2) or (e)(i) of this subsection. Courts of limited
39 jurisdiction which confine juveniles for an alleged offense or

1 infraction may place juveniles in juvenile detention facilities under
2 an agreement with the officials responsible for the administration of
3 the juvenile detention facility in RCW 13.04.035 and 13.20.060;

4 (iv) The alleged offense is a traffic or civil infraction, a
5 violation of compulsory school attendance provisions under chapter
6 28A.225 RCW, or a misdemeanor, and a court of limited jurisdiction
7 has assumed concurrent jurisdiction over those offenses as provided
8 in RCW 13.04.0301; or

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

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

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

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

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

23 (II) The juvenile court shall have exclusive jurisdiction over
24 the disposition of any remaining charges in any case in which the
25 juvenile is found not guilty in the adult criminal court of the
26 charge or charges for which he or she was transferred, or is
27 convicted in the adult criminal court of a lesser included offense
28 that is not also an offense listed in (e)(v) of this subsection. The
29 juvenile court shall maintain residual juvenile court jurisdiction up
30 to age twenty-five if the juvenile has turned eighteen years of age
31 during the adult criminal court proceedings but only for the purpose
32 of returning a case to juvenile court for disposition pursuant to RCW
33 13.40.300(3)(d). However, once the case is returned to juvenile
34 court, the court may hold a decline hearing pursuant to RCW 13.40.110
35 to determine whether to retain the case in juvenile court for the
36 purpose of disposition or return the case to adult criminal court for
37 sentencing.

38 (III) The prosecutor and respondent may agree to juvenile court
39 jurisdiction and waive application of exclusive adult criminal

1 jurisdiction in (e)(v)(A) through (C) of this subsection and remove
2 the proceeding back to juvenile court with the court's approval.

3 If the juvenile challenges the state's determination of the
4 juvenile's criminal history under (e)(v) of this subsection, the
5 state may establish the offender's criminal history by a
6 preponderance of the evidence. If the criminal history consists of
7 adjudications entered upon a plea of guilty, the state shall not bear
8 a burden of establishing the knowing and voluntariness of the plea;

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

11 (g) Relating to termination of a diversion agreement under RCW
12 13.40.080, including a proceeding in which the divertee has attained
13 eighteen years of age;

14 (h) Relating to court validation of a voluntary consent to an
15 out-of-home placement under chapter 13.34 RCW, by the parent or
16 Indian custodian of an Indian child, except if the parent or Indian
17 custodian and child are residents of or domiciled within the
18 boundaries of a federally recognized Indian reservation over which
19 the tribe exercises exclusive jurisdiction;

20 (i) Relating to petitions to compel disclosure of information
21 filed by the department of social and health services pursuant to RCW
22 74.13.042; and

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

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

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

38 (4) A juvenile subject to adult superior court jurisdiction under
39 subsection (1)(e)(i) through (v) of this section, who is detained

1 pending trial, may be detained in a detention facility as defined in
2 RCW 13.40.020 pending sentencing or a dismissal.

3 **Sec. 4016.** RCW 13.34.030 and 2018 c 284 s 3 and 2018 c 58 s 54
4 are each reenacted and amended to read as follows:

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

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

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

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

18 (b) Any individual age eighteen to twenty-one years who is
19 eligible to receive and who elects to receive the extended foster
20 care services authorized under RCW 74.13.031. A youth who remains
21 dependent and who receives extended foster care services under RCW
22 74.13.031 shall not be considered a "child" under any other statute
23 or for any other purpose.

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

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

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

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

38 (a) Has been abandoned;

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

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

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

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

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

21 (9) "Extended foster care services" means residential and other
22 support services the department is authorized to provide under RCW
23 74.13.031. These services may include placement in licensed,
24 relative, or otherwise approved care, or supervised independent
25 living settings; assistance in meeting basic needs; independent
26 living services; medical assistance; and counseling or treatment.

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

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

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

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

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

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

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

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

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

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

35 (16) "Out-of-home care" means placement in a foster family home
36 or group care facility licensed pursuant to chapter 74.15 RCW or
37 placement in a home, other than that of the child's parent, guardian,
38 or legal custodian, not required to be licensed pursuant to chapter
39 74.15 RCW.

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

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

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

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

18 (21) "Social study" means a written evaluation of matters
19 relevant to the disposition of the case and shall contain the
20 following information:

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

23 (b) A description of the specific services and activities, for
24 both the parents and child, that are needed in order to prevent
25 serious harm to the child; the reasons why such services and
26 activities are likely to be useful; the availability of any proposed
27 services; and the agency's overall plan for ensuring that the
28 services will be delivered. The description shall identify the
29 services chosen and approved by the parent;

30 (c) If removal is recommended, a full description of the reasons
31 why the child cannot be protected adequately in the home, including a
32 description of any previous efforts to work with the parents and the
33 child in the home; the in-home treatment programs that have been
34 considered and rejected; the preventive services, including housing
35 assistance, that have been offered or provided and have failed to
36 prevent the need for out-of-home placement, unless the health,
37 safety, and welfare of the child cannot be protected adequately in
38 the home; and the parents' attitude toward placement of the child;

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

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

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

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

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

18 **Sec. 4017.** RCW 13.34.155 and 2018 c 284 s 16 are each amended to
19 read as follows:

20 (1) The court hearing the dependency petition may hear and
21 determine issues related to chapter 26.10 RCW in a dependency
22 proceeding as necessary to facilitate a permanency plan for the child
23 or children as part of the dependency disposition order or a
24 dependency review order or as otherwise necessary to implement a
25 permanency plan of care for a child. The parents, guardians, or legal
26 custodian of the child must agree, subject to court approval, to
27 establish a permanent custody order. This agreed order may have the
28 concurrence of the other parties to the dependency, the guardian ad
29 litem of the child, and the child if age twelve or older, and must
30 also be in the best interests of the child. If the petitioner for a
31 custody order under chapter 26.10 RCW is not a party to the
32 dependency proceeding, he or she must agree on the record or by the
33 filing of a declaration to the entry of a custody order. Once an
34 order is entered under chapter 26.10 RCW, and the dependency petition
35 dismissed, the department shall not continue to supervise the
36 placement.

37 (2) (a) The court hearing the dependency petition may establish or
38 modify a parenting plan under chapter 26.09 (~~or 26.26~~), 26.26A, or
39 26.26B RCW as part of a disposition order or at a review hearing when

1 doing so will implement a permanent plan of care for the child and
2 result in dismissal of the dependency.

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

7 (c) Unless the whereabouts of one of the parents is unknown to
8 either the department or the court, the parents must agree, subject
9 to court approval, to establish the parenting plan or modify an
10 existing parenting plan.

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

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

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

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

23 (f) The dependency court may interview the child in chambers to
24 ascertain the child's wishes as to the child's residential schedule
25 in a proceeding for the entry or modification of a parenting plan
26 under this section. The court may permit counsel to be present at the
27 interview. The court shall cause a record of the interview to be made
28 and to become part of the court record of the dependency case and the
29 case under chapter((s)) 26.09 ((~~or 26.26~~)), 26.26A, or 26.26B RCW.

30 (g) In the absence of agreement by a parent, guardian, or legal
31 custodian of the child to allow the juvenile court to hear and
32 determine issues related to the establishment or modification of a
33 parenting plan under chapter((s)) 26.09 ((~~or 26.26~~)), 26.26A, or
34 26.26B RCW, a party may move the court to transfer such issues to the
35 family law department of the superior court for further resolution.
36 The court may only grant the motion upon entry of a written finding
37 that it is in the best interests of the child.

38 (h) In any parenting plan agreed to by the parents and entered or
39 modified in juvenile court under this section, all issues pertaining
40 to child support and the division of marital property shall be

1 referred to or retained by the family law department of the superior
2 court.

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

6 (4) Any order entered in the dependency court establishing or
7 modifying a permanent legal custody order (~~(e)~~), parenting plan, or
8 residential schedule under chapter(~~s~~) 26.09, 26.10, (~~and 26.26~~)
9 26.26A, or 26.26B RCW shall also be filed in the chapter(~~s~~) 26.09,
10 26.10, (~~and 26.26~~) 26.26A, or 26.26B RCW action by the moving or
11 prevailing party. If the petitioning or moving party has been found
12 indigent and appointed counsel at public expense in the dependency
13 proceeding, no filing fees shall be imposed by the clerk. Once filed,
14 any order, parenting plan, or residential schedule establishing or
15 modifying permanent legal custody of a child shall survive dismissal
16 of the dependency proceeding.

17 **Sec. 4018.** RCW 13.38.040 and 2017 3rd sp.s. c 6 s 311 are each
18 amended to read as follows:

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

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

22 (a) In any foster care placement or termination of parental
23 rights proceeding of an Indian child under chapter 13.34 RCW and this
24 chapter where the department or a supervising agency as defined in
25 RCW 74.13.020 has a statutory or contractual duty to provide services
26 to, or procure services for, the parent or parents or Indian
27 custodian, or is providing services to a parent or parents or Indian
28 custodian pursuant to a disposition order entered pursuant to RCW
29 13.34.130, the department or supervising agency shall make timely and
30 diligent efforts to provide or procure such services, including
31 engaging the parent or parents or Indian custodian in reasonably
32 available and culturally appropriate preventive, remedial, or
33 rehabilitative services. This shall include those services offered by
34 tribes and Indian organizations whenever possible. At a minimum
35 "active efforts" shall include:

36 (i) In any dependency proceeding under chapter 13.34 RCW seeking
37 out-of-home placement of an Indian child in which the department or
38 supervising agency provided voluntary services to the parent,
39 parents, or Indian custodian prior to filing the dependency petition,

1 a showing to the court that the department or supervising agency
2 social workers actively worked with the parent, parents, or Indian
3 custodian to engage them in remedial services and rehabilitation
4 programs to prevent the breakup of the family beyond simply providing
5 referrals to such services.

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

14 (iii) In any termination of parental rights proceeding regarding
15 an Indian child under chapter 13.34 RCW in which the department or
16 supervising agency provided services to the parent, parents, or
17 Indian custodian, a showing to the court that the department or
18 supervising agency social workers actively worked with the parent,
19 parents, or Indian custodian to engage them in remedial services and
20 rehabilitation programs ordered by the court or identified in the
21 department or supervising agency's individual service and safety plan
22 beyond simply providing referrals to such services.

23 (b) In any foster care placement or termination of parental
24 rights proceeding in which the petitioner does not otherwise have a
25 statutory or contractual duty to directly provide services to, or
26 procure services for, the parent or Indian custodian, "active
27 efforts" means a documented, concerted, and good faith effort to
28 facilitate the parent's or Indian custodian's receipt of and
29 engagement in services capable of meeting the criteria set out in (a)
30 of this subsection.

31 (2) "Best interests of the Indian child" means the use of
32 practices in accordance with the federal Indian child welfare act,
33 this chapter, and other applicable law, that are designed to
34 accomplish the following: (a) Protect the safety, well-being,
35 development, and stability of the Indian child; (b) prevent the
36 unnecessary out-of-home placement of the Indian child; (c)
37 acknowledge the right of Indian tribes to maintain their existence
38 and integrity which will promote the stability and security of their
39 children and families; (d) recognize the value to the Indian child of
40 establishing, developing, or maintaining a political, cultural,

1 social, and spiritual relationship with the Indian child's tribe and
2 tribal community; and (e) in a proceeding under this chapter where
3 out-of-home placement is necessary, to prioritize placement of the
4 Indian child in accordance with the placement preferences of this
5 chapter.

6 (3) "Child custody proceeding" includes:

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

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

15 (c) "Preadoptive placement" which means the temporary placement
16 of an Indian child in a foster home or institution after the
17 termination of parental rights but before or in lieu of adoptive
18 placement; and

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

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

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

31 (5) "Department" means the department of children, youth, and
32 families and any of its divisions. "Department" also includes
33 supervising agencies as defined in RCW 74.13.020 with which the
34 department entered into a contract to provide services, care,
35 placement, case management, contract monitoring, or supervision to
36 children subject to a petition filed under chapter 13.34 or 26.33
37 RCW.

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

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

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

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

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

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

23 (12) "Member" and "membership" means a determination by an Indian
24 tribe that a person is a member or eligible for membership in that
25 Indian tribe.

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

32 (14) "Secretary of the interior" means the secretary of the
33 United States department of the interior.

34 (15) "Tribal court" means a court or body vested by an Indian
35 tribe with jurisdiction over child custody proceedings, including but
36 not limited to a federal court of Indian offenses, a court
37 established and operated under the code or custom of an Indian tribe,
38 or an administrative body of an Indian tribe vested with authority
39 over child custody proceedings.

1 (16) "Tribal customary adoption" means adoption or other process
2 through the tribal custom, traditions, or laws of an Indian child's
3 tribe by which the Indian child is permanently placed with a
4 nonparent and through which the nonparent is vested with the rights,
5 privileges, and obligations of a legal parent. Termination of the
6 parent-child relationship between the Indian child and the biological
7 parent is not required to effect or recognize a tribal customary
8 adoption.

9 **Sec. 4019.** RCW 26.09.030 and 2008 c 6 s 1006 are each amended to
10 read as follows:

11 When a party who (1) is a resident of this state, or (2) is a
12 member of the armed forces and is stationed in this state, or (3) is
13 married or in a domestic partnership to a party who is a resident of
14 this state or who is a member of the armed forces and is stationed in
15 this state, petitions for a dissolution of marriage or dissolution of
16 domestic partnership, and alleges that the marriage or domestic
17 partnership is irretrievably broken and when ninety days have elapsed
18 since the petition was filed and from the date when service of
19 summons was made upon the respondent or the first publication of
20 summons was made, the court shall proceed as follows:

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

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

28 (c) If the other party denies that the marriage or domestic
29 partnership is irretrievably broken the court shall consider all
30 relevant factors, including the circumstances that gave rise to the
31 filing of the petition and the prospects for reconciliation and
32 shall:

33 (i) Make a finding that the marriage or domestic partnership is
34 irretrievably broken and enter a decree of dissolution of the
35 marriage or domestic partnership; or

36 (ii) At the request of either party or on its own motion,
37 transfer the cause to the family court, refer them to another
38 counseling service of their choice, and request a report back from
39 the counseling service within sixty days, or continue the matter for

1 not more than sixty days for hearing. If the cause is returned from
2 the family court or at the adjourned hearing, the court shall:

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

5 (B) Find that the parties have not been reconciled, and that
6 either party continues to allege that the marriage or domestic
7 partnership is irretrievably broken. When such facts are found, the
8 court shall enter a decree of dissolution of the marriage or domestic
9 partnership.

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

14 (e) In considering a petition for dissolution of marriage or
15 domestic partnership, a court shall not use a party's pregnancy as
16 the sole basis for denying or delaying the entry of a decree of
17 dissolution of marriage or domestic partnership. Granting a decree of
18 dissolution of marriage or domestic partnership when a party is
19 pregnant does not affect further proceedings under ~~((the uniform~~
20 ~~parentage act,))~~ chapter ~~((26.26))~~ 26.26A or 26.26B RCW.

21 **Sec. 4020.** RCW 26.09.191 and 2017 c 234 s 2 are each amended to
22 read as follows:

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

32 (2)(a) The parent's residential time with the child shall be
33 limited if it is found that the parent has engaged in any of the
34 following conduct: (i) Willful abandonment that continues for an
35 extended period of time or substantial refusal to perform parenting
36 functions; (ii) physical, sexual, or a pattern of emotional abuse of
37 a child; (iii) a history of acts of domestic violence as defined in
38 RCW 26.50.010(3) or an assault or sexual assault that causes grievous
39 bodily harm or the fear of such harm or that results in a pregnancy;

1 or (iv) the parent has been convicted as an adult of a sex offense
2 under:

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

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

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

12 (D) RCW 9A.44.089;

13 (E) RCW 9A.44.093;

14 (F) RCW 9A.44.096;

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

18 (H) Chapter 9.68A RCW;

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

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

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

26 (b) The parent's residential time with the child shall be limited
27 if it is found that the parent resides with a person who has engaged
28 in any of the following conduct: (i) Physical, sexual, or a pattern
29 of emotional abuse of a child; (ii) a history of acts of domestic
30 violence as defined in RCW 26.50.010(3) or an assault or sexual
31 assault that causes grievous bodily harm or the fear of such harm or
32 that results in a pregnancy; or (iii) the person has been convicted
33 as an adult or as a juvenile has been adjudicated of a sex offense
34 under:

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

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

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

4 (D) RCW 9A.44.089;

5 (E) RCW 9A.44.093;

6 (F) RCW 9A.44.096;

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

10 (H) Chapter 9.68A RCW;

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

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

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

18 (c) If a parent has been found to be a sexual predator under
19 chapter 71.09 RCW or under an analogous statute of any other
20 jurisdiction, the court shall restrain the parent from contact with a
21 child that would otherwise be allowed under this chapter. If a parent
22 resides with an adult or a juvenile who has been found to be a sexual
23 predator under chapter 71.09 RCW or under an analogous statute of any
24 other jurisdiction, the court shall restrain the parent from contact
25 with the parent's child except contact that occurs outside that
26 person's presence.

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

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

35 (ii) RCW 9A.44.073;

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

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

40 (v) RCW 9A.44.083;

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

3 (vii) RCW 9A.44.100;

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

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

9 (e) There is a rebuttable presumption that a parent who resides
10 with a person who, as an adult, has been convicted, or as a juvenile
11 has been adjudicated, of the sex offenses listed in (e)(i) through
12 (ix) of this subsection places a child at risk of abuse or harm when
13 that parent exercises residential time in the presence of the
14 convicted or adjudicated person. Unless the parent rebuts the
15 presumption, the court shall restrain the parent from contact with
16 the parent's child except for contact that occurs outside of the
17 convicted or adjudicated person's presence:

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

20 (ii) RCW 9A.44.073;

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

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

25 (v) RCW 9A.44.083;

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

28 (vii) RCW 9A.44.100;

29 (viii) Any predecessor or antecedent statute for the offenses
30 listed in (e)(i) through (vii) of this subsection;

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

34 (f) The presumption established in (d) of this subsection may be
35 rebutted only after a written finding that the child was not
36 conceived and subsequently born as a result of a sexual assault
37 committed by the parent requesting residential time and that:

38 (i) If the child was not the victim of the sex offense committed
39 by the parent requesting residential time, (A) contact between the
40 child and the offending parent is appropriate and poses minimal risk

1 to the child, and (B) the offending parent has successfully engaged
2 in treatment for sex offenders or is engaged in and making progress
3 in such treatment, if any was ordered by a court, and the treatment
4 provider believes such contact is appropriate and poses minimal risk
5 to the child; or

6 (ii) If the child was the victim of the sex offense committed by
7 the parent requesting residential time, (A) contact between the child
8 and the offending parent is appropriate and poses minimal risk to the
9 child, (B) if the child is in or has been in therapy for victims of
10 sexual abuse, the child's counselor believes such contact between the
11 child and the offending parent is in the child's best interest, and
12 (C) the offending parent has successfully engaged in treatment for
13 sex offenders or is engaged in and making progress in such treatment,
14 if any was ordered by a court, and the treatment provider believes
15 such contact is appropriate and poses minimal risk to the child.

16 (g) The presumption established in (e) of this subsection may be
17 rebutted only after a written finding that the child was not
18 conceived and subsequently born as a result of a sexual assault
19 committed by the parent requesting residential time and that:

20 (i) If the child was not the victim of the sex offense committed
21 by the person who is residing with the parent requesting residential
22 time, (A) contact between the child and the parent residing with the
23 convicted or adjudicated person is appropriate and that parent is
24 able to protect the child in the presence of the convicted or
25 adjudicated person, and (B) the convicted or adjudicated person has
26 successfully engaged in treatment for sex offenders or is engaged in
27 and making progress in such treatment, if any was ordered by a court,
28 and the treatment provider believes such contact is appropriate and
29 poses minimal risk to the child; or

30 (ii) If the child was the victim of the sex offense committed by
31 the person who is residing with the parent requesting residential
32 time, (A) contact between the child and the parent in the presence of
33 the convicted or adjudicated person is appropriate and poses minimal
34 risk to the child, (B) if the child is in or has been in therapy for
35 victims of sexual abuse, the child's counselor believes such contact
36 between the child and the parent residing with the convicted or
37 adjudicated person in the presence of the convicted or adjudicated
38 person is in the child's best interest, and (C) the convicted or
39 adjudicated person has successfully engaged in treatment for sex
40 offenders or is engaged in and making progress in such treatment, if

1 any was ordered by a court, and the treatment provider believes
2 contact between the parent and child in the presence of the convicted
3 or adjudicated person is appropriate and poses minimal risk to the
4 child.

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

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

32 (j) If the court finds that the parent has met the burden of
33 rebutting the presumption under (g) of this subsection, the court may
34 allow a parent residing with a person who, as an adult, has been
35 convicted of a sex offense listed in (e)(i) through (ix) of this
36 subsection to have residential time with the child in the presence of
37 the convicted person supervised by a neutral and independent adult
38 and pursuant to an adequate plan for supervision of such residential
39 time. The court shall not approve of a supervisor for contact between
40 the child and the parent unless the court finds, based on the

1 evidence, that the supervisor is willing and capable of protecting
2 the child from harm. The court shall revoke court approval of the
3 supervisor upon finding, based on the evidence, that the supervisor
4 has failed to protect the child or is no longer willing or capable of
5 protecting the child.

6 (k) A court shall not order unsupervised contact between the
7 offending parent and a child of the offending parent who was sexually
8 abused by that parent. A court may order unsupervised contact between
9 the offending parent and a child who was not sexually abused by the
10 parent after the presumption under (d) of this subsection has been
11 rebutted and supervised residential time has occurred for at least
12 two years with no further arrests or convictions of sex offenses
13 involving children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter
14 9.68A RCW and (i) the sex offense of the offending parent was not
15 committed against a child of the offending parent, and (ii) the court
16 finds that unsupervised contact between the child and the offending
17 parent is appropriate and poses minimal risk to the child, after
18 consideration of the testimony of a state-certified therapist, mental
19 health counselor, or social worker with expertise in treating child
20 sexual abuse victims who has supervised at least one period of
21 residential time between the parent and the child, and after
22 consideration of evidence of the offending parent's compliance with
23 community supervision requirements, if any. If the offending parent
24 was not ordered by a court to participate in treatment for sex
25 offenders, then the parent shall obtain a psychosexual evaluation
26 conducted by a certified sex offender treatment provider or a
27 certified affiliate sex offender treatment provider indicating that
28 the offender has the lowest likelihood of risk to reoffend before the
29 court grants unsupervised contact between the parent and a child.

30 (l) A court may order unsupervised contact between the parent and
31 a child which may occur in the presence of a juvenile adjudicated of
32 a sex offense listed in (e)(i) through (ix) of this subsection who
33 resides with the parent after the presumption under (e) of this
34 subsection has been rebutted and supervised residential time has
35 occurred for at least two years during which time the adjudicated
36 juvenile has had no further arrests, adjudications, or convictions of
37 sex offenses involving children under chapter 9A.44 RCW, RCW
38 9A.64.020, or chapter 9.68A RCW, and (i) the court finds that
39 unsupervised contact between the child and the parent that may occur
40 in the presence of the adjudicated juvenile is appropriate and poses

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

17 (m) (i) The limitations imposed by the court under (a) or (b) of
18 this subsection shall be reasonably calculated to protect the child
19 from the physical, sexual, or emotional abuse or harm that could
20 result if the child has contact with the parent requesting
21 residential time. The limitations shall also be reasonably calculated
22 to provide for the safety of the parent who may be at risk of
23 physical, sexual, or emotional abuse or harm that could result if the
24 parent has contact with the parent requesting residential time. The
25 limitations the court may impose include, but are not limited to:
26 Supervised contact between the child and the parent or completion of
27 relevant counseling or treatment. If the court expressly finds based
28 on the evidence that limitations on the residential time with the
29 child will not adequately protect the child from the harm or abuse
30 that could result if the child has contact with the parent requesting
31 residential time, the court shall restrain the parent requesting
32 residential time from all contact with the child.

33 (ii) The court shall not enter an order under (a) of this
34 subsection allowing a parent to have contact with a child if the
35 parent has been found by clear and convincing evidence in a civil
36 action or by a preponderance of the evidence in a dependency action
37 to have sexually abused the child, except upon recommendation by an
38 evaluator or therapist for the child that the child is ready for
39 contact with the parent and will not be harmed by the contact. The
40 court shall not enter an order allowing a parent to have contact with

1 the child in the offender's presence if the parent resides with a
2 person who has been found by clear and convincing evidence in a civil
3 action or by a preponderance of the evidence in a dependency action
4 to have sexually abused a child, unless the court finds that the
5 parent accepts that the person engaged in the harmful conduct and the
6 parent is willing to and capable of protecting the child from harm
7 from the person.

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

15 (iv) If the court limits residential time under (a) or (b) of
16 this subsection to require supervised contact between the child and
17 the parent, the court shall not approve of a supervisor for contact
18 between a child and a parent who has engaged in physical, sexual, or
19 a pattern of emotional abuse of the child unless the court finds
20 based upon the evidence that the supervisor accepts that the harmful
21 conduct occurred and is willing to and capable of protecting the
22 child from harm. The court shall revoke court approval of the
23 supervisor upon finding, based on the evidence, that the supervisor
24 has failed to protect the child or is no longer willing to or capable
25 of protecting the child.

26 (n) If the court expressly finds based on the evidence that
27 contact between the parent and the child will not cause physical,
28 sexual, or emotional abuse or harm to the child and that the
29 probability that the parent's or other person's harmful or abusive
30 conduct will recur is so remote that it would not be in the child's
31 best interests to apply the limitations of (a), (b), and (m)(i) and
32 (iv) of this subsection, or if the court expressly finds that the
33 parent's conduct did not have an impact on the child, then the court
34 need not apply the limitations of (a), (b), and (m)(i) and (iv) of
35 this subsection. The weight given to the existence of a protection
36 order issued under chapter 26.50 RCW as to domestic violence is
37 within the discretion of the court. This subsection shall not apply
38 when (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), and (m)(ii) of
39 this subsection apply.

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

5 (a) A parent's neglect or substantial nonperformance of parenting
6 functions;

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

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

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

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

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

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

21 (4) In cases involving allegations of limiting factors under
22 subsection (2)(a)(ii) and (iii) of this section, both parties shall
23 be screened to determine the appropriateness of a comprehensive
24 assessment regarding the impact of the limiting factor on the child
25 and the parties.

26 (5) In entering a permanent parenting plan, the court shall not
27 draw any presumptions from the provisions of the temporary parenting
28 plan.

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

32 (7) For the purposes of this section:

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

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

38 **Sec. 4021.** RCW 26.09.405 and 2008 c 259 s 2 are each amended to
39 read as follows:

1 (1) The provisions of RCW 26.09.405 through 26.09.560 and the
2 chapter 21, Laws of 2000 amendments to RCW 26.09.260, 26.10.190, and
3 ((~~26.26.160~~)) 26.26B.090 apply to a court order regarding residential
4 time or visitation with a child issued:

5 (a) After June 8, 2000; and

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

8 (2) To the extent that a provision of RCW 26.09.405 through
9 26.09.560 and the chapter 21, Laws of 2000 amendments to RCW
10 26.09.260, 26.10.190, and ((~~26.26.160~~)) 26.26B.090 conflicts with the
11 express terms of a court order existing prior to June 8, 2000, then
12 RCW 26.09.405 through 26.09.560 and the chapter 21, Laws of 2000
13 amendments to RCW 26.09.260, 26.10.190, and ((~~26.26.160~~)) 26.26B.090
14 do not apply to those terms of that order governing relocation of the
15 child.

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

19 **Sec. 4022.** RCW 26.09.510 and 2000 c 21 s 13 are each amended to
20 read as follows:

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

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

27 (b) The relocation of the child has occurred without agreement of
28 the parties, court order, or the notice required by RCW 26.09.405
29 through 26.09.560 and the chapter 21, Laws of 2000 amendments to RCW
30 26.09.260, 26.10.190, and ((~~26.26.160~~)) 26.26B.090; or

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

37 (2) The court may grant a temporary order authorizing the
38 intended relocation of the child pending final hearing if the court
39 finds:

1 (a) The required notice of an intended relocation of the child
2 was provided in a timely manner or that the circumstances otherwise
3 warrant issuance of a temporary order in the absence of compliance
4 with the notice requirements and issues an order for a revised
5 schedule for residential time with the child; and

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

10 **Sec. 4023.** RCW 26.12.802 and 2005 c 282 s 31 are each amended to
11 read as follows:

12 The administrative office of the courts shall conduct a unified
13 family court pilot program.

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

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

20 (3) The administrative office of the courts shall develop
21 criteria for the unified family court pilot program. The pilot
22 program shall include:

23 (a) All case types under Title 13 RCW, chapters 26.09, 26.10,
24 26.12, 26.18, 26.19, 26.20, (~~26.26~~) 26.26A, 26.26B, 26.50, 26.27,
25 and 28A.225 RCW;

26 (b) Unified family court judicial officers, who volunteer for the
27 program, and meet training requirements established by local court
28 rule;

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

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

37 (e) An emphasis on providing nonadversarial methods of dispute
38 resolution such as a settlement conference, evaluative mediation by

1 attorney mediators, and facilitative mediation by nonattorney
2 mediators.

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

8 (5) The administrative office of the courts shall provide to the
9 judicial districts selected for the pilot program the computer
10 resources needed by each judicial district to implement the unified
11 family court pilot program.

12 (6) The administrative office of the courts shall conduct a study
13 of the pilot program measuring improvements in the judicial system's
14 response to family involvement in the judicial system. The
15 administrator for the courts shall report preliminary findings and
16 final results of the study to the governor, the chief justice of the
17 supreme court, and the legislature on a biennial basis. The initial
18 report is due by July 1, 2000, and the final report is due by
19 December 1, 2004.

20 **Sec. 4024.** RCW 26.18.010 and 2008 c 6 s 1026 are each amended to
21 read as follows:

22 The legislature finds that there is an urgent need for vigorous
23 enforcement of child support and maintenance obligations, and that
24 stronger and more efficient statutory remedies need to be established
25 to supplement and complement the remedies provided in chapters 26.09,
26 26.21A, (~~26.26~~) 26.26A, 26.26B, 74.20, and 74.20A RCW.

27 **Sec. 4025.** RCW 26.18.220 and 2005 c 282 s 34 are each amended to
28 read as follows:

29 (1) The administrative office of the courts shall develop not
30 later than July 1, 1991, standard court forms and format rules for
31 mandatory use by litigants in all actions commenced under chapters
32 26.09, 26.10, (~~and 26.26~~) 26.26A, and 26.26B RCW effective January
33 1, 1992. The administrator for the courts shall develop mandatory
34 forms for financial affidavits for integration into the worksheets.
35 The forms shall be developed and approved not later than September 1,
36 1992. The parties shall use the mandatory form for financial
37 affidavits for actions commenced on or after September 1, 1992. The

1 administrative office of the courts has continuing responsibility to
2 develop and revise mandatory forms and format rules as appropriate.

3 (2) A party may delete unnecessary portions of the forms
4 according to the rules established by the administrative office of
5 the courts. A party may supplement the mandatory forms with
6 additional material.

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

12 (4) The administrative office of the courts shall distribute a
13 master copy of the forms to all county court clerks. The
14 administrative office of the courts and county clerks shall
15 distribute the mandatory forms to the public upon request and may
16 charge for the cost of production and distribution of the forms.
17 Private vendors may distribute the mandatory forms. Distribution may
18 be in printed or electronic form.

19 **Sec. 4026.** RCW 26.23.050 and 2018 c 150 s 104 are each amended
20 to read as follows:

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

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

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

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

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

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

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

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

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

17 (2) In all other cases not under subsection (1) of this section,
18 the court may order the responsible parent to make payments directly
19 to the person entitled to receive the payments, to the Washington
20 state support registry, or may order that payments be made in
21 accordance with an alternate arrangement agreed upon by the parties.

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

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

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

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

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

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

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

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

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

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

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

10 (i) Immediate income withholding may be ordered if the
11 responsible parent has earnings. If immediate income withholding is
12 ordered under this subsection, all support payments shall be paid to
13 the Washington state support registry. The superior court shall issue
14 a mandatory wage assignment order as set forth in chapter 26.18 RCW
15 when the support order is signed by the court. The parent entitled to
16 receive the transfer payment is responsible for serving the employer
17 with the order and for its enforcement as set forth in chapter 26.18
18 RCW.

19 (ii) If immediate income withholding is not ordered, the court
20 shall require that income withholding be delayed until a payment is
21 past due. The support order shall contain a statement that
22 withholding action may be taken against wages, earnings, assets, or
23 benefits, and liens enforced against real and personal property under
24 the child support statutes of this or any other state, without
25 further notice to the responsible parent, after a payment is past
26 due.

27 (c) If a mandatory wage withholding order under chapter 26.18 RCW
28 is issued under this subsection and the division of child support
29 provides support enforcement services under RCW 26.23.045, the
30 existing wage withholding assignment is prospectively superseded upon
31 the division of child support's subsequent service of an income
32 withholding notice.

33 (3) The office of administrative hearings and the department of
34 social and health services shall require that all support obligations
35 established as administrative orders include a provision which orders
36 and directs that the responsible parent shall make all support
37 payments to the Washington state support registry. All administrative
38 orders shall also state that the responsible parent's privileges to
39 obtain and maintain a license, as defined in RCW 74.20A.320, may not
40 be renewed, or may be suspended if the parent is not in compliance

1 with a support order as provided in RCW 74.20A.320. All
2 administrative orders shall also state that withholding action may be
3 taken against wages, earnings, assets, or benefits, and liens
4 enforced against real and personal property under the child support
5 statutes of this or any other state without further notice to the
6 responsible parent at any time after entry of the order, unless:

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

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

12 (4) If the support order does not include the provision ordering
13 and directing that all payments be made to the Washington state
14 support registry and a statement that withholding action may be taken
15 against wages, earnings, assets, or benefits if a support payment is
16 past due or at any time after the entry of the order, or that a
17 parent's licensing privileges may not be renewed, or may be
18 suspended, the division of child support may serve a notice on the
19 responsible parent stating such requirements and authorizations.
20 Service may be by personal service or any form of mail requiring a
21 return receipt.

22 (5) Every support order shall state:

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

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

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

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

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

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

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

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

38 (g) A provision requiring both the responsible parent and the
39 custodial parent to keep the Washington state support registry

1 informed of whether he or she has access to health care coverage at
2 reasonable cost and, if so, the health care coverage information;

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

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

8 (ii) Coverage that can be extended to cover the child is or
9 becomes available to the parent through employment or is union-
10 related; or

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

14 (i) That a parent providing health care coverage must notify both
15 the division of child support and the other parent when coverage
16 terminates;

17 (j) That if proof of health care coverage or proof that the
18 coverage is unavailable is not provided within twenty days, the
19 parent seeking enforcement or the department may seek direct
20 enforcement of the coverage through the employer or union of the
21 parent required to provide medical support without further notice to
22 the parent as provided under chapter 26.18 RCW;

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

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

29 (m) That each parent must:

30 (i) Promptly file with the court and update as necessary the
31 confidential information form required by subsection (7) of this
32 section; and

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

35 (n) That parties to administrative support orders shall provide
36 to the state case registry and update as necessary their residential
37 addresses and the address of the responsible parent's employer. The
38 division of child support may adopt rules that govern the collection
39 of parties' current residence and mailing addresses, telephone
40 numbers, dates of birth, social security numbers, the names of the

1 children, social security numbers of the children, dates of birth of
2 the children, driver's license numbers, and the names, addresses, and
3 telephone numbers of the parties' employers to enforce an
4 administrative support order. The division of child support shall not
5 release this information if the division of child support determines
6 that there is reason to believe that release of the information may
7 result in physical or emotional harm to the party or to the child, or
8 a restraining order or protective order is in effect to protect one
9 party from the other party.

10 (6) After the responsible parent has been ordered or notified to
11 make payments to the Washington state support registry under this
12 section, the responsible parent shall be fully responsible for making
13 all payments to the Washington state support registry and shall be
14 subject to payroll deduction or other income-withholding action. The
15 responsible parent shall not be entitled to credit against a support
16 obligation for any payments made to a person or agency other than to
17 the Washington state support registry except as provided under RCW
18 74.20.101. A civil action may be brought by the payor to recover
19 payments made to persons or agencies who have received and retained
20 support moneys paid contrary to the provisions of this section.

21 (7) All petitioners and parties to all court actions under
22 chapters 26.09, 26.10, 26.12, 26.18, 26.21A, 26.23, (~~(26.26)~~) 26.26A,
23 26.26B, and 26.27 RCW shall complete to the best of their knowledge a
24 verified and signed confidential information form or equivalent that
25 provides the parties' current residence and mailing addresses,
26 telephone numbers, dates of birth, social security numbers, driver's
27 license numbers, and the names, addresses, and telephone numbers of
28 the parties' employers. The clerk of the court shall not accept
29 petitions, except in parentage actions initiated by the state, orders
30 of child support, decrees of dissolution, or (~~(paternity)~~) parentage
31 orders for filing in such actions unless accompanied by the
32 confidential information form or equivalent, or unless the
33 confidential information form or equivalent is already on file with
34 the court clerk. In lieu of or in addition to requiring the parties
35 to complete a separate confidential information form, the clerk may
36 collect the information in electronic form. The clerk of the court
37 shall transmit the confidential information form or its data to the
38 division of child support with a copy of the order of child support
39 or (~~(paternity)~~) parentage order, and may provide copies of the
40 confidential information form or its data and any related findings,

1 decrees, parenting plans, orders, or other documents to the state
2 administrative agency that administers Title IV-A, IV-D, IV-E, or XIX
3 of the federal social security act. In state initiated (~~(paternity)~~)
4 parentage actions, the parties adjudicated the parents of the child
5 or children shall complete the confidential information form or
6 equivalent or the state's attorney of record may complete that form
7 to the best of the attorney's knowledge.

8 (8) The department has rule-making authority to enact rules
9 consistent with 42 U.S.C. Sec. 652(f) and 42 U.S.C. Sec. 666(a)(19)
10 as amended by section 7307 of the deficit reduction act of 2005.
11 Additionally, the department has rule-making authority to implement
12 regulations required under 45 C.F.R. Parts 302, 303, 304, 305, and
13 308.

14 **Sec. 4027.** RCW 26.26B.010 and 2005 c 282 s 38 are each amended
15 to read as follows:

16 (1) Effective January 1, 1992, a party shall not file any
17 pleading with the clerk of the court in an action commenced under
18 this chapter or chapter 26.26A RCW unless on forms approved by the
19 administrative office of the courts.

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

22 **Sec. 4028.** RCW 26.26B.020 and 2011 c 283 s 9 are each amended to
23 read as follows:

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

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

30 (3) The judgment and order shall contain other appropriate
31 provisions directed to the appropriate parties to the proceeding,
32 concerning the duty of current and future support, the extent of any
33 liability for past support furnished to the child if that issue is
34 before the court, the furnishing of bond or other security for the
35 payment of the judgment, or any other matter in the best interest of
36 the child. The judgment and order may direct one parent to pay the
37 reasonable expenses of the mother's pregnancy and childbirth. The
38 judgment and order may include a continuing restraining order or

1 injunction. In issuing the order, the court shall consider the
2 provisions of RCW 9.41.800.

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

7 (5) Support judgment and orders shall be for periodic payments
8 which may vary in amount. The court may limit the parent's liability
9 for the past support to the child to the proportion of the expenses
10 already incurred as the court deems just. The court shall not limit
11 or affect in any manner the right of nonparties including the state
12 of Washington to seek reimbursement for support and other services
13 previously furnished to the child.

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

17 (7) On the same basis as provided in chapter 26.09 RCW, the court
18 shall make residential provisions with regard to minor children of
19 the parties, except that a parenting plan shall not be required
20 unless requested by a party. If a parenting plan or residential
21 schedule was not entered at the time the order establishing parentage
22 was entered, a parent may move the court for entry of a parenting
23 plan or residential schedule:

24 (a) By filing a motion and proposed parenting plan or residential
25 schedule and providing notice to the other parent and other persons
26 who have residential time with the child pursuant to a court order:
27 PROVIDED, That at the time of filing the motion less than twenty-four
28 months have passed since entry of the order establishing parentage
29 and that the proposed parenting plan or residential schedule does not
30 change the designation of the parent with whom the child spends the
31 majority of time; or

32 (b) By filing a petition for modification under RCW 26.09.260 or
33 petition to establish a parenting plan, residential schedule, or
34 residential provisions.

35 (8) In any dispute between the persons claiming parentage of a
36 child and a person or persons who have (a) commenced adoption
37 proceedings or who have been granted an order of adoption, and (b)
38 pursuant to a court order, or placement by the department of social
39 and health services or by a licensed agency, have had actual custody
40 of the child for a period of one year or more before court action is

1 commenced by the persons claiming parentage, the court shall consider
2 the best welfare and interests of the child, including the child's
3 need for situation stability, in determining the matter of custody,
4 and the parent or person who is more fit shall have the superior
5 right to custody.

6 (9) In entering an order under this chapter or chapter 26.26A
7 RCW, the court may issue any necessary continuing restraining orders,
8 including the restraint provisions of domestic violence protection
9 orders under chapter 26.50 RCW or antiharassment protection orders
10 under chapter 10.14 RCW.

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

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

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

36 **Sec. 4029.** RCW 26.26B.040 and 2011 c 336 s 693 are each amended
37 to read as follows:

38 A court may not order payment for support provided or expenses
39 incurred more than five years prior to the commencement of the

1 action. Any period of time in which the responsible party has
2 concealed himself or herself or avoided the jurisdiction of the court
3 under this chapter or chapter 26.26A RCW shall not be included within
4 the five-year period.

5 **Sec. 4030.** RCW 26.26B.050 and 2000 c 119 s 23 are each amended
6 to read as follows:

7 (1) Whenever a restraining order is issued under this chapter or
8 chapter 26.26A RCW, and the person to be restrained knows of the
9 order, a violation of the provisions restricting the person from acts
10 or threats of violence or of a provision restraining the person from
11 going onto the grounds of or entering the residence, workplace,
12 school, or day care of another, or prohibiting the person from
13 knowingly coming within, or knowingly remaining within, a specified
14 distance of a location, is punishable under RCW 26.50.110.

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

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

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

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

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

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

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

29 (b) Obtaining a certified copy of the order, certified to be an
30 accurate copy of the original by a notary public or by the clerk of
31 the court.

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

36 (a) A restraining order has been issued under this chapter or
37 chapter 26.26A RCW;

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

1 (c) The person to be arrested has violated the terms of the order
2 restraining the person from acts or threats of violence or
3 restraining the person from going onto the grounds of or entering the
4 residence, workplace, school, or day care of another, or prohibiting
5 the person from knowingly coming within, or knowingly remaining
6 within, a specified distance of a location.

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

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

13 **Sec. 4031.** RCW 26.26B.070 and 1997 c 58 s 939 are each amended
14 to read as follows:

15 In all actions brought under this chapter or chapter 26.26A RCW,
16 bills for pregnancy, childbirth, and genetic testing shall:

17 (1) Be admissible as evidence without requiring third-party
18 foundation testimony; and

19 (2) Constitute prima facie evidence of amounts incurred for such
20 services or for testing on behalf of the child.

21 **Sec. 4032.** RCW 26.26B.080 and 2011 c 283 s 10 are each amended
22 to read as follows:

23 (1) If existence of the parent and child relationship is
24 declared, or (~~paternity~~) parentage or a duty of support has been
25 acknowledged or adjudicated under this chapter or chapter 26.26A RCW
26 or under prior law, the obligation of the parent may be enforced in
27 the same or other proceedings by the other parent, the child, the
28 state of Washington, the public authority that has furnished or may
29 furnish the reasonable expenses of pregnancy, childbirth, education,
30 support, or funeral, or by any other person, including a private
31 agency, to the extent he or she has furnished or is furnishing these
32 expenses.

33 (2) The court shall order support payments to be made to the
34 Washington state support registry, or the person entitled to receive
35 the payments under an alternate arrangement approved by the court as
36 provided in RCW 26.23.050(2).

37 (3) All remedies for the enforcement of judgments apply.

1 **Sec. 4033.** RCW 26.26B.100 and 2018 c 150 s 105 are each amended
2 to read as follows:

3 (1) In entering or modifying a support order under this chapter
4 or chapter 26.26A RCW, the court shall require either or both parents
5 to maintain or provide health care coverage for any dependent child
6 as provided under RCW 26.09.105.

7 (2) This section shall not be construed to limit the authority of
8 the court to enter or modify support orders containing provisions for
9 payment of uninsured health expenses, health costs, or insurance
10 premiums which are in addition to and not inconsistent with this
11 section.

12 (3) A parent ordered to provide health care coverage shall
13 provide proof of such coverage or proof that such coverage is
14 unavailable within twenty days of the entry of the order to:

15 (a) The physical custodian; or

16 (b) The department of social and health services if the parent
17 has been notified or ordered to make support payments to the
18 Washington state support registry.

19 (4) Every order requiring a parent to provide health care
20 coverage shall be entered in compliance with RCW 26.23.050 and be
21 subject to direct enforcement as provided under chapter 26.18 RCW.

22 **Sec. 4034.** RCW 26.33.020 and 2017 3rd sp.s. c 6 s 319 are each
23 reenacted and amended to read as follows:

24 Unless the context clearly requires otherwise, the definitions in
25 this section apply throughout this chapter.

26 (1) "Adoptee" means a person who is to be adopted or who has been
27 adopted.

28 (2) "Adoptive parent" means the person or persons who seek to
29 adopt or have adopted an adoptee.

30 (3) "Agency" means any public or private association,
31 corporation, or individual licensed or certified by the department as
32 a child-placing agency under chapter 74.15 RCW or as an adoption
33 agency.

34 (4) "~~Alleged ((father))~~ genetic parent" ~~((means a person whose~~
35 ~~parent-child relationship has not been terminated, who is not a~~
36 ~~presumed father under chapter 26.26 RCW, and who alleges himself or~~
37 ~~whom a party alleges to be the father of the child. It includes a~~
38 ~~person whose marriage to the mother was terminated more than three~~
39 ~~hundred days before the birth of the child or who was separated from~~

1 ~~the mother more than three hundred days before the birth of the~~
2 ~~child)~~ has the same meaning as defined in RCW 26.26A.010.

3 (5) "Birth parent" means the (~~biological mother or biological~~)
4 woman who gave birth to the child or alleged (~~father of a~~) genetic
5 parent of the child, including a presumed (~~father~~) parent under
6 chapter (~~26.26~~) 26.26A RCW, whether or not any such person's
7 parent-child relationship has been terminated by a court of competent
8 jurisdiction. "Birth parent" does not include a (~~biological mother~~
9 ~~or biological~~) woman who gave birth to the child or alleged
10 (~~father~~) genetic parent of the child, including a presumed
11 (~~father~~) parent under chapter (~~26.26~~) 26.26A RCW, if the parent-
12 child relationship was terminated because of an act for which the
13 person was found guilty under chapter 9A.42 or 9A.44 RCW.

14 (6) "Child" means a person under eighteen years of age.

15 (7) "Court" means the superior court.

16 (8) "Department" means the department of children, youth, and
17 families.

18 (9) "Guardian ad litem" means a person, not related to a party to
19 the action, appointed by the court to represent the best interests of
20 a party who is under a legal disability.

21 (10) "Individual approved by the court" or "qualified salaried
22 court employee" means a person who has a master's degree in social
23 work or a related field and one year of experience in social work, or
24 a bachelor's degree and two years of experience in social work, and
25 includes a person not having such qualifications only if the court
26 makes specific findings of fact that are entered of record
27 establishing that the person has reasonably equivalent experience.

28 (11) "Legal guardian" means the department, an agency, or a
29 person, other than a parent or stepparent, appointed by the court to
30 promote the child's general welfare, with the authority and duty to
31 make decisions affecting the child's development.

32 (12) "Nonidentifying information" includes, but is not limited
33 to, the following information about the birth parents, adoptive
34 parents, and adoptee:

35 (a) Age in years at the time of adoption;

36 (b) Heritage, including nationality, ethnic background, and race;

37 (c) Education, including number of years of school completed at
38 the time of adoption, but not name or location of school;

39 (d) General physical appearance, including height, weight, color
40 of hair, eyes, and skin, or other information of a similar nature;

- 1 (e) Religion;
- 2 (f) Occupation, but not specific titles or places of employment;
- 3 (g) Talents, hobbies, and special interests;
- 4 (h) Circumstances leading to the adoption;
- 5 (i) Medical and genetic history of birth parents;
- 6 (j) First names;
- 7 (k) Other children of birth parents by age, sex, and medical
- 8 history;
- 9 (l) Extended family of birth parents by age, sex, and medical
- 10 history;
- 11 (m) The fact of the death, and age and cause, if known;
- 12 (n) Photographs;
- 13 (o) Name of agency or individual that facilitated the adoption.
- 14 (13) "Parent" (~~means the natural or adoptive mother or father of~~
- 15 ~~a child, including a presumed father under chapter 26.26 RCW. It does~~
- 16 ~~not include any person whose parent-child relationship has been~~
- 17 ~~terminated by a court of competent jurisdiction~~) has the same
- 18 meaning as defined in RCW 26.26A.010.
- 19 (14) "Relinquish or relinquishment" means the voluntary surrender
- 20 of custody of a child to the department, an agency, or prospective
- 21 adoptive parents.

22 **Sec. 4035.** RCW 26.33.110 and 1995 c 270 s 5 are each amended to

23 read as follows:

24 (1) The court shall set a time and place for a hearing on the

25 petition for termination of the parent-child relationship, which

26 shall not be held sooner than forty-eight hours after the child's

27 birth. However, if the child is an Indian child, the hearing shall

28 not be held sooner than ten days after the child's birth and the time

29 of the hearing shall be extended up to twenty additional days from

30 the date of the scheduled hearing upon the motion of the parent,

31 Indian custodian, or the child's tribe.

32 (2) Notice of the hearing shall be served on the petitioner, the

33 nonconsenting parent or alleged (~~father~~) genetic parent, the legal

34 guardian of a party, and the guardian ad litem of a party, in the

35 manner prescribed by RCW 26.33.310. If the child is an Indian child,

36 notice of the hearing shall also be served on the child's tribe in

37 the manner prescribed by 25 U.S.C. Sec. 1912(a).

38 (3) Except as otherwise provided in this section, the notice of

39 the petition shall:

1 (a) State the date and place of birth. If the petition is filed
2 prior to birth, the notice shall state the approximate date and
3 location of conception of the child and the expected date of birth,
4 and shall identify the mother;

5 (b) Inform the nonconsenting parent or alleged (~~father~~) genetic
6 parent that: (i) He or she has a right to be represented by counsel
7 and that counsel will be appointed for an indigent person who
8 requests counsel; and (ii) failure to respond to the termination
9 action within twenty days of service if served within the state or
10 thirty days if served outside of this state, will result in the
11 termination of his or her parent-child relationship with respect to
12 the child;

13 (c) Inform an alleged (~~father~~) genetic parent that failure to
14 file a claim of (~~paternity~~) parentage under chapter (~~26.26~~)
15 26.26A or 26.26B RCW or to respond to the petition, within twenty
16 days of the date of service of the petition is grounds to terminate
17 his or her parent-child relationship with respect to the child;

18 (d) Inform an alleged (~~father~~) genetic parent of an Indian
19 child that if he or she acknowledges (~~paternity~~) parentage of the
20 child or if his or her (~~paternity~~) parentage of the child is
21 established prior to the termination of the parent-child
22 relationship, that his or her parental rights may not be terminated
23 unless he or she: (i) Gives valid consent to termination, or (ii) his
24 or her parent-child relationship is terminated involuntarily pursuant
25 to chapter 26.33 or 13.34 RCW.

26 **Sec. 4036.** RCW 26.50.025 and 1995 c 246 s 2 are each amended to
27 read as follows:

28 (1) Any order available under this chapter may be issued in
29 actions under chapter 26.09, 26.10, (~~or 26.26~~) 26.26A, or 26.26B
30 RCW. If an order for protection is issued in an action under chapter
31 26.09, 26.10, (~~or 26.26~~) 26.26A, or 26.26B RCW, the order shall be
32 issued on the forms mandated by RCW 26.50.035(1). An order issued in
33 accordance with this subsection is fully enforceable and shall be
34 enforced under the provisions of this chapter.

35 (2) If a party files an action under chapter 26.09, 26.10, (~~or~~
36 ~~26.26~~) 26.26A, or 26.26B RCW, an order issued previously under this
37 chapter between the same parties may be consolidated by the court
38 under that action and cause number. Any order issued under this
39 chapter after consolidation shall contain the original cause number

1 and the cause number of the action under chapter 26.09, 26.10, (~~26.26~~)
2 26.26A, or 26.26B RCW. Relief under this chapter shall not be
3 denied or delayed on the grounds that the relief is available in
4 another action.

5 **Sec. 4037.** RCW 26.50.035 and 2005 c 282 s 40 are each amended to
6 read as follows:

7 (1) The administrative office of the courts shall develop and
8 prepare instructions and informational brochures required under RCW
9 26.50.030(4), standard petition and order for protection forms, and a
10 court staff handbook on domestic violence and the protection order
11 process. The standard petition and order for protection forms must be
12 used after September 1, 1994, for all petitions filed and orders
13 issued under this chapter. The instructions, brochures, forms, and
14 handbook shall be prepared in consultation with interested persons,
15 including a representative of the state domestic violence coalition,
16 judges, and law enforcement personnel.

17 (a) The instructions shall be designed to assist petitioners in
18 completing the petition, and shall include a sample of standard
19 petition and order for protection forms.

20 (b) The informational brochure shall describe the use of and the
21 process for obtaining, modifying, and terminating a domestic violence
22 protection order as provided under this chapter, an antiharassment
23 no-contact order as provided under chapter 9A.46 RCW, a domestic
24 violence no-contact order as provided under chapter 10.99 RCW, a
25 restraining order as provided under chapters 26.09, 26.10, (~~26.26~~)
26 26.26A, 26.26B, and 26.44 RCW, an antiharassment protection order as
27 provided by chapter 10.14 RCW, and a foreign protection order as
28 defined in chapter 26.52 RCW.

29 (c) The order for protection form shall include, in a conspicuous
30 location, notice of criminal penalties resulting from violation of
31 the order, and the following statement: "You can be arrested even if
32 the person or persons who obtained the order invite or allow you to
33 violate the order's prohibitions. The respondent has the sole
34 responsibility to avoid or refrain from violating the order's
35 provisions. Only the court can change the order upon written
36 application."

37 (d) The court staff handbook shall allow for the addition of a
38 community resource list by the court clerk.

1 (2) All court clerks shall obtain a community resource list from
2 a domestic violence program, defined in RCW 70.123.020, serving the
3 county in which the court is located. The community resource list
4 shall include the names and telephone numbers of domestic violence
5 programs serving the community in which the court is located,
6 including law enforcement agencies, domestic violence agencies,
7 sexual assault agencies, legal assistance programs, interpreters,
8 multicultural programs, and batterers' treatment programs. The court
9 shall make the community resource list available as part of or in
10 addition to the informational brochures described in subsection (1)
11 of this section.

12 (3) The administrative office of the courts shall distribute a
13 master copy of the petition and order forms, instructions, and
14 informational brochures to all court clerks and shall distribute a
15 master copy of the petition and order forms to all superior,
16 district, and municipal courts.

17 (4) For purposes of this section, "court clerks" means court
18 administrators in courts of limited jurisdiction and elected court
19 clerks.

20 (5) The administrative office of the courts shall determine the
21 significant non-English-speaking or limited English-speaking
22 populations in the state. The administrator shall then arrange for
23 translation of the instructions and informational brochures required
24 by this section, which shall contain a sample of the standard
25 petition and order for protection forms, into the languages spoken by
26 those significant non-English-speaking populations and shall
27 distribute a master copy of the translated instructions and
28 informational brochures to all court clerks by January 1, 1997.

29 (6) The administrative office of the courts shall update the
30 instructions, brochures, standard petition and order for protection
31 forms, and court staff handbook when changes in the law make an
32 update necessary.

33 **Sec. 4038.** RCW 26.50.060 and 2018 c 84 s 1 are each amended to
34 read as follows:

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

37 (a) Restrain the respondent from committing acts of domestic
38 violence;

1 (b) Exclude the respondent from the dwelling that the parties
2 share, from the residence, workplace, or school of the petitioner, or
3 from the day care or school of a child;

4 (c) Prohibit the respondent from knowingly coming within, or
5 knowingly remaining within, a specified distance from a specified
6 location;

7 (d) On the same basis as is provided in chapter 26.09 RCW, the
8 court shall make residential provision with regard to minor children
9 of the parties. However, parenting plans as specified in chapter
10 26.09 RCW shall not be required under this chapter;

11 (e) Order the respondent to participate in a domestic violence
12 perpetrator treatment program approved under RCW 26.50.150;

13 (f) Order other relief as it deems necessary for the protection
14 of the petitioner and other family or household members sought to be
15 protected, including orders or directives to a peace officer, as
16 allowed under this chapter;

17 (g) Require the respondent to pay the administrative court costs
18 and service fees, as established by the county or municipality
19 incurring the expense and to reimburse the petitioner for costs
20 incurred in bringing the action, including reasonable attorneys' fees
21 or limited license legal technician fees when such fees are incurred
22 by a person licensed and practicing in accordance with the state
23 supreme court's admission to practice rule 28, the limited practice
24 rule for limited license legal technicians;

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

28 (i) Restrain the respondent from harassing, following, keeping
29 under physical or electronic surveillance, cyberstalking as defined
30 in RCW 9.61.260, and using telephonic, audiovisual, or other
31 electronic means to monitor the actions, location, or communication
32 of a victim of domestic violence, the victim's children, or members
33 of the victim's household. For the purposes of this subsection,
34 "communication" includes both "wire communication" and "electronic
35 communication" as defined in RCW 9.73.260;

36 (j) Require the respondent to submit to electronic monitoring.
37 The order shall specify who shall provide the electronic monitoring
38 services and the terms under which the monitoring must be performed.
39 The order also may include a requirement that the respondent pay the

1 costs of the monitoring. The court shall consider the ability of the
2 respondent to pay for electronic monitoring;

3 (k) Consider the provisions of RCW 9.41.800;

4 (l) Order possession and use of essential personal effects. The
5 court shall list the essential personal effects with sufficient
6 specificity to make it clear which property is included. Personal
7 effects may include pets. The court may order that a petitioner be
8 granted the exclusive custody or control of any pet owned, possessed,
9 leased, kept, or held by the petitioner, respondent, or minor child
10 residing with either the petitioner or respondent and may prohibit
11 the respondent from interfering with the petitioner's efforts to
12 remove the pet. The court may also prohibit the respondent from
13 knowingly coming within, or knowingly remaining within, a specified
14 distance of specified locations where the pet is regularly found; and

15 (m) Order use of a vehicle.

16 (2) If a protection order restrains the respondent from
17 contacting the respondent's minor children the restraint shall be for
18 a fixed period not to exceed one year. This limitation is not
19 applicable to orders for protection issued under chapter 26.09,
20 26.10, (~~or 26.26~~) 26.26A, or 26.26B RCW. With regard to other
21 relief, if the petitioner has petitioned for relief on his or her own
22 behalf or on behalf of the petitioner's family or household members
23 or minor children, and the court finds that the respondent is likely
24 to resume acts of domestic violence against the petitioner or the
25 petitioner's family or household members or minor children when the
26 order expires, the court may either grant relief for a fixed period
27 or enter a permanent order of protection.

28 If the petitioner has petitioned for relief on behalf of the
29 respondent's minor children, the court shall advise the petitioner
30 that if the petitioner wants to continue protection for a period
31 beyond one year the petitioner may either petition for renewal
32 pursuant to the provisions of this chapter or may seek relief
33 pursuant to the provisions of chapter 26.09 (~~or 26.26~~), 26.26A, or
34 26.26B RCW.

35 (3) If the court grants an order for a fixed time period, the
36 petitioner may apply for renewal of the order by filing a petition
37 for renewal at any time within the three months before the order
38 expires. The petition for renewal shall state the reasons why the
39 petitioner seeks to renew the protection order. Upon receipt of the
40 petition for renewal the court shall order a hearing which shall be

1 not later than fourteen days from the date of the order. Except as
2 provided in RCW 26.50.085, personal service shall be made on the
3 respondent not less than five days before the hearing. If timely
4 service cannot be made the court shall set a new hearing date and
5 shall either require additional attempts at obtaining personal
6 service or permit service by publication as provided in RCW 26.50.085
7 or by mail as provided in RCW 26.50.123. If the court permits service
8 by publication or mail, the court shall set the new hearing date not
9 later than twenty-four days from the date of the order. If the order
10 expires because timely service cannot be made the court shall grant
11 an ex parte order of protection as provided in RCW 26.50.070. The
12 court shall grant the petition for renewal unless the respondent
13 proves by a preponderance of the evidence that the respondent will
14 not resume acts of domestic violence against the petitioner or the
15 petitioner's children or family or household members when the order
16 expires. The court may renew the protection order for another fixed
17 time period or may enter a permanent order as provided in this
18 section. The court may award court costs, service fees, and
19 reasonable attorneys' fees as provided in subsection (1)(g) of this
20 section.

21 (4) In providing relief under this chapter, the court may realign
22 the designation of the parties as "petitioner" and "respondent" where
23 the court finds that the original petitioner is the abuser and the
24 original respondent is the victim of domestic violence and may issue
25 an ex parte temporary order for protection in accordance with RCW
26 26.50.070 on behalf of the victim until the victim is able to prepare
27 a petition for an order for protection in accordance with RCW
28 26.50.030.

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

34 (6) The court order shall specify the date the order expires if
35 any. The court order shall also state whether the court issued the
36 protection order following personal service, service by publication,
37 or service by mail and whether the court has approved service by
38 publication or mail of an order issued under this section.

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

4 **Sec. 4039.** RCW 26.50.110 and 2017 c 230 s 9 are each amended to
5 read as follows:

6 (1)(a) Whenever an order is granted under this chapter, chapter
7 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10,
8 (~~26.26~~) 26.26A, 26.26B, or 74.34 RCW, any temporary order for
9 protection granted under chapter 7.40 RCW pursuant to chapter 74.34
10 RCW, or there is a valid foreign protection order as defined in RCW
11 26.52.020, and the respondent or person to be restrained knows of the
12 order, a violation of any of the following provisions of the order is
13 a gross misdemeanor, except as provided in subsections (4) and (5) of
14 this section:

15 (i) The restraint provisions prohibiting acts or threats of
16 violence against, or stalking of, a protected party, or restraint
17 provisions prohibiting contact with a protected party;

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

20 (iii) A provision prohibiting a person from knowingly coming
21 within, or knowingly remaining within, a specified distance of a
22 location;

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

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

29 (b) Upon conviction, and in addition to any other penalties
30 provided by law, the court:

31 (i) May require that the respondent submit to electronic
32 monitoring. The court shall specify who shall provide the electronic
33 monitoring services, and the terms under which the monitoring shall
34 be performed. The order also may include a requirement that the
35 respondent pay the costs of the monitoring. The court shall consider
36 the ability of the convicted person to pay for electronic monitoring.

37 (ii) Shall impose a fine of fifteen dollars, in addition to any
38 penalty or fine imposed, for a violation of a domestic violence
39 protection order issued under this chapter. Revenue from the fifteen

1 dollar fine must be remitted monthly to the state treasury for
2 deposit in the domestic violence prevention account.

3 (2) A peace officer shall arrest without a warrant and take into
4 custody a person whom the peace officer has probable cause to believe
5 has violated an order issued under this chapter, chapter 7.92, 7.90,
6 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10, (~~26.26~~) 26.26A,
7 26.26B, or 74.34 RCW, any temporary order for protection granted
8 under chapter 7.40 RCW pursuant to chapter 74.34 RCW, or a valid
9 foreign protection order as defined in RCW 26.52.020, that restrains
10 the person or excludes the person from a residence, workplace,
11 school, or day care, or prohibits the person from knowingly coming
12 within, or knowingly remaining within, a specified distance of a
13 location, if the person restrained knows of the order. Presence of
14 the order in the law enforcement computer-based criminal intelligence
15 information system is not the only means of establishing knowledge of
16 the order.

17 (3) A violation of an order issued under this chapter, chapter
18 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10,
19 (~~26.26~~) 26.26A, 26.26B, or 74.34 RCW, or of a valid foreign
20 protection order as defined in RCW 26.52.020, shall also constitute
21 contempt of court, and is subject to the penalties prescribed by law.

22 (4) Any assault that is a violation of an order issued under this
23 chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99,
24 26.09, 26.10, (~~26.26~~) 26.26A, 26.26B, or 74.34 RCW, or of a valid
25 foreign protection order as defined in RCW 26.52.020, and that does
26 not amount to assault in the first or second degree under RCW
27 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in
28 violation of such an order that is reckless and creates a substantial
29 risk of death or serious physical injury to another person is a class
30 C felony.

31 (5) A violation of a court order issued under this chapter,
32 chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10,
33 (~~26.26~~) 26.26A, 26.26B, or 74.34 RCW, or of a valid foreign
34 protection order as defined in RCW 26.52.020, is a class C felony if
35 the offender has at least two previous convictions for violating the
36 provisions of an order issued under this chapter, chapter 7.90,
37 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10, (~~26.26~~) 26.26A,
38 26.26B, or 74.34 RCW, or a valid foreign protection order as defined
39 in RCW 26.52.020. The previous convictions may involve the same

1 victim or other victims specifically protected by the orders the
2 offender violated.

3 (6) Upon the filing of an affidavit by the petitioner or any
4 peace officer alleging that the respondent has violated an order
5 granted under this chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88,
6 9.94A, 10.99, 26.09, 26.10, (~~26.26~~) 26.26A, 26.26B, or 74.34 RCW,
7 or a valid foreign protection order as defined in RCW 26.52.020, the
8 court may issue an order to the respondent, requiring the respondent
9 to appear and show cause within fourteen days why the respondent
10 should not be found in contempt of court and punished accordingly.
11 The hearing may be held in the court of any county or municipality in
12 which the petitioner or respondent temporarily or permanently resides
13 at the time of the alleged violation.

14 **Sec. 4040.** RCW 26.50.160 and 2017 3rd sp.s. c 6 s 335 are each
15 amended to read as follows:

16 To prevent the issuance of competing protection orders in
17 different courts and to give courts needed information for issuance
18 of orders, the judicial information system shall be available in each
19 district, municipal, and superior court by July 1, 1997, and shall
20 include a database containing the following information:

21 (1) The names of the parties and the cause number for every order
22 of protection issued under this title, every sexual assault
23 protection order issued under chapter 7.90 RCW, every criminal no-
24 contact order issued under chapters 9A.46 and 10.99 RCW, every
25 antiharassment order issued under chapter 10.14 RCW, every
26 dissolution action under chapter 26.09 RCW, every third-party custody
27 action under chapter 26.10 RCW, every parentage action under chapter
28 (~~26.26~~) 26.26A or 26.26B RCW, every restraining order issued on
29 behalf of an abused child or adult dependent person under chapter
30 26.44 RCW, every foreign protection order filed under chapter 26.52
31 RCW, and every order for protection of a vulnerable adult under
32 chapter 74.34 RCW. When a guardian or the department of social and
33 health services or department of children, youth, and families has
34 petitioned for relief on behalf of an abused child, adult dependent
35 person, or vulnerable adult, the name of the person on whose behalf
36 relief was sought shall be included in the database as a party rather
37 than the guardian or appropriate department;

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

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

4 **Sec. 4041.** RCW 36.28A.410 and 2017 c 261 s 5 are each amended to
5 read as follows:

6 (1)(a) Subject to the availability of amounts appropriated for
7 this specific purpose, the Washington association of sheriffs and
8 police chiefs shall create and operate a statewide automated
9 protected person notification system to automatically notify a
10 registered person via the registered person's choice of telephone or
11 email when a respondent subject to a court order specified in (b) of
12 this subsection has attempted to purchase or acquire a firearm and
13 been denied based on a background check or completed and submitted
14 firearm purchase or transfer application that indicates the
15 respondent is ineligible to possess a firearm under state or federal
16 law. The system must permit a person to register for notification, or
17 a registered person to update the person's registration information,
18 for the statewide automated protected person notification system by
19 calling a toll-free telephone number or by accessing a public web
20 site.

21 (b) The notification requirements of this section apply to any
22 court order issued under chapter 7.92 RCW and RCW 7.90.090,
23 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060,
24 26.10.040, 26.10.115, (~~26.26.130, 26.26.590~~) 26.26B.020, 26.50.060,
25 or 26.50.070, and any foreign protection order filed with a
26 Washington court pursuant to chapter 26.52 RCW, where the order
27 prohibits the respondent from possessing firearms or where by
28 operation of law the respondent is ineligible to possess firearms
29 during the term of the order. The notification requirements of this
30 section apply even if the respondent has notified the Washington
31 state patrol that he or she has appealed a background check denial
32 under RCW 43.43.823.

33 (2) An appointed or elected official, public employee, or public
34 agency as defined in RCW 4.24.470, or combination of units of
35 government and its employees, as provided in RCW 36.28A.010, are
36 immune from civil liability for damages for any release of
37 information or the failure to release information related to the
38 statewide automated protected person notification system in this
39 section, so long as the release or failure to release was without

1 gross negligence. The immunity provided under this subsection applies
2 to the release of relevant and necessary information to other public
3 officials, public employees, or public agencies, and to the general
4 public.

5 (3) Information and records prepared, owned, used, or retained by
6 the Washington association of sheriffs and police chiefs pursuant to
7 chapter 261, Laws of 2017, including information a person submits to
8 register and participate in the statewide automated protected person
9 notification system, are exempt from public inspection and copying
10 under chapter 42.56 RCW.

11 **Sec. 4042.** RCW 59.18.575 and 2009 c 395 s 2 are each amended to
12 read as follows:

13 (1)(a) If a tenant notifies the landlord in writing that he or
14 she or a household member was a victim of an act that constitutes a
15 crime of domestic violence, sexual assault, unlawful harassment, or
16 stalking, and either (a)(i) or (ii) of this subsection applies, then
17 subsection (2) of this section applies:

18 (i) The tenant or the household member has a valid order for
19 protection under one or more of the following: Chapter 7.90, 26.50,
20 (~~or 26.26~~) 26.26A, or 26.26B RCW or RCW 9A.46.040, 9A.46.050,
21 10.14.080, 10.99.040 (2) or (3), or 26.09.050; or

22 (ii) The tenant or the household member has reported the domestic
23 violence, sexual assault, unlawful harassment, or stalking to a
24 qualified third party acting in his or her official capacity and the
25 qualified third party has provided the tenant or the household member
26 a written record of the report signed by the qualified third party.

27 (b) When a copy of a valid order for protection or a written
28 record of a report signed by a qualified third party, as required
29 under (a) of this subsection, is made available to the landlord, the
30 tenant may terminate the rental agreement and quit the premises
31 without further obligation under the rental agreement or under this
32 chapter (~~(59.18 RCW)~~). However, the request to terminate the rental
33 agreement must occur within ninety days of the reported act, event,
34 or circumstance that gave rise to the protective order or report to a
35 qualified third party. A record of the report to a qualified third
36 party that is provided to the tenant or household member shall
37 consist of a document signed and dated by the qualified third party
38 stating: (i) That the tenant or the household member notified him or
39 her that he or she was a victim of an act or acts that constitute a

1 crime of domestic violence, sexual assault, unlawful harassment, or
2 stalking; (ii) the time and date the act or acts occurred; (iii) the
3 location where the act or acts occurred; (iv) a brief description of
4 the act or acts of domestic violence, sexual assault, unlawful
5 harassment, or stalking; and (v) that the tenant or household member
6 informed him or her of the name of the alleged perpetrator of the act
7 or acts. The record of the report provided to the tenant or household
8 member shall not include the name of the alleged perpetrator of the
9 act or acts of domestic violence, sexual assault, unlawful
10 harassment, or stalking. The qualified third party shall keep a copy
11 of the record of the report and shall note on the retained copy the
12 name of the alleged perpetrator of the act or acts of domestic
13 violence, sexual assault, unlawful harassment, or stalking. The
14 record of the report to a qualified third party may be accomplished
15 by completion of a form provided by the qualified third party, in
16 substantially the following form:

17
18
19 [Name of organization, agency, clinic, professional service
20 provider]

21 I and/or my (household member) am/is a victim
22 of

23 ... domestic violence as defined by RCW
24 26.50.010.

25 ... sexual assault as defined by RCW
26 70.125.030.

27 ... stalking as defined by RCW 9A.46.110.

28 ... unlawful harassment as defined by RCW
29 59.18.570.

30 Briefly describe the incident of domestic violence,
31 sexual assault, unlawful harassment, or stalking:
32

33 The incident(s) that I rely on in support of this
34 declaration occurred on the following date(s) and time(s)
35 and at the following location(s):

1 The incident(s) that I rely on in support of this
2 declaration were committed by the following person(s): . . .
3

4 I state under penalty of perjury under the laws of the
5 state of Washington that the foregoing is true and correct.

6 Dated at (city) . ., Washington, this . . . day
7 of, (~~20--~~) . . . (year)

8

9 Signature of Tenant or
10 Household Member

11 I verify that I have provided to the person whose
12 signature appears above the statutes cited in RCW
13 59.18.575 and that the individual was a victim of an act that
14 constitutes a crime of domestic violence, sexual assault,
15 unlawful harassment, or stalking, and that the individual
16 informed me of the name of the alleged perpetrator of the
17 act.

18 Dated this . . . day of, (~~20--~~) . . . (year)

19

20 Signature of authorized
21 officer/employee of
22 (Organization, agency, clinic,
23 professional service provider)

24 (2) A tenant who terminates a rental agreement under this section
25 is discharged from the payment of rent for any period following the
26 last day of the month of the quitting date. The tenant shall remain
27 liable for the rent for the month in which he or she terminated the
28 rental agreement unless the termination is in accordance with RCW
29 59.18.200(1). Notwithstanding lease provisions that allow for
30 forfeiture of a deposit for early termination, a tenant who
31 terminates under this section is entitled to the return of the full
32 deposit, subject to RCW 59.18.020 and 59.18.280. Other tenants who
33 are parties to the rental agreement, except household members who are
34 the victims of sexual assault, stalking, unlawful harassment, or
35 domestic violence, are not released from their obligations under the
36 rental agreement or other obligations under this chapter.

37 (3) (a) Notwithstanding any other provision under this section, if
38 a tenant or a household member is a victim of sexual assault,

1 stalking, or unlawful harassment by a landlord, the tenant may
2 terminate the rental agreement and quit the premises without further
3 obligation under the rental agreement or under this chapter prior to
4 making a copy of a valid order for protection or a written record of
5 a report signed by a qualified third party available to the landlord,
6 provided that:

7 (i) The tenant must deliver a copy of a valid order for
8 protection or written record of a report signed by a qualified third
9 party to the landlord by mail, fax, or personal delivery by a third
10 party within seven days of quitting the tenant's dwelling unit; and

11 (ii) A written record of a report signed by the qualified third
12 party must be substantially in the form specified under subsection
13 (1)(b) of this section. The record of the report provided to the
14 landlord must not include the name of the alleged perpetrator of the
15 act. On written request by the landlord, the qualified third party
16 shall, within seven days, provide the name of the alleged perpetrator
17 of the act to the landlord only if the alleged perpetrator was a
18 person meeting the definition of the term "landlord" under RCW
19 59.18.570.

20 (b) A tenant who terminates his or her rental agreement under
21 this subsection is discharged from the payment of rent for any period
22 following the latter of: (i) The date the tenant vacates the unit; or
23 (ii) the date the record of the report of the qualified third party
24 and the written notice that the tenant has vacated are delivered to
25 the landlord by mail, fax, or personal delivery by a third party. The
26 tenant is entitled to a pro rata refund of any prepaid rent and must
27 receive a full and specific statement of the basis for retaining any
28 of the deposit together with any refund due in accordance with RCW
29 59.18.280.

30 (4) If a tenant or a household member is a victim of sexual
31 assault, stalking, or unlawful harassment by a landlord, the tenant
32 may change or add locks to the tenant's dwelling unit at the tenant's
33 expense. If a tenant exercises his or her rights to change or add
34 locks, the following rules apply:

35 (a) Within seven days of changing or adding locks, the tenant
36 must deliver to the landlord by mail, fax, or personal delivery by a
37 third party: (i) Written notice that the tenant has changed or added
38 locks; and (ii) a copy of a valid order for protection or a written
39 record of a report signed by a qualified third party. A written
40 record of a report signed by a qualified third party must be

1 substantially in the form specified under subsection (1)(b) of this
2 section. The record of the report provided to the landlord must not
3 include the name of the alleged perpetrator of the act. On written
4 request by the landlord, the qualified third party shall, within
5 seven days, provide the name of the alleged perpetrator to the
6 landlord only if the alleged perpetrator was a person meeting the
7 definition of the term "landlord" under RCW 59.18.570.

8 (b) After the tenant provides notice to the landlord that the
9 tenant has changed or added locks, the tenant's rental agreement
10 shall terminate on the ninetieth day after providing such notice,
11 unless:

12 (i) Within sixty days of providing notice that the tenant has
13 changed or added locks, the tenant notifies the landlord in writing
14 that the tenant does not wish to terminate his or her rental
15 agreement. If the perpetrator has been identified by the qualified
16 third party and is no longer an employee or agent of the landlord or
17 owner and does not reside at the property, the tenant shall provide
18 the owner or owner's designated agent with a copy of the key to the
19 new locks at the same time as providing notice that the tenant does
20 not wish to terminate his or her rental agreement. A tenant who has a
21 valid protection, antiharassment, or other protective order against
22 the owner of the premises or against an employee or agent of the
23 landlord or owner is not required to provide a key to the new locks
24 until the protective order expires or the tenant vacates; or

25 (ii) The tenant exercises his or her rights to terminate the
26 rental agreement under subsection (3) of this section within sixty
27 days of providing notice that the tenant has changed or added locks.

28 (c) After a landlord receives notice that a tenant has changed or
29 added locks to his or her dwelling unit under (a) of this subsection,
30 the landlord may not enter the tenant's dwelling unit except as
31 follows:

32 (i) In the case of an emergency, the landlord may enter the unit
33 if accompanied by a law enforcement or fire official acting in his or
34 her official capacity. If the landlord reasonably concludes that the
35 circumstances require immediate entry into the unit, the landlord
36 may, after notifying emergency services, use such force as necessary
37 to enter the unit if the tenant is not present; or

38 (ii) The landlord complies with the requirements of RCW 59.18.150
39 and clearly specifies in writing the time and date that the landlord

1 intends to enter the unit and the purpose for entering the unit. The
2 tenant must make arrangements to permit access by the landlord.

3 (d) The exercise of rights to change or add locks under this
4 subsection does not discharge the tenant from the payment of rent
5 until the rental agreement is terminated and the tenant vacates the
6 unit.

7 (e) The tenant may not change any locks to common areas and must
8 make keys for new locks available to other household members.

9 (f) Upon vacating the dwelling unit, the tenant must deliver the
10 key and all copies of the key to the landlord by mail or personal
11 delivery by a third party.

12 (5) A tenant's remedies under this section do not preempt any
13 other legal remedy available to the tenant.

14 (6) The provision of verification of a report under subsection
15 (1)(b) of this section does not waive the confidential or privileged
16 nature of the communication between a victim of domestic violence,
17 sexual assault, or stalking with a qualified third party pursuant to
18 RCW 5.60.060, 70.123.075, or 70.125.065. No record or evidence
19 obtained from such disclosure may be used in any civil,
20 administrative, or criminal proceeding against the victim unless a
21 written waiver of applicable evidentiary privilege is obtained,
22 except that the verification itself, and no other privileged
23 information, under subsection (1)(b) of this section may be used in
24 civil proceedings brought under this section.

25 **Sec. 4043.** RCW 72.09.712 and 2009 c 521 s 166 and 2009 c 400 s 1
26 are each reenacted and amended to read as follows:

27 (1) At the earliest possible date, and in no event later than
28 thirty days before release except in the event of escape or emergency
29 furloughs as defined in RCW 72.66.010, the department of corrections
30 shall send written notice of parole, release, community custody, work
31 release placement, furlough, or escape about a specific inmate
32 convicted of a violent offense, a sex offense as defined by RCW
33 9.94A.030, a domestic violence court order violation pursuant to RCW
34 10.99.040, 10.99.050, 26.09.300, 26.10.220, (~~26.26.138~~) 26.26B.050,
35 26.50.110, 26.52.070, or 74.34.145, or a felony harassment offense as
36 defined by RCW 9A.46.060 or 9A.46.110, to the following:

37 (a) The chief of police of the city, if any, in which the inmate
38 will reside or in which placement will be made in a work release
39 program; and

1 (b) The sheriff of the county in which the inmate will reside or
2 in which placement will be made in a work release program.

3 The sheriff of the county where the offender was convicted shall
4 be notified if the department does not know where the offender will
5 reside. The department shall notify the state patrol of the release
6 of all sex offenders, and that information shall be placed in the
7 Washington crime information center for dissemination to all law
8 enforcement.

9 (2) The same notice as required by subsection (1) of this section
10 shall be sent to the following if such notice has been requested in
11 writing about a specific inmate convicted of a violent offense, a sex
12 offense as defined by RCW 9.94A.030, a domestic violence court order
13 violation pursuant to RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220,
14 ((~~26.26.138~~)) 26.26B.050, 26.50.110, 26.52.070, or 74.34.145, or a
15 felony harassment offense as defined by RCW 9A.46.060 or 9A.46.110:

16 (a) The victim of the crime for which the inmate was convicted or
17 the victim's next of kin if the crime was a homicide;

18 (b) Any witnesses who testified against the inmate in any court
19 proceedings involving the violent offense;

20 (c) Any person specified in writing by the prosecuting attorney;
21 and

22 (d) Any person who requests such notice about a specific inmate
23 convicted of a sex offense as defined by RCW 9.94A.030 from the
24 department of corrections at least sixty days prior to the expected
25 release date of the offender.

26 Information regarding victims, next of kin, or witnesses
27 requesting the notice, information regarding any other person
28 specified in writing by the prosecuting attorney to receive the
29 notice, and the notice are confidential and shall not be available to
30 the inmate. Whenever the department of corrections mails notice
31 pursuant to this subsection and the notice is returned as
32 undeliverable, the department shall attempt alternative methods of
33 notification, including a telephone call to the person's last known
34 telephone number.

35 (3) The existence of the notice requirements contained in
36 subsections (1) and (2) of this section shall not require an
37 extension of the release date in the event that the release plan
38 changes after notification.

39 (4) If an inmate convicted of a violent offense, a sex offense as
40 defined by RCW 9.94A.030, a domestic violence court order violation

1 pursuant to RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220,
2 ((~~26.26.138~~)) 26.26B.050, 26.50.110, 26.52.070, or 74.34.145, or a
3 felony harassment offense as defined by RCW 9A.46.060 or 9A.46.110,
4 escapes from a correctional facility, the department of corrections
5 shall immediately notify, by the most reasonable and expedient means
6 available, the chief of police of the city and the sheriff of the
7 county in which the inmate resided immediately before the inmate's
8 arrest and conviction. If previously requested, the department shall
9 also notify the witnesses and the victim of the crime for which the
10 inmate was convicted or the victim's next of kin if the crime was a
11 homicide. If the inmate is recaptured, the department shall send
12 notice to the persons designated in this subsection as soon as
13 possible but in no event later than two working days after the
14 department learns of such recapture.

15 (5) If the victim, the victim's next of kin, or any witness is
16 under the age of sixteen, the notice required by this section shall
17 be sent to the parents or legal guardian of the child.

18 (6) The department of corrections shall send the notices required
19 by this chapter to the last address provided to the department by the
20 requesting party. The requesting party shall furnish the department
21 with a current address.

22 (7) The department of corrections shall keep, for a minimum of
23 two years following the release of an inmate, the following:

24 (a) A document signed by an individual as proof that that person
25 is registered in the victim or witness notification program; and

26 (b) A receipt showing that an individual registered in the victim
27 or witness notification program was mailed a notice, at the
28 individual's last known address, upon the release or movement of an
29 inmate.

30 (8) For purposes of this section the following terms have the
31 following meanings:

32 (a) "Violent offense" means a violent offense under RCW
33 9.94A.030;

34 (b) "Next of kin" means a person's spouse, state registered
35 domestic partner, parents, siblings and children.

36 (9) Nothing in this section shall impose any liability upon a
37 chief of police of a city or sheriff of a county for failing to
38 request in writing a notice as provided in subsection (1) of this
39 section.

1 **Sec. 4044.** RCW 72.09.714 and 2009 c 400 s 2 and 2009 c 28 s 37
2 are each reenacted and amended to read as follows:

3 The department of corrections shall provide the victims,
4 witnesses, and next of kin in the case of a homicide and victims and
5 witnesses involved in violent offense cases, sex offenses as defined
6 by RCW 9.94A.030, a domestic violence court order violation pursuant
7 to RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, (~~26.26.138~~)
8 26.26B.050, 26.50.110, 26.52.070, or 74.34.145, or a felony
9 harassment pursuant to RCW 9A.46.060 or 9A.46.110, a statement of the
10 rights of victims and witnesses to request and receive notification
11 under RCW 72.09.712 and 72.09.716.

12 **Sec. 4045.** RCW 74.13.031 and 2018 c 284 s 37, 2018 c 80 s 1, and
13 2018 c 34 s 5 are each reenacted and amended to read as follows:

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

18 (2) Within available resources, the department shall recruit an
19 adequate number of prospective adoptive and foster homes, both
20 regular and specialized, i.e. homes for children of ethnic minority,
21 including Indian homes for Indian children, sibling groups,
22 handicapped and emotionally disturbed, teens, pregnant and parenting
23 teens, and the department shall annually report to the governor and
24 the legislature concerning the department's success in: (a) Meeting
25 the need for adoptive and foster home placements; (b) reducing the
26 foster parent turnover rate; (c) completing home studies for legally
27 free children; and (d) implementing and operating the passport
28 program required by RCW 74.13.285. The report shall include a section
29 entitled "Foster Home Turn-Over, Causes and Recommendations."

30 (3) The department shall investigate complaints of any recent act
31 or failure to act on the part of a parent or caretaker that results
32 in death, serious physical or emotional harm, or sexual abuse or
33 exploitation, or that presents an imminent risk of serious harm, and
34 on the basis of the findings of such investigation, offer child
35 welfare services in relation to the problem to such parents, legal
36 custodians, or persons serving in loco parentis, and/or bring the
37 situation to the attention of an appropriate court, or another
38 community agency. An investigation is not required of nonaccidental
39 injuries which are clearly not the result of a lack of care or

1 supervision by the child's parents, legal custodians, or persons
2 serving in loco parentis. If the investigation reveals that a crime
3 against a child may have been committed, the department shall notify
4 the appropriate law enforcement agency.

5 (4) As provided in RCW 26.44.030(11), the department may respond
6 to a report of child abuse or neglect by using the family assessment
7 response.

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

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

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

31 (7) The department shall have authority to accept custody of
32 children from parents and to accept custody of children from juvenile
33 courts, where authorized to do so under law, to provide child welfare
34 services including placement for adoption, to provide for the routine
35 and necessary medical, dental, and mental health care, or necessary
36 emergency care of the children, and to provide for the physical care
37 of such children and make payment of maintenance costs if needed.
38 Except where required by Public Law 95-608 (25 U.S.C. Sec. 1915), no
39 private adoption agency which receives children for adoption from the

1 department shall discriminate on the basis of race, creed, or color
2 when considering applications in their placement for adoption.

3 (8) The department shall have authority to provide temporary
4 shelter to children who have run away from home and who are admitted
5 to crisis residential centers.

6 (9) The department shall have authority to purchase care for
7 children.

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

15 (11)(a) The department shall provide continued extended foster
16 care services to nonminor dependents who are:

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

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

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

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

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

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

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

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

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

16 (12) The department shall have authority to provide adoption
17 support benefits, or relative guardianship subsidies on behalf of
18 youth ages eighteen to twenty-one years who achieved permanency
19 through adoption or a relative guardianship at age sixteen or older
20 and who meet the criteria described in subsection (11) of this
21 section.

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

31 (14) The department shall have authority within funds
32 appropriated for foster care services to purchase care for Indian
33 children who are in the custody of a federally recognized Indian
34 tribe or tribally licensed child-placing agency pursuant to parental
35 consent, tribal court order, or state juvenile court order. The
36 purchase of such care is exempt from the requirements of chapter
37 74.13B RCW and may be purchased from the federally recognized Indian
38 tribe or tribally licensed child-placing agency, and shall be subject
39 to the same eligibility standards and rates of support applicable to
40 other children for whom the department purchases care.

1 Notwithstanding any other provision of RCW 13.32A.170 through
2 13.32A.200, 43.185C.295, 74.13.035, and 74.13.036, or of this section
3 all services to be provided by the department under subsections (4),
4 (7), and (8) of this section, subject to the limitations of these
5 subsections, may be provided by any program offering such services
6 funded pursuant to Titles II and III of the federal juvenile justice
7 and delinquency prevention act of 1974.

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

12 (16) The department shall have authority to provide independent
13 living services to youths, including individuals who have attained
14 eighteen years of age, and have not attained twenty-one years of age
15 who are or have been in foster care.

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

26 (18)(a) The department shall, within current funding levels,
27 place on its public web site a document listing the duties and
28 responsibilities the department has to a child subject to a
29 dependency petition including, but not limited to, the following:

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

32 (ii) Sibling visits subject to the restrictions in RCW
33 13.34.136(2)(b)(ii);

34 (iii) Parent-child visits;

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

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

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

3 (19)(a) The department shall have the authority to purchase legal
4 representation for parents or kinship caregivers, or both, of
5 children who are at risk of being dependent, or who are dependent, to
6 establish or modify a parenting plan under RCW 13.34.155 or chapter
7 26.09 (~~or 26.26~~), 26.26A, or 26.26B RCW or secure orders
8 establishing other relevant civil legal relationships authorized by
9 law, when it is necessary for the child's safety, permanence, or
10 well-being. The department's purchase of legal representation for
11 kinship caregivers must be within the department's appropriations.
12 This subsection does not create an entitlement to legal
13 representation purchased by the department and does not create
14 judicial authority to order the department to purchase legal
15 representation for a parent or kinship caregiver. Such determinations
16 are solely within the department's discretion. The term "kinship
17 caregiver" as used in this section means a caregiver who meets the
18 definition of "kin" in RCW 74.13.600(1), unless the child is an
19 Indian child as defined in RCW 13.38.040 and 25 U.S.C. Sec. 1903. For
20 an Indian child as defined in RCW 13.38.040 and 25 U.S.C. Sec. 1903,
21 the term "kinship caregiver" as used in this section means a
22 caregiver who is an "extended family member" as defined in RCW
23 13.38.040(8).

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

29 **Sec. 4046.** RCW 74.20.040 and 2012 1st sp.s. c 4 s 1 are each
30 amended to read as follows:

31 (1) Whenever the department receives an application for public
32 assistance on behalf of a child, the department shall take
33 appropriate action under the provisions of this chapter, chapter
34 74.20A RCW, or other appropriate statutes of this state to establish
35 or enforce support obligations against the parent or other persons
36 owing a duty to pay support moneys.

37 (2) The secretary may accept a request for support enforcement
38 services on behalf of persons who are not recipients of public
39 assistance and may take appropriate action to establish or enforce

1 support obligations against the parent or other persons owing a duty
2 to pay moneys. Requests accepted under this subsection may be
3 conditioned upon the payment of a fee as required by subsection (6)
4 of this section or through regulation issued by the secretary. The
5 secretary may establish by regulation, reasonable standards and
6 qualifications for support enforcement services under this
7 subsection.

8 (3) The secretary may accept requests for support enforcement
9 services from child support enforcement agencies in other states
10 operating child support programs under Title IV-D of the social
11 security act or from foreign countries, and may take appropriate
12 action to establish and enforce support obligations, or to enforce
13 subpoenas, information requests, orders for genetic testing, and
14 collection actions issued by the other agency against the parent or
15 other person owing a duty to pay support moneys, the parent or other
16 person's employer, or any other person or entity properly subject to
17 child support collection or information-gathering processes. The
18 request shall contain and be accompanied by such information and
19 documentation as the secretary may by rule require, and be signed by
20 an authorized representative of the agency. The secretary may adopt
21 rules setting forth the duration and nature of services provided
22 under this subsection.

23 (4) The department may take action to establish, enforce, and
24 collect a support obligation, including performing related services,
25 under this chapter and chapter 74.20A RCW, or through the attorney
26 general or prosecuting attorney for action under chapter 26.09,
27 26.18, 26.20, 26.21A, (~~or 26.26~~) 26.26A, or 26.26B RCW or other
28 appropriate statutes or the common law of this state.

29 (5) Whenever a support order is filed with the Washington state
30 support registry under chapter 26.23 RCW, the department may take
31 appropriate action under the provisions of this chapter, chapter
32 26.23 or 74.20A RCW, or other appropriate law of this state to
33 establish or enforce the support obligations contained in that order
34 against the responsible parent or other persons owing a duty to pay
35 support moneys.

36 (6) The secretary, in the case of an individual who has never
37 received assistance under a state program funded under part A and for
38 whom the state has collected at least five hundred dollars of
39 support, shall impose an annual fee of twenty-five dollars for each
40 case in which services are furnished, which shall be retained by the

1 state from support collected on behalf of the individual, but not
2 from the first five hundred dollars of support. The secretary may, on
3 showing of necessity, waive or defer any such fee or cost.

4 (7) Fees, due and owing, may be retained from support payments
5 directly or collected as delinquent support moneys utilizing any of
6 the remedies in this chapter (~~(74.20—RCW)~~), chapter 74.20A RCW,
7 chapter 26.21A RCW, or any other remedy at law or equity available to
8 the department or any agencies with whom it has a cooperative or
9 contractual arrangement to establish, enforce, or collect support
10 moneys or support obligations.

11 (8) The secretary may waive the fee, or any portion thereof, as a
12 part of a compromise of disputed claims or may grant partial or total
13 charge off of said fee if the secretary finds there are no available,
14 practical, or lawful means by which said fee may be collected or to
15 facilitate payment of the amount of delinquent support moneys or fees
16 owed.

17 (9) The secretary shall adopt rules conforming to federal laws,
18 including but not limited to complying with section 7310 of the
19 federal deficit reduction act of 2005, 42 U.S.C. Sec. 654, and rules
20 and regulations required to be observed in maintaining the state
21 child support enforcement program required under Title IV-D of the
22 federal social security act. The adoption of these rules shall be
23 calculated to promote the cost-effective use of the agency's
24 resources and not otherwise cause the agency to divert its resources
25 from its essential functions.

26 **Sec. 4047.** RCW 74.20.225 and 1997 c 58 s 898 are each amended to
27 read as follows:

28 In carrying out the provisions of this chapter or chapters 26.18,
29 26.23, (~~(26.26)~~) 26.26A, 26.26B, and 74.20A RCW, the secretary and
30 other duly authorized officers of the department may subpoena
31 witnesses, take testimony, and compel the production of such papers,
32 books, records, and documents as they may deem relevant to the
33 performance of their duties. The division of child support may
34 enforce subpoenas issued under this power according to RCW
35 74.20A.350.

36 **Sec. 4048.** RCW 74.20.310 and 2002 c 302 s 705 are each amended
37 to read as follows:

1 (1) The provisions of RCW ((~~26.26.555~~)) 26.26A.485 requiring
2 appointment of a guardian ad litem to represent the child in an
3 action brought to determine the parent and child relationship do not
4 apply to actions brought under chapter ((~~26.26~~)) 26.26A or 26.26B RCW
5 if:

6 (a) The action is brought by the attorney general on behalf of
7 the department of social and health services and the child; or

8 (b) The action is brought by any prosecuting attorney on behalf
9 of the state and the child when referral has been made to the
10 prosecuting attorney by the department of social and health services
11 requesting such action.

12 (2) On the issue of parentage, the attorney general or
13 prosecuting attorney functions as the child's guardian ad litem
14 provided the interests of the state and the child are not in
15 conflict.

16 (3) The court, on its own motion or on motion of a party, may
17 appoint a guardian ad litem when necessary.

18 (4) The summons shall contain a notice to the parents that
19 pursuant to RCW ((~~26.26.555~~)) 26.26A.485 the parents have a right to
20 move the court for a guardian ad litem for the child other than the
21 prosecuting attorney or the attorney general subject to subsection
22 (2) of this section.

23 **Sec. 4049.** RCW 74.20.350 and 1979 ex.s. c 171 s 19 are each
24 amended to read as follows:

25 In order to facilitate and ensure compliance with Title IV-D of
26 the federal social security act, now existing or hereafter amended,
27 wherein the state is required to undertake to establish ((~~paternity~~))
28 parentage of such children as are born out of wedlock, the secretary
29 of social and health services may pay the reasonable and proper fees
30 of attorneys admitted to practice before the courts of this state,
31 who are engaged in private practice for the purpose of maintaining
32 actions under chapter ((~~26.26~~)) 26.26A or 26.26B RCW on behalf of
33 such children, to the end that parent and child relationships be
34 determined and financial support obligations be established by
35 superior court order. The secretary or the secretary's designee shall
36 make the determination in each case as to which cases shall be
37 referred for representation by such private attorneys. The secretary
38 may advance, pay, or reimburse for payment of, such reasonable costs
39 as may be attendant to an action under chapter ((~~26.26~~)) 26.26A or

1 26.26B RCW. The representation by a private attorney shall be only on
2 behalf of the subject child, the custodial natural parent, and the
3 child's personal representative or guardian ad litem, and shall not
4 in any manner be, or be construed to be, in representation of the
5 department of social and health services or the state of Washington,
6 such representation being restricted to that provided pursuant to
7 chapters 43.10 and 36.27 RCW.

8 **Sec. 4050.** RCW 74.20.360 and 2002 c 302 s 706 are each amended
9 to read as follows:

10 (1) The division of child support may issue an order for genetic
11 testing when providing services under this chapter and Title IV-D of
12 the federal social security act if genetic testing:

13 (a) Is appropriate in an action under chapter (~~(26.26)~~) 26.26A
14 RCW, the uniform parentage act;

15 (b) Is appropriate in an action to establish support under RCW
16 74.20A.056; or

17 (c) Would assist the parties or the division of child support in
18 determining whether it is appropriate to proceed with an action to
19 establish or disestablish (~~(paternity)~~) parentage.

20 (2) The order for genetic testing shall be served on the alleged
21 genetic parent or parents and the legal parent by personal service or
22 by any form of mail requiring a return receipt.

23 (3) Within twenty days of the date of service of an order for
24 genetic testing, any party required to appear for genetic testing,
25 the child, or a guardian on the child's behalf, may petition in
26 superior court under chapter (~~(26.26)~~) 26.26A RCW to bar or postpone
27 genetic testing.

28 (4) The order for genetic testing shall contain:

29 (a) An explanation of the right to proceed in superior court
30 under subsection (3) of this section;

31 (b) Notice that if no one proceeds under subsection (3) of this
32 section, the agency issuing the order will schedule genetic testing
33 and will notify the parties of the time and place of testing by
34 regular mail;

35 (c) Notice that the parties must keep the agency issuing the
36 order for genetic testing informed of their residence address and
37 that mailing a notice of time and place for genetic testing to the
38 last known address of the parties by regular mail constitutes valid
39 service of the notice of time and place;

1 (d) Notice that the order for genetic testing may be enforced
2 through:

3 (i) Public assistance grant reduction for noncooperation,
4 pursuant to agency rule, if the child and custodian are receiving
5 public assistance;

6 (ii) Termination of support enforcement services under Title IV-D
7 of the federal social security act if the child and custodian are not
8 receiving public assistance;

9 (iii) A referral to superior court for an appropriate action
10 under chapter ((26.26)) 26.26A RCW; or

11 (iv) A referral to superior court for remedial sanctions under
12 RCW 7.21.060.

13 (5) The department may advance the costs of genetic testing under
14 this section.

15 (6) If an action is pending under chapter ((26.26)) 26.26A RCW, a
16 judgment for reimbursement of the cost of genetic testing may be
17 awarded under RCW ((26.26.570)) 26.26A.330.

18 (7) If no action is pending in superior court, the department may
19 impose an obligation to reimburse costs of genetic testing according
20 to rules adopted by the department to implement RCW 74.20A.056.

21 **Sec. 4051.** RCW 74.20A.030 and 2007 c 143 s 7 are each amended to
22 read as follows:

23 (1) The department shall be subrogated to the right of any
24 dependent child or children or person having the care, custody, and
25 control of said child or children, if public assistance money is paid
26 to or for the benefit of the child, or for the care and maintenance
27 of a child, including a child with a developmental disability if the
28 child has been placed into care as a result of an action under
29 chapter 13.34 RCW, under a state-funded program, or a program funded
30 under Title IV-A or IV-E of the federal social security act as
31 amended by the personal responsibility and work opportunity
32 reconciliation act of 1996, and the federal deficit reduction act of
33 2005, to prosecute or maintain any support action or execute any
34 administrative remedy existing under the laws of the state of
35 Washington to obtain reimbursement of moneys expended, based on the
36 support obligation of the responsible parent established by a child
37 support order. Distribution of any support moneys shall be made in
38 accordance with RCW 26.23.035.

1 (2) The department may initiate, continue, maintain, or execute
2 an action to establish, enforce, and collect a support obligation,
3 including establishing (~~(paternity)~~) parentage and performing related
4 services, under this chapter and chapter 74.20 RCW, or through the
5 attorney general or prosecuting attorney under chapter 26.09, 26.18,
6 26.20, 26.21A, 26.23, (~~(or 26.26)~~) 26.26A, or 26.26B RCW or other
7 appropriate statutes or the common law of this state, for so long as
8 and under such conditions as the department may establish by
9 regulation.

10 (3) Public assistance moneys shall be exempt from collection
11 action under this chapter except as provided in RCW 74.20A.270.

12 (4) No collection action shall be taken against parents of
13 children eligible for admission to, or children who have been
14 discharged from, a residential habilitation center as defined by RCW
15 71A.10.020(~~((8))~~) unless the child with a developmental disability is
16 placed as a result of an action under chapter 13.34 RCW. The child
17 support obligation shall be calculated pursuant to chapter 26.19 RCW.

18 **Sec. 4052.** RCW 74.20A.055 and 2018 c 150 s 107 are each amended
19 to read as follows:

20 (1) The secretary may, if there is no order that establishes the
21 responsible parent's support obligation or specifically relieves the
22 responsible parent of a support obligation or pursuant to an
23 establishment of (~~(paternity)~~) parentage under chapter (~~(26.26)~~)
24 26.26A or 26.26B RCW, serve on the responsible parent or parents and
25 custodial parent a notice and finding of financial responsibility
26 requiring the parents to appear and show cause in an adjudicative
27 proceeding why the finding of responsibility and/or the amount
28 thereof is incorrect, should not be finally ordered, but should be
29 rescinded or modified. This notice and finding shall relate to the
30 support debt accrued and/or accruing under this chapter and/or RCW
31 26.16.205, including periodic payments to be made in the future. The
32 hearing shall be held pursuant to this section, chapter 34.05 RCW,
33 the Administrative Procedure Act, and the rules of the department. A
34 custodian who has physical custody of a child has the same rights
35 that a custodial parent has under this section.

36 (2) The notice and finding of financial responsibility shall be
37 served in the same manner prescribed for the service of a summons in
38 a civil action or may be served on the responsible parent by
39 certified mail, return receipt requested. The receipt shall be prima

1 facie evidence of service. The notice shall be served upon the debtor
2 within sixty days from the date the state assumes responsibility for
3 the support of the dependent child or children on whose behalf
4 support is sought. If the notice is not served within sixty days from
5 such date, the department shall lose the right to reimbursement of
6 payments made after the sixty-day period and before the date of
7 notification: PROVIDED, That if the department exercises reasonable
8 efforts to locate the debtor and is unable to do so the entire sixty-
9 day period is tolled until such time as the debtor can be located.
10 The notice may be served upon the custodial parent who is the
11 nonassistance applicant or public assistance recipient by first-class
12 mail to the last known address. If the custodial parent is not the
13 nonassistance applicant or public assistance recipient, service shall
14 be in the same manner as for the responsible parent.

15 (3) The notice and finding of financial responsibility shall set
16 forth the amount the department has determined the responsible parent
17 owes, the support debt accrued and/or accruing, and periodic payments
18 to be made in the future. The notice and finding shall also include:

19 (a) A statement of the name of the custodial parent and the name
20 of the child or children for whom support is sought;

21 (b) A statement of the amount of periodic future support payments
22 as to which financial responsibility is alleged;

23 (c) A statement that the responsible parent or custodial parent
24 may object to all or any part of the notice and finding, and file an
25 application for an adjudicative proceeding to show cause why the
26 terms set forth in the notice should not be ordered;

27 (d) A statement that, if neither the responsible parent nor the
28 custodial parent files in a timely fashion an application for an
29 adjudicative proceeding, the support debt and payments stated in the
30 notice and finding, including periodic support payments in the
31 future, shall be assessed and determined and ordered by the
32 department and that this debt and amounts due under the notice shall
33 be subject to collection action;

34 (e) A statement that the property of the debtor, without further
35 advance notice or hearing, will be subject to lien and foreclosure,
36 distraint, seizure and sale, order to withhold and deliver, notice of
37 payroll deduction or other collection action to satisfy the debt and
38 enforce the support obligation established under the notice;

39 (f) A statement that one or both parents are responsible for
40 either:

1 (i) Providing health care coverage for the child if accessible
2 coverage that can cover the child:

3 (A) Is available through health insurance or public health care
4 coverage; or

5 (B) Is or becomes available to the parent through that parent's
6 employment or union; or

7 (ii) Paying a monthly payment toward the premium if no such
8 coverage is available, as provided under RCW 26.09.105.

9 (4) A responsible parent or custodial parent who objects to the
10 notice and finding of financial responsibility may file an
11 application for an adjudicative proceeding within twenty days of the
12 date of service of the notice or thereafter as provided under this
13 subsection.

14 (a) If the responsible parent or custodial parent files the
15 application within twenty days, the office of administrative hearings
16 shall schedule an adjudicative proceeding to hear the parent's or
17 parents' objection and determine the support obligation for the
18 entire period covered by the notice and finding of financial
19 responsibility. The filing of the application stays collection action
20 pending the entry of a final administrative order;

21 (b) If both the responsible parent and the custodial parent fail
22 to file an application within twenty days, the notice and finding
23 shall become a final administrative order. The amounts for current
24 and future support and the support debt stated in the notice are
25 final and subject to collection, except as provided under (c) and (d)
26 of this subsection;

27 (c) If the responsible parent or custodial parent files the
28 application more than twenty days after, but within one year of the
29 date of service, the office of administrative hearings shall schedule
30 an adjudicative proceeding to hear the parent's or parents' objection
31 and determine the support obligation for the entire period covered by
32 the notice and finding of financial responsibility. The filing of the
33 application does not stay further collection action, pending the
34 entry of a final administrative order, and does not affect any prior
35 collection action;

36 (d) If the responsible parent or custodial parent files the
37 application more than one year after the date of service, the office
38 of administrative hearings shall schedule an adjudicative proceeding
39 at which the parent who requested the late hearing must show good
40 cause for failure to file a timely application. The filing of the

1 application does not stay future collection action and does not
2 affect prior collection action:

3 (i) If the presiding officer finds that good cause exists, the
4 presiding officer shall proceed to hear the parent's objection to the
5 notice and determine the support obligation;

6 (ii) If the presiding officer finds that good cause does not
7 exist, the presiding officer shall treat the application as a
8 petition for prospective modification of the amount for current and
9 future support established under the notice and finding. In the
10 modification proceeding, the presiding officer shall set current and
11 future support under chapter 26.19 RCW. The petitioning parent need
12 show neither good cause nor a substantial change of circumstances to
13 justify modification of current and future support;

14 (e) If the responsible parent's support obligation was based upon
15 imputed median net income, the grant standard, or the family need
16 standard, the division of child support may file an application for
17 adjudicative proceeding more than twenty days after the date of
18 service of the notice. The office of administrative hearings shall
19 schedule an adjudicative proceeding and provide notice of the hearing
20 to the responsible parent and the custodial parent. The presiding
21 officer shall determine the support obligation for the entire period
22 covered by the notice, based upon credible evidence presented by the
23 division of child support, the responsible parent, or the custodial
24 parent, or may determine that the support obligation set forth in the
25 notice is correct. The division of child support demonstrates good
26 cause by showing that the responsible parent's support obligation was
27 based upon imputed median net income, the grant standard, or the
28 family need standard. The filing of the application by the division
29 of child support does not stay further collection action, pending the
30 entry of a final administrative order, and does not affect any prior
31 collection action.

32 (f) The department shall retain and/or shall not refund support
33 money collected more than twenty days after the date of service of
34 the notice. Money withheld as the result of collection action shall
35 be delivered to the department. The department shall distribute such
36 money, as provided in published rules.

37 (5) If an application for an adjudicative proceeding is filed,
38 the presiding or reviewing officer shall determine the past liability
39 and responsibility, if any, of the alleged responsible parent and
40 shall also determine the amount of periodic payments to be made in

1 the future, which amount is not limited by the amount of any public
2 assistance payment made to or for the benefit of the child. If
3 deviating from the child support schedule in making these
4 determinations, the presiding or reviewing officer shall apply the
5 standards contained in the child support schedule and enter written
6 findings of fact supporting the deviation.

7 (6) If either the responsible parent or the custodial parent
8 fails to attend or participate in the hearing or other stage of an
9 adjudicative proceeding, upon a showing of valid service, the
10 presiding officer shall enter an order of default against each party
11 who did not appear and may enter an administrative order declaring
12 the support debt and payment provisions stated in the notice and
13 finding of financial responsibility to be assessed and determined and
14 subject to collection action. The parties who appear may enter an
15 agreed settlement or consent order, which may be different than the
16 terms of the department's notice. Any party who appears may choose to
17 proceed to the hearing, after the conclusion of which the presiding
18 officer or reviewing officer may enter an order that is different
19 than the terms stated in the notice, if the obligation is supported
20 by credible evidence presented by any party at the hearing.

21 (7) The final administrative order establishing liability and/or
22 future periodic support payments shall be superseded upon entry of a
23 superior court order for support to the extent the superior court
24 order is inconsistent with the administrative order.

25 (8) Debts determined pursuant to this section, accrued and not
26 paid, are subject to collection action under this chapter without
27 further necessity of action by a presiding or reviewing officer.

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

34 **Sec. 4053.** RCW 74.20A.056 and 2018 c 150 s 108 are each amended
35 to read as follows:

36 (1) ~~((If an alleged father has signed an affidavit acknowledging
37 paternity which has been filed with the state registrar of vital
38 statistics before July 1, 1997, the division of child support may
39 serve a notice and finding of parental responsibility on him and the~~

1 ~~custodial parent. Procedures for and responsibility resulting from~~
2 ~~acknowledgments filed after July 1, 1997, are in subsections (8) and~~
3 ~~(9) of this section. Service of the notice shall be in the same~~
4 ~~manner as a summons in a civil action or by certified mail, return~~
5 ~~receipt requested, on the alleged father. The custodial parent shall~~
6 ~~be served by first-class mail to the last known address. If the~~
7 ~~custodial parent is not the nonassistance applicant or public~~
8 ~~assistance recipient, service shall be in the same manner as for the~~
9 ~~responsible parent. The notice shall have attached to it a copy of~~
10 ~~the affidavit or certification of birth record information advising~~
11 ~~of the existence of a filed affidavit, provided by the state~~
12 ~~registrar of vital statistics, and shall state that:~~

13 ~~(a) Either or both parents are responsible for providing health~~
14 ~~care coverage for their child either through health insurance or~~
15 ~~public health care coverage, which is accessible to the child, or~~
16 ~~through coverage that if coverage that can be extended to cover the~~
17 ~~child is or becomes available to the parent through employment or is~~
18 ~~union-related, or for paying a monthly payment toward the premium if~~
19 ~~no such coverage is available, as provided under RCW 26.09.105;~~

20 ~~(b) The alleged father or custodial parent may file an~~
21 ~~application for an adjudicative proceeding at which they both will be~~
22 ~~required to appear and show cause why the amount stated in the notice~~
23 ~~as to support is incorrect and should not be ordered;~~

24 ~~(c) An alleged father or mother, if she is also the custodial~~
25 ~~parent, may request that a blood or genetic test be administered to~~
26 ~~determine whether such test would exclude him from being a natural~~
27 ~~parent and, if not excluded, may subsequently request that the~~
28 ~~division of child support initiate an action in superior court to~~
29 ~~determine the existence of the parent-child relationship; and~~

30 ~~(d) If neither the alleged father nor the custodial parent~~
31 ~~requests that a blood or genetic test be administered or files an~~
32 ~~application for an adjudicative proceeding, the amount of support~~
33 ~~stated in the notice and finding of parental responsibility shall~~
34 ~~become final, subject only to a subsequent determination under RCW~~
35 ~~26.26.500 through 26.26.630 that the parent-child relationship does~~
36 ~~not exist.~~

37 ~~(2) An alleged father or custodial parent who objects to the~~
38 ~~amount of support requested in the notice may file an application for~~
39 ~~an adjudicative proceeding up to twenty days after the date the~~
40 ~~notice was served. An application for an adjudicative proceeding may~~

1 ~~be filed within one year of service of the notice and finding of~~
2 ~~parental responsibility without the necessity for a showing of good~~
3 ~~cause or upon a showing of good cause thereafter. An adjudicative~~
4 ~~proceeding under this section shall be pursuant to RCW 74.20A.055.~~
5 ~~The only issues shall be the amount of the accrued debt, the amount~~
6 ~~of the current and future support obligation, and the reimbursement~~
7 ~~of the costs of blood or genetic tests if advanced by the department.~~
8 ~~A custodian who is not the parent of a child and who has physical~~
9 ~~custody of a child has the same notice and hearing rights that a~~
10 ~~custodial parent has under this section.~~

11 ~~(3) If the application for an adjudicative proceeding is filed~~
12 ~~within twenty days of service of the notice, collection action shall~~
13 ~~be stayed pending a final decision by the department. If no~~
14 ~~application is filed within twenty days:~~

15 ~~(a) The amounts in the notice shall become final and the debt~~
16 ~~created therein shall be subject to collection action; and~~

17 ~~(b) Any amounts so collected shall neither be refunded nor~~
18 ~~returned if the alleged father is later found not to be a responsible~~
19 ~~parent.~~

20 ~~(4) An alleged father or the mother, if she is also the custodial~~
21 ~~parent, may request that a blood or genetic test be administered at~~
22 ~~any time. The request for testing shall be in writing, or as the~~
23 ~~department may specify by rule, and served on the division of child~~
24 ~~support. If a request for testing is made, the department shall~~
25 ~~arrange for the test and, pursuant to rules adopted by the~~
26 ~~department, may advance the cost of such testing. The department~~
27 ~~shall mail a copy of the test results by certified mail, return~~
28 ~~receipt requested, to the alleged father's and mother's, if she is~~
29 ~~also the custodial parent, last known address.~~

30 ~~(5) If the test excludes the alleged father from being a natural~~
31 ~~parent, the division of child support shall file a copy of the~~
32 ~~results with the state registrar of vital statistics and shall~~
33 ~~dismiss any pending administrative collection proceedings based upon~~
34 ~~the affidavit in issue. The state registrar of vital statistics shall~~
35 ~~remove the alleged father's name from the birth certificate and~~
36 ~~change the child's surname to be the same as the mother's maiden name~~
37 ~~as stated on the birth certificate, or any other name which the~~
38 ~~mother may select.~~

39 ~~(6) The alleged father or mother, if she is also the custodial~~
40 ~~parent, may, within twenty days after the date of receipt of the test~~

1 results, request the division of child support to initiate an action
2 under RCW 26.26.500 through 26.26.630 to determine the existence of
3 the parent-child relationship. If the division of child support
4 initiates a superior court action at the request of the alleged
5 father or mother and the decision of the court is that the alleged
6 father is a natural parent, the parent who requested the test shall
7 be liable for court costs incurred.

8 ~~(7) If the alleged father or mother, if she is also the custodial~~
9 ~~parent, does not request the division of child support to initiate a~~
10 ~~superior court action, or fails to appear and cooperate with blood or~~
11 ~~genetic testing, the notice of parental responsibility shall become~~
12 ~~final for all intents and purposes and may be overturned only by a~~
13 ~~subsequent superior court order entered under RCW 26.26.500 through~~
14 ~~26.26.630.~~

15 ~~(8) (a) Subsections (1) through (7) of this section do not apply~~
16 ~~to acknowledgments of paternity filed with the state registrar of~~
17 ~~vital statistics after July 1, 1997.~~

18 ~~(b))~~ (a) If an acknowledged ((father)) parent has signed an
19 acknowledgment of ((paternity)) parentage that has been filed with
20 the state registrar of vital statistics ((after July 1, 1997)):

21 (i) The division of child support may serve a notice and finding
22 of financial responsibility under RCW 74.20A.055 based on the
23 acknowledgment. The division of child support shall attach a copy of
24 the acknowledgment or certification of the birth record information
25 advising of the existence of a filed acknowledgment of ((paternity))
26 parentage to the notice;

27 (ii) The notice shall include a statement that the acknowledged
28 ((father)) parent or any other signatory may commence a proceeding in
29 court to rescind or challenge the acknowledgment or denial of
30 ((paternity)) parentage under RCW ((26.26.330)) 26.26A.235 and
31 ((26.26.335)) 26.26A.240;

32 (iii) A statement that either or both parents are responsible for
33 providing health care coverage for the child if accessible coverage
34 that can be extended to cover the child is or becomes available to
35 the parent through employment or is union-related as provided under
36 RCW 26.09.105; and

37 (iv) The party commencing the action to rescind or challenge the
38 acknowledgment or denial must serve notice on the division of child
39 support and the office of the prosecuting attorney in the county in
40 which the proceeding is commenced. Commencement of a proceeding to

1 rescind or challenge the acknowledgment or denial stays the
2 establishment of the notice and finding of financial responsibility,
3 if the notice has not yet become a final order.

4 ~~((e))~~ (b) If neither the acknowledged ~~((father))~~ parent nor the
5 other party to the notice files an application for an adjudicative
6 proceeding or the signatories to the acknowledgment or denial do not
7 commence a proceeding to rescind or challenge the acknowledgment of
8 ~~((paternity))~~ parentage, the amount of support stated in the notice
9 and finding of financial responsibility becomes final, subject only
10 to a subsequent determination under RCW ~~((26.26.500))~~ 26.26A.400
11 through ~~((26.26.630))~~ 26.26A.515 that the parent-child relationship
12 does not exist. The division of child support does not refund nor
13 return any amounts collected under a notice that becomes final under
14 this section or RCW 74.20A.055, even if a court later determines that
15 the acknowledgment is void.

16 ~~((d))~~ (c) An acknowledged ~~((father))~~ parent or other party to
17 the notice who objects to the amount of support requested in the
18 notice may file an application for an adjudicative proceeding up to
19 twenty days after the date the notice was served. An application for
20 an adjudicative proceeding may be filed within one year of service of
21 the notice and finding of parental responsibility without the
22 necessity for a showing of good cause or upon a showing of good cause
23 thereafter. An adjudicative proceeding under this section shall be
24 pursuant to RCW 74.20A.055. The only issues shall be the amount of
25 the accrued debt and the amount of the current and future support
26 obligation.

27 (i) If the application for an adjudicative proceeding is filed
28 within twenty days of service of the notice, collection action shall
29 be stayed pending a final decision by the department.

30 (ii) If the application for an adjudicative proceeding is not
31 filed within twenty days of the service of the notice, any amounts
32 collected under the notice shall be neither refunded nor returned if
33 the alleged ~~((father))~~ genetic parent is later found not to be a
34 responsible parent.

35 ~~((e))~~ (d) If neither the acknowledged ~~((father))~~ parent nor the
36 custodial parent requests an adjudicative proceeding, or if no timely
37 action is brought to rescind or challenge the acknowledgment or
38 denial after service of the notice, the notice of financial
39 responsibility becomes final for all intents and purposes and may be

1 overturned only by a subsequent superior court order entered under
2 RCW (~~(26.26.500)~~) 26.26A.400 through (~~(26.26.630)~~) 26.26A.515.

3 (~~(9)~~) (2) Acknowledgments of (~~(paternity that are filed after~~
4 ~~July 1, 1997,~~) parentage are subject to requirements of chapters
5 (~~(26.26, the uniform parentage act)~~) 26.26A, 26.26B, and 70.58 RCW.

6 (~~(10)~~) (3) The department and the department of health may
7 adopt rules to implement the requirements under this section.

8 (~~(11)~~) (4) The department has rule-making authority to enact
9 rules consistent with 42 U.S.C. Sec. 652(f) and 42 U.S.C. Sec.
10 666(a)(19) as amended by section 7307 of the deficit reduction act of
11 2005. Additionally, the department has rule-making authority to
12 implement regulations required under 45 C.F.R. Parts 302, 303, 304,
13 305, and 308.

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